



2023/KER/55815

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

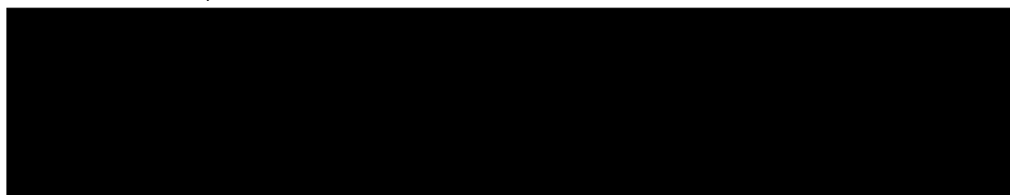
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 20TH DAY OF SEPTEMBER 2023 / 29TH BHADRA, 1945

WP(C) NO. 30809 OF 2023

PETITIONER :

ARCHA UNNI,



BY ADVS.
RAMEEZ NOOH
FATHIMA K.

RESPONDENTS :

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001
- 2 KOTTAYAM MUNICIPALITY,
MUNICIPAL OFFICE BUILDING, YMCA ROAD,
KOTTAYAM. REPRESENTED BY ITS SECRETARY,
PIN - 686 001
- 3 THE REVENUE OFFICER, KOTTAYAM MUNICIPALITY,
MUNICIPAL OFFICE BUILDING, YMCA ROAD,
KOTTAYAM, PIN - 686 001

BY SMT.DEVISHRI R, GOVERNMENT PLEADER

BY SRI.C S MANILAL, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



BECHU KURIAN THOMAS, J.

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W.P.(C) No.30809 of 2023

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Dated this the 20th day of September, 2023

JUDGMENT

Petitioner challenges the intimation dated 18.09.2023 rejecting her request to extend the period of licence granted to her.

2. Petitioner alleges that she organises exhibitions referred as 'Aqua Fest' in various parts of Kerala. The exhibition provides for a unique experience for the public with expensive and rare marine flora and fauna as prominent features of the event. According to the petitioner, within a short span, the event organised by her has attained immense popularity amongst the public.

3. Petitioner contends that for the period from 19.08.2023 to 17.09.2023, she was accorded sanction for conducting the Aqua Fest under the name 'Ecstasy' at Nagampadam Municipal Ground, Kottayam as per Ext.P1. After obtaining all the requisite permissions from the statutory authorities, petitioner organised the event and ten days before the expiry of the period stipulated in Ext.P1, she applied for an extension. However, after sitting over the application for almost 10 days, the 3rd respondent by an order dated 18.09.2023 rejected the request for extension. The order rejecting extension is impugned in this writ petition.



4. Sri.Rameez Nooh, the learned counsel for the petitioner contended that the rejection of request for extension is without any basis and is arbitrary and discriminatory. It was also submitted that while rejecting petitioner's request, respondents had not considered the relevant factors, the learned counsel pointed out that the organiser of another event at the same ground for the period from 25.09.2023 to 03.10.2023 has already expressed their 'No Objection' in permitting the petitioner to continue the event and had it been considered, the decision could have been otherwise.

5. Sri.C.S.Manilal, the learned Standing Counsel for respondents 2 and 3, upon instructions, submitted that the decision to extend the period fixed in a licence to use its grounds is a prerogative of the Municipality and that various factors have gone into the order rejecting the request for extension. It was further pointed out that the Municipality was required to conduct an event under the 'Swach Bharath Mission' and due to non-availability of the ground because of the exhibition being conducted by the petitioner, they had to shift a part of the said programme to the nearby stadium and that on the petitioner vacating the ground, the further part of the event under the 'Swach Bharath Mission' will be continued in the place permitted to be occupied by the petitioner.

6. A perusal of Ext.P7 order refusing to extend the period of licence granted to the petitioner reveals that the same is an appealable order and an appeal lies to the Municipal Council and the petitioner is at liberty to



prefer such an appeal.

7. Apart from the above, the jurisdiction of this Court under Article 226 of the Constitution of India is limited to interference in orders only when the same is perverse or there is any patent illegality or is bad in law due to want of jurisdiction. Further, while considering this writ petition under Article 226 of the Constitution of India, this Court cannot sit in appeal over the decisions of the authorities, especially when it relates to the grant or refusal of a licence or a permission to occupy a public place.

8. The Municipal authorities who are vested with the powers of control and administration of public places would necessarily have to take decision on the basis of the best interests of not only the Municipality but also of the people. Therefore, in the absence of any perversity or any malafides being attributed or shown to exist in issuing the impugned order, there is no cause for any interference under Article 226 of the Constitution of India.

9. In this context, it is worthwhile to bear in mind that while granting the licence from 19.08.2023 to 17.09.2023, petitioner was made aware that the validity is fixed. If at all the petitioner was aggrieved by the period already stipulated in the licence, she should have initiated appropriate action much earlier, atleast immediately after the licence was granted. Having not been alert and sat idle over the period already granted, it is not proper for this Court to direct an extension, even on sympathetic considerations.



10. In the above view of the matter, I find no reason to interfere and hence this writ petition is dismissed.

11. However, if in case the petitioner prefers any appeal, the same shall be considered untrammelled by any of the observations since those are necessitated only because this Court is exercising the jurisdiction under Article 226 of the Constitution of India in contradistinction to an appeal. In case petitioner prefers any appeal in accordance with law, necessarily, the same shall be considered in a time bound manner at the earliest.

The learned Standing Counsel for the Municipality shall communicate the contents of this judgment to the 2nd respondent forthwith.

Sd/-

BECHU KURIAN THOMAS, JUDGE

RKM



APPENDIX OF WP(C) 30809/2023

PETITIONER'S EXHIBITS :

- Exhibit-P1 TRUE COPY OF THE ORDER NO. R7-1311/23
DTD. 14.08.2023 ISSUED BY THE 2ND
RESPONDENT TO THE PETITIONER
- Exhibit -P2 TRUE COPY OF THE FIRE NOC NO. 1806/23
DTD. 23.08.2023
- Exhibit- P3 TRUE COPY OF THE STABILITY CERTIFICATE
DTD. 22.08.2023 ISSUED BY STRUCTURAL
ENGINEER
- Exhibit- P4 TRUE COPY OF THE APPLICATION FOR
EXTENSION FILED BY THE PETITIONER ON
07.09.2023 BEFORE THE 2ND RESPONDENT
- Exhibit- P5 TRUE COPY OF THE NO OBJECTION LETTER
DTD.13.09.2023 ISSUED BY THE SECRETARY,
AGMA TO THE 2ND RESPONDENT
- Exhibit-P6 TRUE COPY OF THE INTERIM ORDER DTD.
18.09.2023 PASSED BY THIS HON'BLE COURT
IN WP(C) NO. 30619/2023.
- Exhibit-P7 TRUE COPY OF THE LETTER OF COMMUNICATION
NO. R7-1311/23 DTD. 18.09.2023 ISSUED BY
THE 3RD RESPONDENT TO THE PETITIONER