



GOVERNMENT OF KERALA

Abstract

Local Self Government Department- Appeal Petition filed by Fr. Joseph Chirappallil- Finalised - Orders issued.

LOCAL SELF GOVERNMENT (DB) DEPARTMENT

G.O(Rt)No.2150/2012/LSGD

Thiruvananthapuram, dtd: 4/8/2012

Read:- 1. Proceedings no.N7-47181/10 dtd. 11/1/2011 of District Collector, Alappuzha.
2. Appeal Petition filed by Fr. Joseph Chirappallil before Government.

ORDER

The District Collector, Alappuzha rejected the application put in by Fr. Joseph Chirappallil for constructing a concrete vault type cemetery vide 1st paper read above on the ground that the sanction might cause disturbance to the tranquility of the area. Against the order of the District Collector, Alappuzha Fr. Joseph Chirappallil filed appeal before Government vide 2nd paper read above.

2. The contentions raised in the appeal are:

(1) The collector admitted that the Grama Panchayat and the District Medical Officer have given their recommendations that the aforesaid place is suitable for granting the license for constructing a cemetery and all the other legal requirements were complied. The Collector ought to have given sanction because all the directions in the Panchayat Raj Act and the Panchayat Rules 1998, regarding the burial ground have been complied. As it is a concrete vault there is no possibility of any pollution. All the rules regarding the distance are well kept.

(2) The Collector ought to have seen that there is no law and order problems in that place with regard to the construction of the cemetery. There is not even a single incident of law and order problem reported so far from the place. It is a place noted for communal harmony and peace. The report of the Revenue Divisional Officer, the 3rd respondent is made in collusion with some people who have some vested interest in this matter and it is an utter falsehood. The Collector took eight months and twenty days after filing the review petition to give the present decision, which is actually an unnecessary delay, and it really affected the materialization of the legal right of the petitioner and the community represented.

(3) The Collector ought to have understood that a legal right cannot be denied to any person simply because of a law and order problem and it is the duty of the state to protect the legal rights of a person by taking necessary steps if there is any law and order problem. Denying the legal right by adducing some lame excuses such as law and order problem is dereliction of duty from the part of the authority concerned and it is an injustice done to the persons who applied for the legal right. It is a highly necessary need and legal right of the Christian Community of the place.

(4) The parish of Areepambu consists of 320 families and now they use the cemetery of a nearby parish, which is 5-10 kms away from their houses. So the burial becomes very expensive that they cannot afford to it because most of the parishioners are very poor people. Moreover, there is insufficiency of space due to the increase in the number of parishioners in both the parishes, to bury the dead bodies of both the parishes in the same cemetery of the nearby Church. It is also a religious need of the

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Christian catholic members to have a cemetery in their own parishes to pay their homage to the dead people and to pray for them. So it is a high necessity for these people to have a cemetery.

3. The remarks of the District Collector, Alappuzha on the appeal is as follows:

(1). " The District Medical Officer (Health), Alappuzha has forwarded an application dtd. 18/6/10 submitted by Fr. Joseph Chirappallil, Vicar, St. Sebastians Church, Areeparambu, Cherthala South in form No.1 requesting for license for constructing a concrete vault for St. Sebastians Church, Areeparambu, Cherthala South in an extent of 05.80 ares of land comprised in Block 29, Re-Sy.No.554/9, 555/1, in Cherthala South Village, Cherthala Taluk of Alappuzha District along with copy of resolution no. No.IV dtd.28/07/10 of Cherthala South Grama Panchayat and the copy of the possession certificate and location sketch of the proposed site. The District Medical Officer (Health), Alappuzha has also recommended that the aforesaid place is suitable for granting license for constructing a cemetery subject to certain conditions.

(2). A notice as provided for in sub rule (7) of Rule 6 of the Kerala Panchayath Raj Act (Burial and Burning ground), 1998 calling for objections if any, against granting license for opening concrete vault in the above land has been published on 20/9/2010 in notice boards of the Revenue Divisional Office, Alappuzha, Taluk Office, Cherthala, Panchayat Office, Cherthala South, office of Deputy Director of Panchayat, District Panchayat Office and the Village Office, Cherthala South. A copy of the notice has also been published in MALAYALAMANORAMA Malayalam daily dtd. 3/10/2010.

(3). In response to the above notice objections in the form of mass petitions, from various persons have been received within the time limit (30 days from the date of publishing the notice). Considering the objections in the form of mass petitions, it was decided to hear the applicant and the objection petitioners, on 01/12/2010. The applicant and the objection petitioners have appeared for hearing. The objection petitioners have expressed their concerns over pollution and distance and strongly objected the proposal.

(4). In the mean time the Superintendent of Police has reported that there are strong objections from some members residing around the vicinity of the proposed site, and possibilities of law and order problem there in connection with the construction of the vault.

(5). On considering the report over the law and order issues, it is apprehended that the issuance of the sanction for the construction of a concrete vault may cause disturbance to the public tranquility of that area. Hence, the application for the construction of a concrete vault for St. Sebastians Church, Areeparambu, Cherthala South, Alappuzha District has been rejected, for the time being, and issued an order as per the proceedings No. N7-47181/10 dtd. 11/1/2011 accordingly.

(6). On 09/2/2011, a review petition has been filed by Fr. Joseph Chirappallil Vicar, St. Sebastians Church, Areeparambu, Cherthala South to reconsider the decision taken as per the above and subsequently the application has been endorsed to the Revenue Divisional Officer, Alappuzha for enquiry and report.

(7). Accordingly, the Revenue Divisional Officer, Alappuzha reported that the law and order situations in connection with the construction of the concrete vault still prevail as earlier. Hence, the review petition submitted by Fr. Joseph Chirappallil Vicar, St. Sebastians Church, Areeparambu has been rejected as per the proceeding No. N7-47181/10 dtd. 29/10/2011."

4. The appellant and the concerned officer were heard on 18/2/2012. The appellant submitted that dead bodies have to be brought to a distance of 7 kms. The Parish have the right for the grant of a cemetery. There is no problem of law and order.

5. The representative of the District Collector, Alappuzha submitted that against the construction of cemetery, a mass petition was filed by the residents of the locality. The Revenue Divisional Officer, Alappuzha was asked by the residents not to approach the spot for enquiry. Therefore, he could not inspect the site. Based on the report of law and order problem the District Collector, Alappuzha rejected the request for license "for the time being."

6. The Secretary, Cherthala South Grama Panchayat submitted there is no cemetery owned by the Panchayat. There is remote possibility of water pollutions at the site is plane area.

7. After hearing the parties and examining the connected records of the case, it is seen that the District Collector, Alappuzha has examined all aspects of the case and rejected the request for license on the ground of Law and order problem. In the order read as first paper above, it is specified that the application for construction of a concrete vault is rejected. "for the time being". This guarantees the applicant to make compromise with the residents of the locality and submit fresh application for license of a concrete vault.

8. At this stage, Government do not find any reason to interfere in the findings of the District Collector, Alappuzha. The appeal petition read as 2nd paper above is therefore rejected.

**By Order of the Governor
J.STANLY
Under Secretary to Govt.**

1. Fr. Joseph Chirappallil
Vicar St. Sebastian's Church,
Areeparampu, Cherthala South
2. District Collector, Alappuzha
3. The Secretary, Cherthala South Grama Panchayat,
Alappuzha
4. The Executive Director, Information Kerala Mission (For publishing in
the website)
5. Stock file/Office copy

Forwarded/By Order


Section Officer.