



GOVERNMENT OF KERALA

Abstract

Disaster Management Department- Judgement dated 01/03/2024 of Hon'ble High Court of Kerala in WP(C) No.3497/2023 filed by Smt. Rajalakshmi - Complied with - Orders issued.

DISASTER MANAGEMENT (A)DEPARTMENT

G.O.(Rt)No.461/2024/DMD Dated, Thiruvananthapuram, 05-07-2024

- Read 1. GO(Ms)No.21/2020/DMD dated 25/06/2020.
2. GO(Ms)No.22/2020/DMD dated 26/06/2020.
3. Proceedings No. DMC3-250961/2021 dated 29/03/2022 of District Collector, Alappuzha.
4. Representation of Smt. R. Rajalakshmi, Proprietrix, Aryaas Residency, Alappuzha dated 28.7.2022.
5. Letter No. DMC3-250961/2021 dated 01/10/2022 of District Collector, Alappuzha.
6. Judgement of Hon'ble High Court in WP(C)No. 3497/2023 dated 01/03/2024.

ORDER

As per the Government order read as 1st and 2nd paper above, Government have issued detailed guidelines for the payment of compensation for the buildings taken over for Covid-19 containment activities. Hotel Aryaas Residency was requisitioned for the purpose of setting up Covid Care Centre from 3.4.2020 to 12.6.2020 and 19.6.2020 to 20.10.2020 and an amount of Rs. 6,58,000 was distributed to Smt. R. Rajalakshmi, Proprietrix as rent for the said period. But she submitted representation for various payments/ exemptions including payment of compensation on account of the loss/ damage sustained to the Hotel amounting to Rs. 7,48,425 which was proposed by the Alappuzha Municipality.

Pending action on the same, as per judgment of Hon'ble High Court

in WP(C) No. 28496/2021 dated 3.1.2022 the District Collector, Alappuzha considered her request and conducted hearing. On the basis of the same he issued proceedings read as 3rd paper above directing the Deputy Collector(DM) to send report to Government regarding the compensation for losses on account of Civil works and other items like bedsheets and curtain clothes as reported by the Secretary, Alappuzha Municipality and losses on account of damages to electrical equipments to be submitted by PWD.

After that she has forwarded request read as 4th paper above to Government for permitting the said benefits. As per letter read as 5th paper above the report was submitted by the District Collector, Alappuzha to Government for decision regarding disbursement of a total amount of Rs. 8,27,151 for losses regarding items detailed preparata (Rs. 7,48,425 reported by the Alappuzha Municipality and Rs. 78,726 reported by the PWD). While the same was under examination in the Government, Smt. R. Rajalakshmi filed Writ Petition No.3497/2023 before the Hon'ble High Court seeking direction to the respondents to disburse amount of compensation on account of the loss/ damage sustained to the Hotel.

As per the judgement read as 6th paper above, the Hon'ble High Court have disposed the WP(C)No.3497/2023 filed by Smt.R.Rajalakshmi, Proprietrix, Aryaas Residency with following directions:-

- a. *The Competent Authority of the Government will immediately take up the recommendation of the District Collector, as reflected in his proceedings No.DMC3-250961/2021 dated 29.03.2022 – produced along with a Memo of the learned Government Pleader dated 27.02.2024 and issue appropriate orders with respect to the claim of the petitioner for the sum of Rs.8,27,151/-, as expeditiously as is possible, but not later than one month from the date of receipt of a copy of this judgement.*
- b. *On the Government issuing orders as afore and if they are to permit the payment of amounts to the petitioner, then the*

competent Authority shall ensure that the petitioner is disbursed the said amount within a period of one month thereafter.

Government have examined the matter in detail. As per Sec. 66 of Disaster Management Act, 2005- "*Whenever any Committee, Authority or officer referred to in sub-section (1) of section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation, the amount of which shall be determined by taking into consideration the following, namely:*

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality:

(ii) if as a consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change'

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine; provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator."

The above section envisages only the payment of a fixed compensation as rent for the premises requisitioned. This amount covers dues for use of the building during the period of occupation by the requisitioning authority and any incidental wear and tear that is sustained during the use. All buildings sustain wear and tear during use which is covered always under the rent for the building/room unless there is a separate clause in the agreement between the parties covering compensation for any major damage beyond the regular wear and tear.

There is no such provision in the Government Orders read as 1st and 2nd above. As per the rates mentioned in the Government Order read as 1st and 2nd paper above, a sum of Rs.6,58,000/- has been released to the petitioner towards the rent due to the hotel "Aryaas Residency" through Alappuzha Municipal Secretary during the period in which the hotel was used for the Covid-19 quarantine purposes.

In the above circumstances, Government hereby reject the proposal of the District Collector as per proceedings read as 3rd paper above regarding the request of Smt.R.Rajalakshmi seeking compensation for the damages incurred by the petitioner's Hotel "Aryaas Residency" taken over by the District Disaster Management Authority during the COVID 19 pandemic period.

The direction contained in the Judgement dated 01/03/2024 read as 6th paper above is complied herewith accordingly.

(By order of the Governor)
TINKU BISWAL
PRINCIPAL SECRETARY

To:

The Accountant General (Audit)(A&E) Kerala, Thiruvananthapuram.

The Commissioner, Land Revenue, Thiruvananthapuram.

The Commissioner, Disaster Management Department.

The District Collector, Alappuzha.

The Advocate General, Ernakulam.

The Member Secretary, Kerala State Disaster Management Authority.

Smt.Rajalakshmi, Proprietor, Hotel Aryaas Residency, Opp.Boat Jetty,
Mini Civil Station, Fishing Point Road, Thathampally P.O.

The Information Officer, Web & New Media, I&PRD.

Stock File/Office Copy.

Forwarded /By order

Section Officer