

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

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THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 18TH DAY OF AUGUST 2020 / 27TH SRAVANA, 1942

WP(C).No.16957 OF 2020 (T)

PETITIONER:

SISIR S.V.  
DEPUTY COMMISSIONER,  
OFFICE OF THE COMMISSIONER,  
STATE GOODS AND SERVICE DEPARTMENT,  
TAX TOWER, KARAMANA,  
THIRUVANANTHAPURAM.

BY ADVS.  
SMT.A.K.PREETHA  
SRI.C.ANIL KUMAR

RESPONDENTS:

- 1 THE KERALA LOK AYUKTA,  
VIKAS BHAVAN, LEGISLATIVE COMPLEX,  
THIRUVANANTHAPURAM, KERALA - 695033,
- 2 BHIMA ENTERPRISES  
ELANKATHU COMMERCIAL COMPLEX,  
OPPOSITE SL THEATRE,  
THIRUVANANTHAPURAM-695001,  
REPRESENTED BY ITS MANAGING DIRECTOR,
- 3 B. GOVINDAN,  
MANAGING PARTNER,  
M/S. BHIMA ENTERPRISES,  
ELANKATHU COMMERCIAL COMPLEX,  
OPPOSITE SL THEATRE,  
THIRUVANANTHAPURAM-695001,

4 SURESH KUMAR,  
STATE TAX OFFICER-INTELLIGENCE (SQUAD III),  
STATE GOODS AND SERVICES DEPARTMENT,  
MINI CIVIL STATION,  
NEYYATTINKARA - 695121.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 18.08.2020, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**JUDGMENT**

Dated this the 18<sup>th</sup> day of August, 2020

S. Manikumar, CJ.

Petitioner, the Deputy Commissioner of State Goods and Services Department, Thiruvananthapuram, has sought for a writ of certiorari to quash Exhibit P1 complaint made against him by M/s. Bhima Enterprises, Thiruvananthapuram, represented by its Managing Director, before the Lok Ayukta, Thiruvananthapuram.

2. Further, petitioner has sought for a mandamus directing the Kerala Lok Ayukta to consider Exhibit P1 complaint in accordance with law and dispose of the same expeditiously.

3. Contrary to second prayer, the petitioner has also sought for a declaration that Exhibit P1 complaint as not maintainable under Section 157 (2) of the Kerala Goods and Services Act, 2017.

4. We have heard Mrs. A.K. Preetha, learned counsel for petitioner and perused the materials available on record.

5. Material on record discloses that M/s. Bhima Enterprises represented by its Managing Director has filed complaint No.440 of 2018 (D), seeking for a declaration under Section 14 of the Kerala Lok Ayukta Act, that the respondents therein should not continue to hold the posts while forwarding the report under Section 12(3) of the Act.

6. Petitioner/complainant has further sought for a direction to Mr.Suresh Kumar S., State Tax Officer-Intelligence (Squad III), State Goods and Services Department, Mini Civil Station, Neyyattinkara (respondent No.2) to consider Ext.P11 application and pass appropriate orders. In support of averments and prayers sought for in Complaint No.440 of 2018, petitioner/complainant has filed 12 documents.

7. Perusal of the statement of facts filed in support of the writ petition shows that after taking cognizance of the complaint, there was 20 postings and that adjudication of the complaint remains at the evidence stage. Complaint has been enquired and it is at the evidence stage.

8. Though reliance has been made on Section 157(2) of the Kerala Goods and Services Act, 2017 for a declaration that Ext.P1 complaint is not maintainable. We are not inclined to grant the third relief as Lok Ayukta has already taken cognizance of the complaint and it is at the evidence stage. For the above said reasons, complaint also cannot be quashed. Writ of certiorari also cannot be granted as prayed for. The only relief that remains to be considered is whether direction can be issued to Kerala Lok Ayukta, Thiruvananthapuram/respondent No.1 to dispose of Ext.P1 complaint expeditiously.

9. Judicial notice can be taken that there are several complaints pending before the Kerala Lok Ayukta, Thiruvananthapuram. The present complaint filed in January, 2018 and numbered as 440 of 2018. If, for any reason, the petitioner is aggrieved over the pendency of the complaint from 2018, it is always open to the petitioner to approach the Kerala Lok Ayukta for early disposal of the complaint. It cannot be said that there is no other alternate and efficacious remedy for the petitioner than to approach this Court under Article 226 of the Constitution of India for the second prayer.

In the light of the above discussion, writ petition is dismissed.

Sd/-  
S. Manikumar,  
Chief Justice

Sd/-  
Shaji P. Chaly,  
Judge

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXHIBIT P1**                      **TRUE COPY OF THE COMPLAINT NO.440/2018  
ON THE FILES OF THE 1ST RESPONDENT.**

**EXHIBIT P2**                      **TRUE COPY OF THE STATEMENT OF FACTS  
FILED BY THE PETITIONER IN COMPLAINT  
NO.440/2018 ON THE FILES OF THE 1ST  
RESPONDENT.**