

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

RP.No. 226 of 2015 (L) IN WP(C).28519/2010

AGAINST THE JUDGMENT IN WP(C) 28519/2010 of HIGH COURT OF KERALA DATED
23-03-2011

REVIEW PETITIONER:

SINDHU, AGED 39 YEARS
W/O. SANTHOSH, KUZHUPPILLY, KATHIKUDAM
KALLUR VADKKUMMURI, THRISSUR - 680 308.

BY ADVS. SRI. A. JAYASANKAR
SRI. C. V. MANUVILSAN
SRI. MANU GOVIND

RESPONDENTS:

1. M/S. NITTA GELATIN INDIA LIMITED
27/472, SBT AVENUE, PANAMPILLY NAGAR
COCHIN - 682 036
REPRESENTED BY ITS MANAGING DIRECTOR.
2. THE DIRECTOR GENERAL OF POLICE
STATE POLICE HEAD QUARTERS, VELLAYAMBALAM
THIRUVANANTHAPURAM - 695 010.
3. THE SUPERINTENDENT OF POLICE
THRISSUR - 680 001.
4. THE SUPERINTENDENT OF POLICE
PALAKKAD - 678 001.
5. THE SUPERINTENDENT OF POLICE
ERNAKULAM - 682 001.
6. THE SUPERINTENDENT OF POLICE
IDUKKI - 13.

ADDL. R7. K.M. ANILKUMAR,
KUNJUVALAPPIL HOUSE, KATHIKUDAM P.O
THRISSUR - 680 308.

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ADDL.R8. K.M. SUNILKUMAR,
KUNJUVALAPPIL HOUSE, KATHIKUDAM P.O
THRISSUR - 680 308.

ADDL.R9. JAYAN JOSEPH PATTATH
PATTATH HOUSE, KADUKUTTY P.O., THRISSUR - 680 309.

ADDL.R10. M.C. JOHNSON,
S/O. CHAKKAPPAN, MALIYAKKAL HOUSE, KATHIKUDAM
THRISSUR - 680 308.

ADDL.R11. T.O. THANKACHAN,
THELEKKAT HOUSE, KADUKUTTY P.O., THRISSUR - 680 309.

ADDL.R12. JOJI JOSEPH,
THELEKKAT HOUSE, KADUKUTTY P.O., THRISSUR - 680 309.

ADDL.R13. T.S. JINSON
THYPARAMBIL HOUSE, KATHIKUDAM P.O.
THRISSUR - 680 308.

ADDL.R14. FRANCO MATHEW,
THELEKAT HOUSE, KADUKUTTY P.O., THRISSUR - 680 309.

ADDL.R15. JIJO MATHEW,
THELEKKAT HOUSE, KADUKUTTY P.O., THRISSUR - 680 309.

ADDL.R16. CHANDRASEKHARAN K.K.
KANNANCHERY HOUSE, KATHIKUDAM P.O, THRISSUR - 680 308.

ADDL.R17. M.C. GOPI,
MUTHRATHIPARAMBIL HOUSE, KATHIKUMDAM P.O.
THRISSUR - 680 308.

ADDL.R18. V.R. BABU,
VALLATH HOUSE, KAKKAD, CHERUVALLOOR P.O - 680 308.

ADDL.R19. SANTHOSH
KUZHUPILLY HOUSE, KATHIKUDAM P.O., THRISSUR - 680 308.

ADDL.R20. POLACHAN,
GOPURAN HOUSE, KATHIKUDAM P.O. THRISSUR -680 308.

** ADDL.R7 TO R20 ARE IMPEADED AS PER ORDER DATED 26.03.2015 IN IA 120/15.

ADDL R7-R20 BY ADVS. SRI.M.R.HARIRAJ
SMT.VINEETHA B.

R1 BY ADVS. SMT.LATHA ANAND
SRI.K.ANAND (SR.)

R2 TO R6 BY GOVERNMENT PLEADER SRI.P.M. SANEER

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 18-11-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

- A1 : CERTIFIED COPY OF THE JUDGMENT DATED 23.03.2011 IN W.P.(C) NO.28519 OF 2010.
- A2 : A TRUE PHOTOCOPY OF THE PRESS REPORT WHICH APPEARED IN THE HINDU DATED 16.7.2014.
- A3 : A TRUE PHOTOCOPY OF THE PRESS REPORT WHICH APPEARED IN THE MADHYAMAM DAILY DATED 26.05.2014.
- A4 : A TRUE PHOTOCOPY OF THE PRESS REPORT WHICH APPEARED IN THE MATHRUBHUMI DAILY DATED 28.7.2014.
- A5 : A TRUE PHOTOCOPY OF THE NEWS REPORT DATED 4.10.2014 PUBLISHED IN MALAYALA MANORAMA DAILY.
- A6 : A TRUE PHOTOCOPY OF THE NEWS REPORT DATED 5.10.2014 PUBLISHED IN MALAYALA MANORAMA DAILY.
- A7 : A TRUE PHOTOCOPY OF THE REPORT SUBMITTED BY THE KERALA AGRICULTURAL UNIVERSITY DATED 14.05.2010.
- A8 : A TRUE PHOTOCOPY OF THE REPORT DATED 21.12.2012.
- A9 : A TRUE PHOTOCOPY OF THE REPLY SUBMITTED BY THE POLLUTION CONTROL BOARD DATED 18.6.2011 UPO ON A QUERY UNDER RTI ACT.
- A10 : A TRUE PHOTOCOPY OF THE REPLY TO THE QUERY UNDER RTI AT DATED 13.08.2014.
- A11 : A REPRESENTATION DATED 02.08.2014 SUBMITTED BEFORE THE DIRECTOR OF AGRICULTURE FOR INITIATING ACTION UNDER THE FERTILIZER CONTROL ORDER, 1985.
- A12 : A TRUE PHOTOCOPY OF THE NOTICE VIDE KDY-22(A)/2014-15 DATED 25/09/2014.
- A13 : A TRUE COPY OF THE COUNTER AFFIDAVIT DATED 12.09.2014 FILED BY THE DIRECTOR OF AGRICULTURE IN WPC NO.22823/2014.
- A14 : A TRUE PHOTOCOPY OF THE SHOW CAUSE NOTICE DATED 09.10.14.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

**CMA No.81 of 2015
&
Review Petition No.226 of 2015**

Dated this the 18th day of November, 2015

ORDER

Surendra Mohan,J.

Nineth respondent in W.P.(C) No.28519 of 2010 has filed this application for condonation of delay of 1322 days in filing the accompanying review petition. The only explanation of the petitioner for the delay is that, "it was only recently that" she had come to know that the activity to which Police protection had been ordered was an illegal one conducted without proper licence.

2. We notice that the petitioner was a party to the Writ Petition and that, she was represented through counsel. Therefore, we are not satisfied that the explanation offered is sufficient to condone the enormous delay in filing the review petition.

3. The petitioner has placed reliance on the decision in **Collector, Land Acquisition, Anantnag and Another v. Mst.**

Katiji and others [1987 KHC 911:1987(2) SCC 107: AIR 1987 SC 1353: 1987 (62) Comp Cas 370: 1987 (66) STC 228: 1987 (167) ITR 471]. The counsel places particular reliance on paragraph 3 of the judgment to point out that, in all cases where the court is called upon to decide whether delay should be condoned or not, a liberal approach is necessary. This so on the ground that a litigant ordinarily does not stand to benefit by delaying the filing of an appeal. It has also been noticed by the Apex Court that, refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and the cause of justice being defeated. The principle that 'every day's delay must be explained' does not mean that a pedantic approach should be adopted. The court has also reminded that there is no presumption that the delay was caused deliberately.

4. Bearing the above principles in mind, what requires to be noticed in this case is that, the contention of the counsel for the petitioner is that, the 1st respondent does not have the necessary licence to carry on the activity against which objections are raised. Therefore, according to the learned counsel, this Court had proceeded on an erroneous assumption of fact. However, a perusal of the judgment shows that, the only relief granted is that of Police protection for the activity against

which obstructions had been caused. It has been made clear in the judgment that the same will not in any way fetter the rights of respondents 6 to 20 to take any other action in accordance with law to complain about the alleged environmental hazards caused on account of the removal of sludge.

5.The petitioner was the 9th respondent therein. Therefore, the judgment has taken care to safeguard the other remedies available to the petitioner. The authorities are also free to take appropriate action in accordance with law if the 1st respondent does not have the necessary licenses to carry on their activity.

The above being the position, we do not find any grounds to condone the enormous delay that has occurred in the present case. We are also of the considered view that absolutely no ground for review of the judgment has been made out. The C.M. Application and Review Petition are dismissed accordingly.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. To Judge

smv
18.11.2015