



2025:KER:61161

WA Nos.1342/2024 and conctd. case

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE AMIT RAWAL
&
THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN
WEDNESDAY, THE 6TH DAY OF AUGUST 2025 / 15TH SRAVANA, 1947
WA NO. 1342 OF 2024

AGAINST THE JUDGMENT DATED 09.08.2024 IN WP(C) NO.21273 OF
2024 OF HIGH COURT OF KERALA

APPELLANT(S) / PETITIONERS:

- 1 VINOD POLLANCHERY,
AGED 51 YEARS
S/O JANARDHANAN (LATE), POLLANCHERY HOUSE, OLLUKAVU
ROAD, CHIYYARAM, THRISSUR, PIN - 680026
- 2 POORNIMA SURESH,
AGED 44 YEARS
D/O R.S. SUNDARAM, KRISHNA PAADAM, GANAPATHY AGRAHARAM,
PUNKUNNAM P.O., THRISSUR, PIN - 680002
- 3 AATHIRA V,
AGED 39 YEARS
D/O A. PRABHAKARAN NAIR, PALLIPETTA HOUSE, SKV COLLEGE
ROAD, KANATTUKARA P.O., THRISSUR, PIN - 680011
- 4 RADHIKA N.V.,
AGED 40 YEARS
D/O N.S. VELAYUDHAN, NADUVANKUNNU HOUSE, CHERUMUKKU
TEMPLE ROAD, SURYA GARDENS, THRISSUR, PIN - 680020
- 5 NIJI K.G.,
AGED 36 YEARS
D/O K.K. GIRIJAVALLABHAN, KANATTUKARA HOUSE, KOTTAPURAM
ROAD, POOTHOLE P.O., THRISSUR, PIN - 680004
- 6 N. PRASAD,
AGED 48 YEARS
S/O J. NARAYANAN EMBRANDIRI (LATE), 36/1155, GUNDARAO
HOUSE, PAZHAYANADAKKAVU, THRISSUR, PIN - 680001

BY ADVS.
SHRI.ANAND KALYANAKRISHNAN
SHRI.G.SREEKUMAR (CHELUR)
SRI.C.DHEERAJ RAJAN



2025:KER:61161

WA Nos.1342/2024 and conctd. case

2

RESPONDENT (S) /RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF
GOVERNMENT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 2 DEPUTY SECRETARY,
LOCAL SELF GOVERNMENT (RB) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 3 THRISSUR MUNICIPAL CORPORATION,
MUNICIPAL OFFICE ROAD, THEKKINKADU, THRISSUR REPRESENTED
BY ITS SECRETARY, PIN - 680001
- 4 SECRETARY,
THRISSUR MUNICIPAL CORPORATION, MUNICIPAL OFFICE ROAD,
THEKKINKADU, THRISSUR, PIN - 680001
- 5 JANEESH P.S.,
AGED 45 YEARS
S/O SAMSUDEEN, PANKATTAYAL HOUSE, POOTHOLE P.O.,
THRISSUR DISTRICT, PIN - 680004

BY ADVS.
SHRI.SANTHOSH P.PODUVAL
SRI.NAVANEETH D.PAI
SRI.R.LAKSHMI NARAYAN (SR.)

THIS WRIT APPEAL HAVING BEEN HEARD ON 06.08.2025, ALONG WITH
WA.1351/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2025:KER:61161

WA Nos.1342/2024 and conctd. case

3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

WEDNESDAY, THE 6TH DAY OF AUGUST 2025 / 15TH SRAVANA, 1947

WA NO. 1351 OF 2024

AGAINST THE JUDGMENT DATED 09.08.2024 IN WP(C) NO.1728 OF
2024 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENT NO.2:

ADV. PRAMOD.K.,
FANTASY NAGAR, VADOOKKARA, THRISSUR DISTRICT, PIN -
680007

BY ADVS.
SHRI.ANAND KALYANAKRISHNAN
SHRI.G.SREEKUMAR (CHELUR)
SRI.C.DHEERAJ RAJAN

RESPONDENT(S)/PETITIONERS & RESPONDENTS 1,3 & 4:

- 1 THRISSUR CORPORATION,
 REP. BY ITS SECRETARY, THRISSUR, PIN - 680001
- 2 THE SECRETARY,
 THRISSUR CORPORATION, THRISSUR, PIN - 680001
- 3 THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS,
 SAPHALYAM COMPLEX, IVTH FLOOR, TRIDA BUILDING,
 UNIVERSITY P.O., TRIVANDRUM, PIN - 695001
- 4 M.K.VARGHESE,
 MEENACHERY HOUSE, MANNIUTHY P.O., THRISSUR DISTRICT, PIN
 - 680651



2025:KER:61161

WA Nos.1342/2024 and conctd. case

4

5 ADDL. R4. JANEESH P.S., AGED 45 YEARS,
S/O. SHAMSUDEEN, PANKATTAYAL HOUSE, POOTHOLE P.O.,
THRISSUR DISTRICT, KERALA -680004 IS IMPEADED AS
ADDITIONAL 4TH RESPONDENT AS PER ORDER DATED 22.01.2024
IN I.A.1/2024 IN WP(C) 1728/2024

BY ADVS.
SHRI.SANTHOSH P.PODUVAL
SRI.NAVANEETH D.PAI
SRI.R.LAKSHMI NARAYAN (SR.)

THIS WRIT APPEAL HAVING BEEN HEARD ON 06.08.2025, ALONG WITH
WA.1342/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WA Nos.1342/2024 and conctd. case

JUDGMENT

[WA Nos.1342/2024, 1351/2024]

Amit Rawal, J.

This order shall dispose of two writ appeals preferred against W.P.(C) Nos. 21273 of 2024 and 1728 of 2024, which were disposed of by the common judgment dated 9.8.2024.

2. In the first case (WP(C) No.21273 of 2024), the challenge laid by the writ petitioners–appellants to the order dated 2.2.2024 of Government, rejecting the statutory appeal preferred under Section 57 of the Municipality Act, has been upheld. In the other case (WP(C) No.1728 of 2024), the writ petition filed by the Thrissur Corporation against the order of the Ombudsman dated 9.11.2023 (Ext.P5) has been allowed.

3. The brief facts, which are relevant for the adjudication of the controversy are enumerated herein below:

The Bini Tourist Home, situated in the heart of the Thrissur, belongs to the Municipal Corporation and from



WA Nos.1342/2024 and conctd. case

1990 still September 2020 one Smt. Omana Asokan was the licensee. Upon surrender of the building by the said licensee, various attempts were made to public auction, conducted in October and November 2020, February 2021, November 2021, March 2021 and August 2022. In few cases, even the selected tenderers failed to abide the terms of the tender and did not pay the security deposit. In order to lease out the premises, tenders were invited for a public auction on 16.9.2022 enabling to run the Tourist Home. Five (5) persons, including Smt.Omana Asokan submitted the tenders whereas her tender was the lowest and one Sri.Janeesh P.S offered a highest amount of Rs.7,25,000/- and was accordingly, called upon for negotiation and monthly fee was thereafter enhanced to Rs.7,50,000/- with a corresponding increase stipulated for every three years.

4. Despite the Council having decided to grant the licence, the said decision was challenged in W.P.(C) No. 21273 of 2024, out of which Intra-Court Appeal No. 1342 of 2024 was filed by one Sri Vinod Pollanchery and other councillors. The said successful licensee approached this



WA Nos.1342/2024 and conctd. case

Court by filing W.P.(C) No. 3668 of 2023, wherein his grievance was redressed on the basis of the decisions of the Council dated 10.4.2023 and 14.7.2023, taken pursuant to the directions issued in the aforementioned writ petition.

5. The sum and substance in the writ petition bearing No.21273 of 2024 was whether the decision of the Municipal Corporation dated 30.1.2023 could be interfered in the writ jurisdiction or not. The procedure of the tender is prescribed under Section 215 (2)(c) of the Municipal Corporation Act. Concededly, the Municipal Corporation, is the owner of the property, therefore have the right and liberty to use one of the two modes available under the provisions.

6. The minutes of the said decision which was attached as Ext.P7 was challenged in a writ petition filed by one Sri.Mukesh K.B bearing No.27414 of 2023, who is also a Councillor and claims to have dissented at the meeting held on 30.1.2023, alleging that out of fifty four (54) Municipal Councillors, thirty (30) out of them had dissented from the resolution. The said resolution dealt with the approval



WA Nos.1342/2024 and conctd. case

granted by the Mayor and in anticipation of the approval by the Council, was ratified and the duty of collecting the amount due from the licensee in execution was entrusted to the Secretary. The reading of the minutes of the aforementioned meetings reveals that a few of the elected Councilors refused to approve the proceedings and attempted to disrupt the same, yet the resolution was passed by the Mayor.

7. Section 57 of the Kerala Municipality Act, 1994 empowers any aggrieved persons, dissatisfied with the resolution to seek, amendment, cancellation and modification. An order dated 28.10.2022 was passed whereby the tender of Sri.Janeesh, highest bidder was accepted. An agreement was executed after ratification by the Municipal Council. As per the said agreement, the licensee was permitted to carry out the renovation work ie., 'own cost' without claiming amount from the Corporation. It was also stated that he has spent an amount of ₹3 crores.

8. Similarly one Advocate Pramod had submitted a complaint before the Ombudsman for Local Self Government



WA Nos.1342/2024 and conctd. case

Institutions raising the very same allegations which was registered as Complaint No.798 of 2023. The Ombudsman passed an interim order dated 9.11.2023 whereby Joint Director was directed to submit a report after verifying the documents concerning the tender process and the Council's decision after hearing the parties. In the meantime, the direction was issued that the building shall not be handed over to the licensee. It is a matter of record that the decision of the Council taken on 30.1.2023 and the tender proceedings were challenged by the Councillors of Thrissur Corporation in WP(C) No.5469 of 2023 and WP(C) No.27414 of 2023 which has been dismissed by judgment of this Court dated 10.11.2023. In the appeals preferred against the judgments, the parties were relegated to the remedy under Section 57 of the Kerala Municipality Act, and the competent authority was directed to decide the matter uninfluenced by the findings of the learned Single Bench.

9. Thrissur Corporation contested the aforementioned claim and contended that the order of the Government is of dated 2.2.2024 whereas the writ petitions



WA Nos.1342/2024 and conctd. case

10

have been filed belatedly when the entire repair/renovation work of the rest house had already been over. It was also stated that the petitioners had unsuccessfully challenged the tender proceedings in WP(C) No.5469 of 2023, which were never interfered by the Division Bench. The agenda for ratifying the action of the Mayor was placed before the Council in its meeting held on 30.1.2023 and the Council decided to ratify the permission given by the Mayor and directed the Secretary to take steps to execute the resolution. The agenda was published three (3) days prior to the meeting as per the rules. Owing to the interim order in the earlier round of litigation in WP(C) No.3668 of 2023 dated 27.3.2023, this Court had directed the matter to be again discussed in the Council and the same was done on 10.4.2023 whereby the decision to entrust the renovation work to the Sri.Janeesh P.S was taken, taking note of the fact that the licensee would not claim any refund of the amount beyond Rs.3 crores.

10. Mr. G.Sreekumar (Chelur), learned counsel appearing for the appellants submitted that the Government



WA Nos.1342/2024 and conctd. case

11

on the basis of the order of the Division Bench relegated the appellants-petitioners to avail the remedy for amendment, cancellation and modification of the resolution, but rejected the appeal on the ground that, the judgment of the Single Bench dated 10.11.2023, where the parties assailing the tender proceedings and remained unsuccessful, was not set aside, particularly when there was a direction to the Government to decide the appeal, uninfluenced by the decision given in the aforementioned judgment, therefore it should have been an independent application of mind. Whenever such request is made to the Government, the Government is empowered to refer the matter to the Tribunal/Ombudsman under the Kerala Panchayat Raj Act or Municipality Act, which is the mandatory requirement of law. Having failed to undertake such an exercise, the order under challenge passed by the Government is wholly misconceived and is therefore, liable to be set aside.

11. The order dated 02.02.2024 suffers from serious illegality, having overlooked the dissenting notes recorded by the Councillors. Moreover, the licensee has failed to comply



WA Nos.1342/2024 and conctd. case

12

with the terms and conditions of the agreement, including the requirement to furnish the bank guarantee. The decision of the Council dated 10.4.2023 is to the effect that renovation work shall be carried out by the Corporation itself and it cannot be handed over to the licensee. The thrust of the appellants' case is with regard to the minutes of the meeting dated 31.1.2023 and 14.7.2023 and the appellants do not have any dispute with regard to the decision taken in the council meeting held on 10.4.2023.

12. On the other hand, learned counsel for the respondents submitted that the writ petition was not maintainable. The resolution of 14.7.2023, ratifying the action of the Corporation in executing the agreement in favour of the licensee and the terms and conditions has not been challenged.

13. W.P.(C) No.1728 of 2024 was filed by the Thrissur Corporation against the order of the Ombudsman, as noticed above, whereby the complaint filed by the appellant, i.e., Adv. Pramod, before the Ombudsman was entertained and an interim order was passed. It was



WA Nos.1342/2024 and conctd. case

13

asserted that even Adv. Pramod would not have any locus standi to challenge the order, rather in the proceedings before the Government under Section 57 of the Municipality Act 1994, the said Advocate appeared on behalf of the Councillors. In the absence of any locus standi, both the writ petitions are liable to be dismissed with exemplary cost.

14. We have heard the learned counsel for the parties and appraised the paper book.

15. The process of inviting tenders for the Bini Tourist Home situated within the limits of Thrissur Corporation was deferred from time to time, and ultimately, the Corporation succeeded in finalizing the same when Sri Janeesh, among the other four bidders, emerged as the highest bidder. Upon negotiation, the bid amount was enhanced from ₹7,25,000 to ₹7,50,000 per month. Besides, he had undertaken to spend about ₹3 crores from his own funds for renovation, with a further undertaking not to claim reimbursement of the said amount from the Corporation.

16. No doubt, Section 57 of the Municipality Act envisages a procedure for cancelling, amendment and



WA Nos.1342/2024 and conctd. case

modification of the resolution. For the sake of brevity, provisions of Section 57 of the Municipality Act reads thus:

57. [Power to suspend and cancel resolutions etc. *[Substituted by Act 14 of 1999, w.e.f. 24-3-1999.]*

(1)The Government may, suo-motu or on a reference by the Chairperson the Secretary, or a Councillor of the Municipality or on a petition received from a citizen, cancel or amend a resolution passed or a decision taken by the council, which in their opinion,-(a)has not been legally passed or taken; or(b)is in excess or abuse of the powers conferred by this Act or any other law; or(c)is likely to endanger human life, health safety, communal harmony or public peace, or is likely to lead to a riot or quarrel; or(d)has violated the guidelines issued by the Government in the matter of implementation of plans, schemes or programmes or the conditions of grants.

(2)Before cancelling or amending a resolution or decision under sub-section (1), the Government shall refer the matter for the consideration of the Ombudsman constituted under Section 271 G of the "Kerala Panchayat Raj Act, 1994(13 of 1994) or to the Tribunal for the Local Self Government Institutions constituted under Section 271 S of the said Act and the Tribunal shall, after giving the Municipality an opportunity of being heard, furnish a report to the Government with its finding based on which the Government may cancel, amend or approve that resolution or decision.



(3)The Government shall not entertain any petition for cancellation or amendment of any resolution or decision of the council if an alternate redressal is available to the petitioner through the Tribunal under section 509.

(4)Where the Government are of opinion that a resolution or a decision of the Council shall be cancelled or amended under sub-section (1), they may temporarily stay the implementation of Such resolution or decision and may direct the council to keep its implementation in abeyance till it is finally disposed of by completing the procedure under sub-section (2).]

17. On close scrutiny of the provisions of the aforementioned Act, it is evident that, it is the discretion of the Government to cancel, modify or amend the resolution suffering from certain illegalities and infirmities and it is not necessary to refer each and every complaint against the resolution to a competent authority under the Kerala Panchayat Raj Act or Municipality Act ie., the Ombudsman or the Tribunal and in case such request is accepted, it would enable every Councilors aggrieved of the action of the decision taken by the majority of the Councilors approving the agenda to challenge and the work, maintenance and the premises of the Corporation, much less the business of the



Corporation would be seriously prejudiced and affected, as, the Corporation will be perpetually embroiled in a litigation. The Councilors, having been elected through the mandate of the local residents, are required to honour that mandate by upholding the faith reposed in them. The tourist home owned by the Thrissur Municipal Corporation was yielding a good amount of money for sustainability as well as for the convenience of the people who would visit Thrissur by staying in the aforementioned tourist home on payment of the fixed charges. The said purpose and intention of the Corporation cannot be hindered at the behest of the aforesaid persons, namely, the Councillors and the Advocate, with a view to wreak vengeance they have been nursing against the other Councillors or the Mayor. Personal animosities and rancour must always be kept at bay so that genuine work to be allotted in the manner noted above to the successful bidder, is not embroiled in litigation.

18. The facts, as enumerated above, reveal that this is not the first but the second litigation instituted at the behest of the writ petitioners, who had been unsuccessful in



the first round of litigation challenging the tender process, which culminated in a judgment dated 10.11.2023. Though the said judgment was assailed in a writ appeal, the Division Bench, vide judgment dated 12.12.2023, relegated the parties to avail the remedy under Section 57 of the Act, but did not set aside the findings but only a passing reference was given that in case such remedy is availed, the competent authority will decide the same, uninfluenced by the findings given by the learned Single Bench.

19. On a close scrutiny of the Government order dated 2.2.2024, it is evident that the writ petitioners and the complainant before the Ombudsman have been dragging not only the Municipal Corporation but the successful bidder, impelling them to back out so that the Corporation is unable to obtain the highest bid. Such kind of litigation smells biasness and settlement of personal agenda against the other Councillors as well as the Mayor. The court should not be made a platform/ground, by encouraging such litigation. Instead, the role of the court is to mitigate the genuine grievances recognized in law, much less violation of the



fundamental rights. None of the ingredients, as culled out in the various judgments, are made out either in the writ petition filed by the Councillors or in the complaint filed by the Advocate before the Ombudsman. It is a clever advise that one of the litigant has approached the court and the other had approached the Ombudsman as provided under Section 57 of the Act. The Division Bench, while seized of the writ appeals against the order of the Single Bench dated 10.11.2023, was not apprised of such details and facts.

20. It is a matter of record that the entire procedure relating to the lease, execution of the agreement, payment of the amounts envisaged in the conditions, and the furnishing of the bank guarantee have all been duly complied with by Mr. Janeesh, the 5th respondent in W.P.(C) No. 21273 of 2024 and has been regularly paying the licence fee of Rs.7,50,000/- to the Corporation as per the submission of the counsel for the Corporation. In other words, there was no such default. Any attempt to curtail the Corporation's right to earn income should not be entertained and must be nipped at threshold.



21. Learned Single Bench, while noticing all these facts, in our considered view, has rightly brushed aside the contentions by noticing the fact that in terms of the interim order dated 27.3.2023 in I.A No.4 of 2023 in WP(C) No.3668 of 2023, the decision was taken on 10.4.2023 vide decision No.14 and found that the resolution now cannot said to be altered in any manner. Though the interim order has already been extracted in the judgment of the Single Bench, for the sake of brevity, the same is reproduced hereinbelow:

This is a petition seeking a direction to respondent Nos.1 and 2 to start and complete the renovation work of the subject matter building at the earliest to make it workable and functional, either by permitting the petitioner to do the necessary works under the monitoring of the respondent's officials or to do it at his own responsibility. A further direction has been sought, that the respondents can levy or demand the monthly rent from the petitioner, only after the renovation work is completed and the possession is handed over to the petitioner.

2. Learned Standing Counsel for the Municipal Corporation would submit that it is for the Municipal Council to take a decision, whether the petitioner should be entrusted the said work or the same should be undertaken by the Municipality itself and as to whether there could be any exemption from payment of rent. Therefore, there will be a direction to the Secretary of the Municipality to place these matters before the Municipal Council and report the decision taken, before this Court, in the next posting date. In



WA Nos.1342/2024 and conctd. case

20

the meanwhile, the shop room shall not be handed over to the petitioner.

22. It is a matter of record that five attempts made on earlier occasions remained unsuccessful for one reason or another, and when a successful bidder finally came forward, as noticed above, an attempt was again made, in one way or another, to thwart the bona fides of the Corporation. We thus take a serious view regarding the bonafides of the writ petitioners and the complainant before the Ombudsman for making out the alleged cause of action without any substance or foundation.

23. Accordingly, we uphold the order of the Single Bench and dismiss both the writ appeals, W.A. No. 1342 of 2024 and W.A. No. 1351 of 2024 and impose costs of ₹5,00,000 (Rupees five lakhs only) in each writ appeal, to be paid to the Mediation and Conciliation Centre of this Court and the Bar Association of this Court, respectively within a period of one month from the date of receipt of a certified copy of this judgment. In the event of non-payment of costs, the Registrar of this Court is directed to submit a compliance



2025:KER:61161

WA Nos.1342/2024 and conctd. case

21

report to this Court for further action.

24. It is also a matter of fact that the impugned order of the Government reveals that it has been passed with application of mind, by examining the records of the Corporation and that the Municipal Councilors who boycotted and marked themselves absent, the remaining Councilors present were found to be in majority, and therefore, it was not suffering from any illegality or infirmity giving cause to assail as provided under Section 57 of the Act.

SD/-

**AMIT RAWAL
JUDGE**

SD/-

**P. V. BALAKRISHNAN
JUDGE**

sab



2025:KER:61161

WA Nos.1342/2024 and conctd. case

22

APPENDIX OF WA 1351/2024

PETITIONER EXHIBITS

Exhibit P6	True copy of translation of Exhibit P6 of the writ petition
Exhibit P5	True copy of the translation of Exhibit P5 of the writ petition



2025:KER:61161

WA Nos.1342/2024 and conctd. case

23

APPENDIX OF WA 1342/2024

PETITIONER ANNEXURES

Annexure A	THE TRUE COPY OF THE INVITATION LETTER EVIDENCING THE FACTUM OF INAUGURATION OF SUBJECT MATTER BINI TOURIST HOME
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