



**GOVERNMENT OF KERALA**

**Abstract**

Local Self Government Department- Judgement in WP(C) No. 22672/ 2019 filed by Malappuram District Panchayath -Directions complied with-Orders issued

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**LOCAL SELF GOVERNMENT (DA) DEPARTMENT**

**G.O.(Rt)No.905/2021/LSGD** Dated, Thiruvananthapuram, 26/04/2021

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- Read 1. GO(Rt)No.990/2019/LSGD dated 15/5/2019.  
2. GO(Rt)No.1209/2019/LSGD dated 12/6/2019.  
3. GO(Rt)No.1328/2019/LSGD dated 28/6/2019.  
4. Judgement of Hon'ble High Court dated 07/11/2019 in WP(C) No. 22672/2019 filed by Malappuram District Panchayat.  
5. Govt.Lr.No.DA1/292/2019 dated 16.09.2020  
6. Lr.No. J1-12911/2019 dated 23.09.2020 from the Director of Panchayath.  
7. Letter dated 24.9.2020 from the President, Malappuram District Panchayath.  
8. Letter No. A2/2744/20 dated 24.9.2020 from the Executive Engineer, Malappuram District Panchayat.  
9. GO (Rt) No. 201/2021/LSGD dated 25/1/2021.

**ORDER**

As per Government Order read as 1<sup>st</sup> paper above guidelines for modifying the Annual Plan of Local Government Institutions for the year 2019-20 in conformity with the budget outlay and incorporating the spillover commitment of previous year was issued. Consequently, Malappuram District Panchayat submitted representation as per Ext- P3 in the WP(C) as aggrieved by the same due to loss caused to the tune of Rs. 78.69 Crores (Queue bill amount Rs. 24 crores and amount in respect of Spill Over project of Rs. 54.67 Crores). The said application for grant of above amount over and above the budget allocation was rejected by Government in Finance Department as per

letter No. SFC-A3/123/2019/FIN dated 4.6.2019 and hence filed WP(C) No. 22672 of 2019 before the Hon'ble High Court.

As per Judgement read as 4<sup>th</sup> paper above the Hon'ble High Court observed that the same course as in the judgement dated 16/10/2019 in WP(C) No.21365/2018 must be adopted in this Case also and directed therein that the concerned Secretary of the Government of Kerala to hear the petitioner in this case and take a decision as to whether any exception can be granted to them on proper applications being made by them to relax the rigour of Ext P2 Government Order, read as 1<sup>st</sup> paper above, with reference to the specific project / projects to be referred by them in their applications so that public interest will not suffer for want of necessary funds.

Based on above direction in the Judgement hearing was conducted on 24.9.2020 and the petitioner (President, Malappuram District Panchayath), Joint Director representing Director of Panchayath, Secretary, Malappuram District Panchayath and Executive Engineer, Malappuram District Panchayath attended the hearing.

The petitioner pointed out the facts including the averments in Ext P3 as follows-

As per Govt Orders read as 1<sup>st</sup> & 2<sup>nd</sup> paper above all the projects which are not completed before 31<sup>st</sup> March may be included as spillover projects. Works related to the bills submitted before Treasury at the end of March 2019 but included in the Queue List without payment may also be included as spill over projects. Only additional commitment for spill over to the tune of 30% of budget allocation under each category is admissible. The spill over amount over and above this 30% will be included with in the budget allotment and new projects could be included for the remaining amount only. But for the preparation of Annual Plan in respect of 2019-20 guidelines were issued as per GO(Rt) No.2710/2018/LSGD dt. 23.10.2018, based on which annual plan projects were finalized well in advance by December 2018 and these projects were published for awareness of public. As such, due to the change in guidelines as per Govt Orders read as 1<sup>st</sup> paper above several of those projects have to be withdrawn in order to find fund for spillover projects. This loss is not due to any lapse on part of the District Panchayat, but due to the calamities like flood, Nipah of 2018 and undeclared the Treasury ban by the end of March 2019. Hence it was requested to allot at least the queue bill amount of Rs.24 Crores excluding it from the category of spillover projects particularly in the wake of further problems due to covid pandemic in the financial year 2020-21 also.

Executive Engineer, Malappuram division has submitted as per report read as the 8<sup>th</sup> paper above that bills submitted up to 23.03.2019 were passed for payments, but the remaining were converted to Queue Bill. It is also clarified that the delay in the works were due to Model Code of Conduct in relation with two Bye Elections in Malappuram District during 2018-19.

The Joint Director of Panchayat informed that all Local Self Government Institutions had implemented projects as per Govt Order dated 15.05.2019. The request for allotment of fund over and above budget provision for Queue Bill is to be considered for a common policy decision applicable to all LSGIs, but it will create serious problems both legally and financially. The Director of Panchayat also reported the same as per report read as 6<sup>th</sup> paper above.

Govt have examined the matter in detail. As per Govt. Order read as 9<sup>th</sup> paper above the judgement dated 16/10/2019 in WP(C) No.21365/2018 was complied by considering the fact whether exception /modification in Govt Orders read as 1<sup>st</sup> paper above may be granted after conducting hearing of the stake holders. As per para 4.1 of the Govt Order dated 15.05.2019, it is clearly reiterated that new projects incorporated in annual plan 2019-20 could be regularized by either abandoning the same or by changing the estimate of said projects for accommodating the spillover projects. As such, Malappuram District Panchayat could have modified the projects already announced as per above directives. Also the averment that District Panchayat faced a loss of Rs. 78.67 crores on account of spill over projects is also not true to fact, as from the financial year 2015-16 onwards plan expenditures were drawn from the consolidated fund through submission of bills, thus making non utilised funds lapse on 31<sup>st</sup> March of every Financial Year. Also any revision in the guidelines now is not practically possible as reported by Director of Panchayat that it will lead to serious problem both legally and financially.

In the above circumstances the application of Malappuram District Panchayat as per Ext P3 is rejected and the judgment read as 4<sup>th</sup> paper above is complied with accordingly.

(By order of the Governor)  
**SARADA MURALEEDHARAN IAS**  
**ADDITIONAL CHIEF SECRETARY**

To:

The Director of Panchayats.

The Chief Engineer, LSGD.

The Advocate General, Kerala, Ernakulam (with Covering Letter).

The President, Malappuram District Panchayat.

The Secretary, Malappuram District Panchayat.

The Executive Director, Information Kerala Mission.

Finance Department (SFC-A3/186/2019/FIN).

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Section Officer