



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Urban Affairs - Kodungallur Municipality - Vigilance Surprise Check - Disciplinary Action initiated against Shri. C. Vijayamohanan, former Secretary - Finalized - Orders issued.

LOCAL SELF GOVERNMENT (EU) DEPARTMENT

GO(Rt)No.1580/2018/LSGD. Dated, Thiruvananthapuram, 11.06.2018

- Read:-
- 1) Letter No. E8(SC 62/12/TSR) 20011/12 dated 29.11.2012 from the Director, Vigilance & Anti Corruption Bureau, Thiruvananthapuram.
 - 2) Memo of Charges No. 31550/EU1/13/LSGD dated 14.06.2013 served on Shri.C.Vijayamohanan, former Secretary, Kodungallur Municipality.
 - 3) Written Statement of Defence dated nil submitted by Shri. C.Vijayamohanan.
 - 4) Letter No.V3-11514/2013/DUA dated 18.11.2015 from the Director of Urban Affairs, Thiruvananthapuram
 - 5) Show cause notice No. 31550/EU1/13/LSGD dated 25.05.2016 served on Shri. C. Vijayamohanan.
 - 6) Explanation dated 28.07.2016 submitted by Shri. C.Vijayamohanan. in response to the show cause notice.
 - 7) Letter No. 31550/EU1/13/LSGD dated 10.03.2017 addressed to the Secretary, Kerala Public Service Commission, Thiruvananthapuram.
 - 8) Letter No.A1(3)3707/17/GW dated 07.03.2018 from the Secretary, Kerala Public Service Commission, Pattom, Thiruvananthapuram.

ORDER

Vigilance & Anti Corruption Bureau conducted a Surprise Check as SC 62/2012/TSR on the basis of a petition from one Shri.K.Babu, Kottappuram that un-authorised construction is going on in Surabhi Movies, Chalakkudy and

Sreekaleeswari Theatre, Kogungallur. In the surprise check, the following irregularities were noticed.

- a) The Kodungallur Municipality issued building permit even before applying for NOC from Divisional Fire Officer, Thrissur, Executive Engineer, PWD (Buildings), Thrissur and Chief Electrical Inspector, Thiruvananthapuram. This is in violation of Cinema Regulation Rules, 1988.
- b) There are deviations from the approved plan by the Cinema Theatre Management of Sree Kaleeswari Theatre, Kodungallur.

2. Considering the recommendation of Director, Vigilance and Anti Corruption Bureau as per the letter read as 1st paper above, memo of charges read as 2nd paper above was served on Shri. C. Vijayamohan, former Secretary, Kodungallur Municipality; for the memo of charges, the accused officer submitted written statement of defence read as 3rd paper above, in which he denied the charges. He submitted that the owner of the Sree Kaleeswari Theatre, Kodungallur submitted an application for converting the existing theatre into 2 Mini A/c Theatres and submitted required sketch, plan etc. on 12.06.2012. The same was forwarded to the Chief Electrical Inspector and approval of the Chief Electrical Inspector received on 23.08.2012. The Executive Engineer, PWD Building Division, Thrissur has issued NOC for the same on 27.08.2012. Thereafter the owner furnished application for regularization after completing formalities under Kerala Cinemas (Regulations) Rules, 1988 and revised plan was approved from Municipality and revised permit was issued. The accused further submitted that fire NOC is not required for the renovation of theatre as per the decision of the Hon. High Court in Dhanabhagyam Ammal S and another Vs. State of Kerala and another (I2007(4)KHC 901, 2007 (4) KLT SN 49 (C) 53). Therefore he has requested to drop the action against him.

3. Since the accused officer retired from service on 31.08.2013, Government continued the disciplinary action against him under Rule 3 Part III KSRs and issued show cause notice read as 5th paper above to the officer for withholding Rs. 500 per month from the monthly pension for a period of 5 years.

4. In the reply to show cause notice read as 6th paper above, the accused submitted that Municipal Council has allowed time to the Management of Sree Kaleeswari Theatre, Kodungallur to submit the required certificates under Kerala Cinemas (Regulations) Rules, 1988 and therefore requested to drop action against him as he has to look after his aged mother of 94 years and his family.

5. As requested in the reply to show cause notice, the applicant was heard on 02.11.2016. In the hearing, the accused officer submitted that it was not an intentional action in having granted permit without obtaining Fire NOC and the Overseer and Municipal Engineer failed to bring his attention on the same and he is not a technical staff. He therefore prayed for mercy and requested to drop the provisional decision in the show cause notice.

6. The matter was examined in detail with the report of the Director of Vigilance & Anti Corruption Bureau, Director of Urban Affairs and with the Kerala Cinemas (Regulation) Rules, 1988. In this case, the findings of the Vigilance & Anti Corruption Bureau is that the Kodungallur Municipality issued permit even before getting NOCs from the Divisional Fire Officer, Thrissur, the Executive Engineer, PWD (Buildings), Thrissur and the Chief Electrical Inspector, Thiruvananthapuram. The Rule 24 and 25 of Kerala Cinemas (Regulation) Rules, 1988 insists that no subsequent addition or alteration shall be made to premises in respect of which is licence has been granted or any plan thereof, without sanction of the Licensing Authority being obtained thereof and without the plans and drawings relating to such addition or alteration being approved by him. The licensee shall give notice in writing to the Licensing Authority of his intention to add to or alter the licensed premises or any portion thereof and such notice shall describe clearly the intended additions or alterations and be accompanied by complete plans, elevations and sections and block plan and specifications of the work proposed to be executed, drawn up in the manner required by Rule 4. The Licensing Authority shall, before according sanction to the proposed addition or alteration, follow as far as may be, the procedure laid down in Rules 5 to 7. The Licensing Authority shall not accord sanction for the addition or alteration unless the Chief Electrical Inspector or his nominee and the Executive Engineer have approved the addition or alterations.

7. In this case, the accused has no defense on the action in having issued permit without adhere the above rule. His contention is that there is High Court ruling in the matter to the effect that fire NOC is not required. The argument is also incorrect because the reported decision in Dhanabhagyam Ammal.S and another Vs. State of Kerala and another (2007(4) KHC 901, 2007(4) KLT SN 49 (C)-53) is related to a Non A/c Theatre. In the present case, Sree Kaleeswari Theatre is a multiple A/c Theatre. In the circumstances, the argument of the accused cannot be accepted. But the accused retired from service on 31.03.2013. His DCRG and Pension Commutation are still not disbursed. Considering this aspect, the accused deserves a leniency. Hence Government took a temporary decision to withhold Rs.500 per month from the monthly pension of the accused officer for a period of two years and Kerala Public Service Commission was consulted in this matter as per the letter read as 7th paper above.

The Kerala Public Service Commission as per letter read as 8th paper above, agreed to the tentative decision of the Government and advised accordingly.

8. Government have examined the matter in detail and the temporary decision of Government to withhold Rs.500/- per month from the monthly pension of Shri. C. Vijayamohan for a period of two years is made absolute and orders accordingly.

(By Order of the Governor)
S. MOHANDAS,
ADDITIONAL SECRETARY.

To

The Director of Urban Affairs, Thiruvananthapuram.
The Secretary, Kerala Public Service Commission, Pattom
Thiruvananthapuram.(with C/L)
The Director, Kerala State Audit Department, Thiruvananthapuram
The Principal Accountant General (Audit/A&E), Thrissur
The Secretary, Kodungallur Municipality
Shri. C. Vijayamohanan, Former Secretary, Kodungallur Municipality
(Through Director of Urban Affairs)
The Director, Information Kerala Mission, Thiruvananthapuram
The Vigilance Department (vide No. 13538/D1/16/Vig. dated 28.12.2016)
The Stock File / Office Copy

Forwarded by Order


Section Officer