

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS**

Wednesday, the 4th day of October 2023 / 12th Aswina, 1945
WP(C) NO. 32554 OF 2023

PETITIONERS:

1. KHIDMATH ARTS & SCIENCE COLLEGE, REPRESENTED BY ITS
MANAGER, EDAKKULAM, THIRUNNAVAYA, MALAPPURAM DISTRICT, PIN - 676301
2. MUHAMMED KOYA.M.P, AGED 60 YEARS, THE MANAGER, KHIDMATH ARTS &
SCIENCE COLLEGE, EDAKKULAM, THIRUNNAVAYA, MALAPPURAM DISTRICT,
PIN-676301

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE REVENUE
DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001
2. THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT, SAFALYAM COMPLEX, TRIDA
BUILDING, UNIVERSITY P.O, PALAYAM, THIRUVANANTHAPURAM, PIN - 695001
3. VALAVANNUR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY,
VALAVANNUR P.O, MALAPPURAM DISTRICT, PIN - 676551
4. ABDULLAKUTTY, AGED 67 YEARS, S/O MOIDUTTY, KLAPPATTIL HOUSE,
ANANTHAVOOR P.O, THIRUNNAVAYA, MALAPPURAM DISTRICT, PIN - 676301

Writ Petition (Civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the 2nd respondent to stay all further proceedings in Complaint No. 294/2023 before the 2nd respondent, pending disposal of this Writ Petition(C).

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. JAMSHEED HAFIZ, K.K.NESNA & T.S.SREEKUTTY, Advocates for the petitioners, the court passed the following:

BECHU KURIAN THOMAS, J.

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W.P.(C) No.32554 of 2023

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Dated this the 4th day of October, 2023

ORDER

The learned Government Pleader takes notice for R1.

2. The Ombudsman for Local Self Government Institutions, which is a quasi Judicial Authority, appointed under section 271G of the Kerala Municipalities Act 1994, is arrayed as the second respondent. The Ombudsman is a retired Judge of this Hon'ble Court and only a person who has held the post of a Judge of the High Court alone can be appointed as the Ombudsman. The said authority cannot be called upon to defend its orders. Its orders are defended by the reasons stated in the order itself. Of course, there are quasi-judicial authorities who may be necessary parties due to the reason that they exercise executive functions and who have to defend their orders. Further, in cases of allegations of personal bias or malafides, such quasi-judicial authorities, who are exercising judicial functions, should be made parties to the lis. In the instant case, the circumstances do not reveal that the Ombudsman is a necessary party.

3. Further, in case the Ombudsman is arrayed as a party, it should be the State Government who should be defending the orders of the Ombudsman. Hence, this Court prima facie feels it appropriate to observe that the Government Pleader must be taking notice on

behalf of the Ombudsman if at all the said Authority is made a party.

4. In view of the above, I dispense with notice to the 2nd respondent. Issue notice by speed post to respondents 3 and 4.

In the meantime, there will be a stay of Ext.P2 for a period of two months. However, the respondent Panchayath will be independently entitled to initiate proceedings if any unauthorised construction is detected, in accordance with law.

RKM



BECHU KURIAN THOMAS, JUDGE

