

**Before the Kerala State Human Rights Commission**  
**Sitting at Wayanad**

Present : **Shri. K.E. Gangadharan**  
**Hon'ble Member**

Dated this the 10<sup>th</sup> day of August, 2010

**HRMP No: 355/2010**

Petitioner : Sri. Hemachandran.A.  
S/o A.Govindhan,  
"Sneham" VIII/169(old),  
(New) XI/205  
Kunduchira,  
P.O. Ponnyam West.

Respondents :

The complaint of the petitioner is as follow:-

The petitioner is residing in the above address as a tenant for the last 10 years. He states that land which he possessed was acquired by the Government for NH bye pass. He had received compensation from the Government but it was not adequate for constructing a house. Now the Government has announced a scheme for homeless as EMS Bhavana padhathi and he applied for it. But the Secretary G.P rejected his application stating that he has no ration card. He stated that he is residing in a rented building and the land owner has filed RCP before the Rent Control Authority, Thalassery (Munsiff Court, Thalassery).

The said RCP was allowed in favour of the land owner and petitioner has filed an Appeal which is pending before the Appellate Authority . The petitioner states that the Appellate Authority has stayed the order of the Rent Control Court.

On receiving the complaint the Commission called for a report from the Secretary Kathiroom Grama Panchayat. The Secretary Grama Panchayat in his reply states that the Panchayat has received an application from Smt. Radha wife of Sri. Hemachandran for getting financial assistance from the Panchayats for purchasing land and constructing house under EMS Bhavana Padhadi. But as per Govt. order GO(Ms)207/99 LSGD dt. 7/11/2009 the applicant has to produce Ration card for getting financial assistance to prove his residence. The petitioner's wife has not produced the relevant records so far. The Panchayat on its verification found that the petitioner and her husband is residing in a rented house owned by Smt. Geetha Prabhakaran Nair and insisted the petitioner's wife to produce a consent letter from the owner of the building but so far they were not produced.

The petitioner was heard in detail. He states that the land owner is not ready to give a consent letter by saying that he has filed an RCP before the Rent Control Authority and the same was ordered in his favour. He also added that against the order he has filed an appeal and an order of stay was granted in his favour. Now the appeal is pending before the Appellate Authority.

On going through the facts of the case and the report of the Panchayat this commission feels that this is a deserving case in which the interference of this commission is required. The petitioner's land was acquired by the Govt. for NH bye pass. Compensation was given by the Govt. but it was not adequate for constructing a house. Now he is having no means for constructing a new house for which he applied for financial assistance from the panchayat for land and house under EMS Bhavana Padhathi. For getting financial assistance under this scheme ration card of the applicant is a pre requisite document. For getting ration card occupancy certificate is required for

considering his application. But the land lord is not giving consent by saying that the Rent Control Authority has passed an order in his favour.

But in view of the judgement rendered by the Hon'ble High Court reported in 1999 (3) KLT page 662 " it is observed that the Corporation cannot insist upon the tenant holding to produce any letter from the land lord for the purpose of issue of license ". The dictum laid down by the Hon'ble High Court is squarely applicable in this case also. Since the petitioner produces the Kachit showing that he is the tenant there is no separate consent letter is required.

Hence I direct the Secretary Kathiroor Grama Panchayat to issue occupancy certificate to the petitioner within 15 days from the date of this order.

**Sd/-**  
**K.E.Gangadharan**  
**Member**

**/True Copy/**

**REGISTRAR**