



2024/KER/8856
'C.R.'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 2ND DAY OF FEBRUARY 2024 / 13TH MAGHA, 1945

WP(C) NO. 4691 OF 2023

PETITIONER:

RATHEESH K.R., AGED 40,



BY ADV MANAS P HAMEED

RESPONDENTS:

- 1 THE DIRECTOR, AKSHAYA PROJECT,
AKSHAYA STATE PROJECT OFFICE,
VRINDAVAN GARDENS, POTTAKUZHI,
PATTOM P.O, THIRUVANANTHAPURAM, PIN - 695001.
- 2 THE DISTRICT COLLECTOR & THE CHIEF COORDINATOR OF
AKSHAYA, COLLECTORATE, PATHANAMTHITTA, PIN - 689645.
- 3 THE DISTRICT PROJECT MANAGER & THE ASSISTANT DISTRICT
COORDINATOR OF AKSHAYA, AKSHAYA DISTRICT PROJECT
OFFICE, PATHANAMTHITTA, PIN - 689645.

BY ADVS.
MANU RAMACHANDRAN
M.KIRANLAL
R.RAJESH (VARKALA)
T.S.SARATH
SAMEER M NAIR
SAILAKSHMI MENON
SRI.P.S.APPU, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02.02.2024, ALONG WITH WP(C).37947/2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



WP(C) Nos.4691/2023, 37947/2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

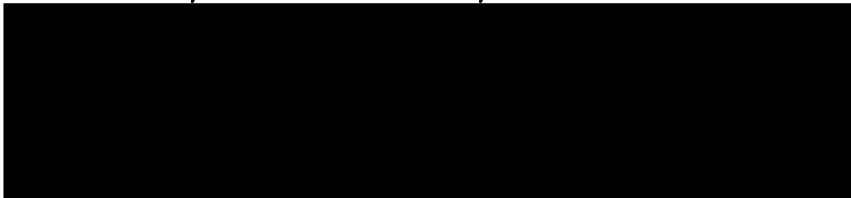
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY, THE 2ND DAY OF FEBRUARY 2024 / 13TH MAGHA, 1945

WP(C) NO. 37947 OF 2023

PETITIONER:

SUNITHA S, AGED 41 YEARS,



BY ADVS.
MANU RAMACHANDRAN
M.KIRANLAL
R.RAJESH (VARKALA)
T.S.SARATH
SAMEER M NAIR
SAILAKSHMI MENON

RESPONDENTS:

- 1 THE DIRECTOR, AKSHAYA PROJECT,
STATE AKSHAYA PROJECT OFFICE,
VRINDAVAN GARDENS, POTTAKUZHY, PATTOM P.O,
THIRUVANANTHAPURAM, PIN - 695001.
- 2 THE DISTRICT COLLECTOR & CHIEF COORDINATOR OF
AKSHAYA PROJECT, COLLECTORATE,
PATHANAMTHITTA, PIN - 689645.
- 3 THE DISTRICT PROJECT MANAGER & THE ASST.
DISTRICT PROJECT COORDINATOR
AKSHAYA DISTRICT PROJECT OFFICE,
PATHANAMTHITTA DISTRICT, PIN - 689645.

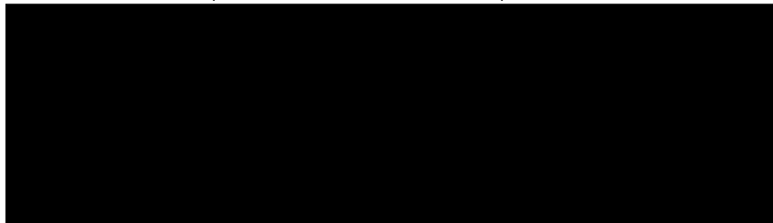


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4 THE SEETHATHODE GRAMA PANCHAYAT,
SEETHATHODE P.O, PATHANAMTHITTA,
REPRESENTED BY ITS SECRETARY, PIN - 689667.

5 RATHEESH K, AGED 40 YEARS,



BY ADV MANAS P. HAMEED
SRI.P.S.APPU, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 02.02.2024, ALONG WITH WP(C).4691/2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) Nos.4691/2023, 37947/2023

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'C.R.'

JUDGMENT

[WP(C) Nos.4691/2023, 37947/2023]

The facts involved in these two writ petitions would indicate to some extent, how, in some cases, the Rules of Allotment of the 'Akshaya Centres' in Kerala are sought to be violated and flagrantly flouted.

2. Among the afore writ petitions, W.P(C)No.4691/2023 has been filed by one Ratheesh K.R., who was the licensee of the 'Akshaya Centre' in question; and he impugns Exts.P1 and P2 orders of the District Collector and the Director of the Akshaya Project respectively, whereby, his licence has been sought to be cancelled for various reasons.

3. Before I go to the reasons mentioned in the afore orders, I deem it necessary to record that, in the meanwhile, W.P(C)No.37947/2023 has



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been filed by Smt.S.Sunitha, who claims to be the transferee of the 'Akshaya Centre' from Sri.Ratheesh for valuable consideration; and she also impugns the aforesaid orders, producing it as Exts.P5 and P6; however, with a plea that the said Centre be allotted in her name, pursuant to the agreement which she alleges she has entered into with Sri.Ratheesh.

4. Sri.Manas P.Hameed, learned counsel for Sri.Ratheesh K.R. - the petitioner in W.P(C)No.4691/2023, submitted that his client was finding it difficult to run the 'Akshaya Centre' on account of various personal reasons and therefore, that he entered into an agreement with Smt.S.Sunitha for its transfer, based on which, an application was made before the District Project Manager and the Assistant District Project Coordinator of the Akshaya Centre - a copy of which is on record as Ext.P3,



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along with W.P(C)No.37947/2023; but that the same was never considered.

5. Sri.Manas P.Hameed argued that, instead of considering the application made by his client, the District Collector and the Director of Akshaya Project had now issued the impugned orders, proposing to cancel his licence, stating that he has entered into illegal transactions and arrangements with Smt.S.Sunitha qua the 'Akshaya Centre'. He explained that the arrangement which his client had with Smt.S.Sunitha is not illegal, but only based on a necessity; and therefore, that the impugned orders are liable to be set aside by this Court, so that he can then continue to operate the 'Akshaya Centre' on his own, without any impediment.

6. Sri.Manu Ramachandran, learned counsel for Smt.S.Sunitha - the petitioner in



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W.P(C)No.37947/2023, however, submitted that the attempt of Sri.Ratheesh K.R. to retain the licence in his favour, is extremely confutative and mischievous because, as has been explained by his client in Ext.P10 complaint preferred before the District Project Manager, he had taken Rs.3,40,000/- from her, on the promise that the licence of the Centre will be transferred to her; along with another Rs.50,000/- towards the security for the room where the said Centre is being operated, on condition that she will pay Rs.3,000/- per month as rent for the same. He submitted that his client believed Sri.Ratheesh K.R. fully and operated the 'Akshaya Centre' for over three years; but that, in the meanwhile, when the impugned orders were issued, he appears to have resiled from his earlier promise, and is now devising methods to keep the 'Akshaya Centre' to



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himself. He prayed that, therefore, either this Court direct the competent Authorities to transfer the 'Akshaya Centre' in his client's name - taking into account the factors mentioned in Ext.P10; or that the licence of Sri.Ratheesh K.R. be cancelled and the Centre put to fresh tender processes, so that she can then participate in the same and hope to be successful.

7. Sri.P.S.Appu - learned Government Pleader, submitted that the afore narrative of the facts - unequivocally admitted by the two petitioners - would render it indubitable that the Authorities are now obligated to step in and cancel the licence in favour of Sri.Ratheesh K.R. He submitted that this is inevitable because, going by the applicable Government Orders, governing the grant of licence for Akshaya Centres, a transfer of the licence -



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that too only in favour of a close relative - is possible if the existing licensee obtains Government Employment; unfortunately dies; or suffers from mental or physical inability, incapacitating him/her from continuing its operation.

8. Sri.P.S.Appu vehemently asserted that, in the case at hand, none of these factors had been even whisperingly stated by Sri.Ratheesh K.R., when he made the application for transfer of the 'Akshaya Centre' in favour of Smt.S.Sunitha; and that, coupled with the allegations of Smt.S.Sunitha in Ext.P10, the observations and holdings of the District Collector and the Director of Akshaya Project in the impugned orders become wholly fortified.

9. The learned Government Pleader then pointed out that, as per the impugned orders, the Authorities have found that the transactions



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between Sri.Ratheesh K.R. and Smt.S.Sunitha are extremely questionable; and that this is prohibited under the Government Orders concerning the grant of licences for 'Akshaya centres', and hence that they were fully competent - if not obligated - to issue the same and cancel the licence in favour of Sri.Ratheesh K.R. He added that, once the licence of Sri.Ratheesh K.R. is cancelled, the 'Akshaya Centre' will be subjected to fresh tendering process, in which, Smt.S.Sunitha may or may not apply, depending upon her desire and credentials.

10. No doubt, there is great force in the afore submissions of the learned Government Pleader because, when the existing licensee acts illegally and enters into proscribed financial transactions with another *qua* the 'Akshaya Centre', the Authorities are under an inviolable



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duty to step in and take action, as is mandated in law. If this is not done, it would be a premium for others to deal with 'Akshaya Centres', as a manner of creating unauthorized wealth and illegal gains, which can never be permitted, since it would tantamount to being flagrantly contrary to public interest, for which alone, such Centres are designed and established.

11. Coming to the facts of this case, it is undisputed - it being expressly admitted - that the original licensee, Sri.Ratheesh K.R., had entered into an arrangement with Smt.S.Sunitha and had allowed her to operate the 'Akshaya Centre' for nearly three years. The complaint of Smt.S.Sunitha, produced as Ext.P10 along with W.P(C)No.37947/2023, renders the factual position limpid, namely, that she had paid Rs.3,40,000/- to the former for the transfer of



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the licence to run the 'Askhaya Centre', along with an amount of Rs.50,000/- towards Security Deposit and Rs.3,000/- per month as rent, for the room where the said Centre is now operated from.

12. Though the arrangement with respect to the room where the 'Akshaya Centre' is running, and the Security Deposit attached thereto, may not be illegal; the conceded payment of Rs.3,40,000/- to Sri.Ratheesh K.R. by Smt.S.Sunitha, surely can only be found to be an illegal transaction, at least *qua* the terms of grant of licence for 'Akshaya Centres'; and hence, I cannot find fault with the impugned orders at all.

13. This is because, through the impugned orders, what is now ordered is solely to cancel the licence in favour of Sri.Ratheesh K.R., which certainly has to be done on account of his



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conduct in having entered into the afore noticed transactions with Smt.S.Sunitha - which factum remains, as I have already said above, without any contest and expressly conceded.

14. The only question remaining is what happens after the licence of Sri.Ratheesh K.R. is cancelled. This is a matter of speculation because, if a new tendering process is notified, then certainly, Smt.S.Sunitha may or may not participate in it, subject to her intent and credentials.

In the afore circumstances, I am left without doubt that both these writ petitions are without merit and that they are liable to be dismissed. It is so ordered.

I, however, deem it necessary to reiteratingly clarify that nothing contained in this judgment will affect the right of Smt.S.Sunitha to apply for and participate in



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any new tendering process to be notified by the Government; for which purpose, all her contentions in that regard are left open.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

akv



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APPENDIX OF WP(C) 37947/2023PETITIONER EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE APPLICATION DATED 19.02.2023 FOR TRANSFER OF AKSHAYA CENTER SUBMITTED BY THE 5TH RESPONDENT
- EXHIBIT P2 THE TRUE COPY OF THE APPLICATION DATED 19.02.2023 FOR TRANSFER OF AKSHAYA CENTER SUBMITTED BY THE PETITIONER
- EXHIBIT P3 THE TRUE COPY OF THE APPLICATION DATED 05.02.2023 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 3RD RESPONDENT
- EXHIBIT P4 THE TRUE COPY OF THE DECISION NO.11(1) OF 16.02.2022 OF SEETHATHODE GRAMA PANCHAYAT
- EXHIBIT P5 THE TRUE COPY OF THE ORDER NO.AKS/PTA/EST/2022/01 DATED 06.10.2022 ISSUED BY THE 2ND RESPONDENT-COLLECTOR SUSPENDING THE AKSHAYA CENTRE NO.PTA-105 AT ANGAMOOZHY
- EXHIBIT P6 THE TRUE COPY OF THE ORDER O.AKS/166/2022-BC3(PTA)/31 DATED 20.12.2022 PASSED BY THE 1ST RESPONDENT CANCELLING THE AKSHAYA CENTRE NO.PTA-105 AT ANGAMOOZHY
- EXHIBIT P7 THE TRUE COPY OF THE G.O(MS) O.24/2021/ITD DATED 30.07.2021 ISSUED BY THE I.T DEPARTMENT STATE OF KERALA
- EXHIBIT P8 THE TRUE COPY OF THE G.O(MS) NO.24/2019/ITD DATED 30.10.2019 ISSUED BY THE I.T DEPARTMENT STATE OF KERALA



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EXHIBIT P9

THE TRUE COPY OF THE AGREEMENT NIL
DATED ENTERED BETWEEN THE WRIT
PETITIONER AND 5TH RESPONDENT

EXHIBIT P10

THE TRUE COPY OF THE COMPLAINT DATED
05.08.2022 SUBMITTED BY THE WRIT
PETITIONER BEFORE THE DISTRICT PROJECT
MANAGER, AKSHAYA



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APPENDIX OF WP(C) 4691/2023

PETITIONER EXHIBITS

- EXHIBIT P1 A TRUE COPY OF ORDER DATED 06.10.2022
ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P2 A TRUE COPY OF ORDER DATED 20.12.2022
ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P3 A TRUE COPY OF G.O.(MS).NO.24/2019/ITD
DATED 30.10.2019 ISSUED BY THE
DEPARTMENT OF ELECTRONICS &
INFORMATION TECHNOLOGY, GOVERNMENT OF
KERALA
- EXHIBIT P4 A TRUE COPY OF G.O.(MS).NO.24/2021/ITD
DATED 30.07.2021 ISSUED BY THE
DEPARTMENT OF ELECTRONICS &
INFORMATION TECHNOLOGY, GOVERNMENT OF
KERALA

RESPONDENT ANNEXURES

- ANNEXURE R3(A) TRUE COPY OF THE APPLICATION
REQUESTING THE TRANSFER OF AKSHAYA
KENDRA
- ANNEXURE R3(B) A TRUE COPY OF THE COMPLAINT SUBMITTED
BY MRS. S.SUNITHA
- ANNEXURE R3(C) A TRUE COPY OF THE STATEMENT SUBMITTED
BY THE PETITIONER DATED 25-10-2022
- ANNEXURE R3(D) A TRUE COPY OF THE MINUTES OF THE
MEETING DATED 25-10-2022
- ANNEXURE R3(E) A TRUE COPY OF THE RECOMMENDATION OF
THE DISTRICT COLLECTOR DATED 04-11-
2022