

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WA.No. 590 of 2015 () IN WP(C).1670/2015

AGAINST THE JUDGMENT IN WP(C) 1670/2015 of HIGH COURT OF
KERALA DATED 11-02-2015.

APPELLANT(S)/PETITIONERS:

1. T M FATHIMABEEVI,
W/O. MOHAMMED JALEEL, MADATHIL HOUSE,
KANJIRAPPALLY,
PROPRIETIX, FATHIMA RUBBER AND INDUSTRIES,
CHEMICAL INDUSTRIAL ESTATE, AROOR P.O.,
ALAPPUZHA DISTRICT.

2. M.M. MOHAMMED HAZEER, S/O. MOHAMMED JALEEL,
MADATHIL HOUSE, KANJIRAPPALLY

BY ADVS.SRI.T.I.ABDUL SALAM
SRI.PHILIP T.VARGHESE

RESPONDENT(S)/RESPONDENTS:

1. KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O., THIRUVANANTHAPURAM 695 004,
REPRESENTED BY ITS SECRETARY

2. CHAIRMAN, KERALA STATE POLLUTION
CONTROL BOARD,
PATTOM PO, THIRUVANANTHAPURAM 695004.

3. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, THODANKULANGARA,
THATHAMPALLY P.O.,
ALAPPUZHA 688 013

4. RUBBER BOARD, RUBBER BOARD PO,
KOTTAYAM 686 009,
REPRESENTED BY THE SECRETRARY.

5. THE ASSITANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION,
AROOR, ALAPPUZHA DISTRICT.

R4 BY SRI.V.ABRAHAM MARKOS
R1 TO R3 BY SRI. M.AJAY, SC, KERALA STATE
POLLUTION CONTROL BOARD
5- BY SRI.JAICE JACOB,SC,KERALA STATE
ELECTRICITY BOARD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

W.A.No.590 of 2015

Dated this the 17th day of March, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellants quite in extenso.

2. The 2nd appellant is the son of the 1st appellant. They were running a rubber processing unit in the Chemical Industrial Estate, Aroor, Alappuzha District. They were issued with a closure intention notice followed by a closure order. The fundamental plea projected is that there is absolutely no factual foundation for the proposed closure and though the closure intention notice gave 15 days' time, the closure order was issued on the 6th day following the notice.

3. The learned single Judge took note of the more important factor, namely, that the activity of the petitioner

is gaining attention of the National Green Tribunal, Southern Zone, Chennai. In paragraph-9 of the impugned judgment, the learned single Judge has quoted the different orders of the Tribunal. Those materials clearly show that the learned single Judge stood well advised not to exercise the writ jurisdiction, since such discretionary remedy ought to be excused when the matter is already gaining attention of the Tribunal. We also see more importantly that even if the National Green Tribunal closes the matter, the writ appellants' remedy against the impugned decisions would lie by way of statutory appeals under the laws relating to Pollution Management, particularly under the provisions of the Water (Prevention and Control of Pollution) Act, 1974.

4. In any view of the matter, we do not find our way to interfere with the judgment of the learned single Judge in this intra-court appeal.

In the result, this writ appeal is dismissed in limine without prejudice to the contentions in other jurisdiction.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge