

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WA.No. 1738 of 2015 () IN WP(C).35131/2014

**AGAINST THE ORDER/JUDGMENT IN WP(C) 35131/2014 of HIGH COURT OF KERALA
DATED 23-07-2015**

APPELLANT(S)/PETITIONER:

**HASSAN PULIKKAL AGED 42 YEARS
S/O. MOIEEN HAJEE, PULIKKAL HOUSE, KAVITHIKALAM
P.O.KOTTAKKAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.SIRAJ KAROLY
SRI.R.PARAMESWARA IYER**

RESPONDENT(S)/RESPONDENTS/ADDITIONAL RESPONDENTS 5 TO 8:

- 1. THE ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD
DISTRICT OFFICE, MALAPPURAM - 676 505.**
- 2. THE SECRETARY
OTHUKKUNGAL GRAMA PANCHAYATH, OTHUKKUNGAL P.O.
TIRURANGADI TALUK, MALAPPURAM DISTRICT.**
- 3. OTHUKKUNGAL GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, PANCHAYATH BUILDING
OTHUKKUNGAL P.O., TIRURANGADI TALUK
MALAPPURAM DISTRICT.**
- 4. THE DISTRICT COLLECTOR
COLLECTORAE, MALAPPURAM.**
- 5. RASHEED VADAKKETHIL
S/O. HYDROSE, UDARANI, PUTHUR P.O - 676 503
UTHUKKUNGAL VILLAGE, TIRURANGADI TALUK
MALAPPURAM DISTRICT.**
- 6. ACHUTTY VADAKKETHIL
W/O. KUNJI RAYIN, PUTHUR
UDARANI - 676 503. TIRURANGADI TALUK
OTHUKKUNGAL VILLAGE, MALAPPURAM DISTRICT.**

7. KHADEEJA VADAKKETHIL
W/O. UNNEENKUTTY, PUTHUR, UDARANI - 676 503
TIRURANGADI TALUK, OTHUKKUNGAL VILLAGE
MALAPPURAM DISTRICT.

8. BIRIYAMU
W/O. HYDROSE, CHAPPANGADIL HOUSE, UDARANI - 676 503
TIRURANGADI TALUK, OTHUKKUNGAL VILLAGE
MALAPPURAM DISTRICT.

BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
BY SRI.K.RAMACHANDRAN, SC FOR PANCHAYAT
BY SRI.P.M.RAFIQ
BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06-08-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 1738 of 2015

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Dated this, the 6th day of August, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard. This writ appeal has been filed against judgment dated 23rd July, 2015 passed by the learned Single Judge in WP(C) No.35131/2014. The petitioner has filed the writ petition challenging the order issued by the Pollution Control Board withdrawing the consent which was given to the petitioner to run the unit. Learned Single Judge disposed of the writ petition directing the Pollution Control Board to reconsider the matter and take fresh decision regarding consent. Learned Single Judge directed that the Pollution Control Board can initiate the proceedings on receipt of the certified copy of the judgment and shall finalise the same within three months from the date of receipt of a copy of the judgment. Learned counsel for the appellant submits that, during the period, Pollution Control Board has been directed to consider whether he should be permitted to

carry out his functioning, since he has large number of unfinished orders, he should be allowed to operate. The prayer of the petitioner is being opposed by the respondents submitting that consent having been withdrawn, which order has not been set aside by the learned Single Judge, petitioner cannot operate till he receives consent to operate from Pollution Control Board. Learned counsel for the petitioner also submits that in event Board decides not to permit the petitioner to continue, he is entitled to complete his unfinished work and for that, time is required.

2. After considering the submission of the learned counsel for the parties, we are of the view that in view of the withdrawal of the consent, petitioner cannot be permitted to run the industry till any decision is taken by the Pollution Control Board. In so far as the submission regarding grant of some time to complete the unfinished work is concerned, it is for the Pollution Control Board to consider any such prayer, if made. We only modify the direction with regard to time. We direct the Pollution Control Board to complete the entire process within two months from the date of receipt of a copy of this judgment. Learned counsel for

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the appellant lastly contended that he be permitted to carry on the work without use of machinery till a decision is taken by the Pollution Control Board. We are of the view that such request may also be considered by the Pollution Control Board.

Writ appeal is disposed of as above.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge