

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WA.No. 1836 of 2015 ()

WP(C) 13018/2015 of THIS HONOURABLE COURT

APPELLANT :

**LATHA SUSAYYA CHARLES,
W/O. JUSAYYA CHARLES @ SAMSON, ALVIN VILLA, TRA 20 B,
THIRUMALLAVARAM, KOLLAM WEST VILLAGE, KOLLAM**

BY ADV. SRI.B.MOHANLAL

RESPONDENTS :

- 1. THE KOLLAM CORPORATION
CORPORATION BUILDING, KOLLAM 691001
REPRESENTED BY ITS SECRETARY**
- 2. THE HEALTH OFFICER,KOLLAM CORPORATION,
CORPORATION BUILDING,KOLLAM - 691001**
- 3. THE ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, USHUS BUILDING, BIG BAZAR
KOLLAM - 691001**
- 4. THE DISTRICT MEDICAL OFFICER
HEALTH DEPARTMENT, COLLECTORATE, CUTCHERY P.O.,
KOLLAM 691013**
- 5. SRI. KRISHNAKUMAR P.,
PANTHIRIKAL PADINJATTATHIL, NEAR TRA 20 B,
THIRUMULLAVARAM P.O., KOLLAM WEST VILLAGE, KOLLAM 691012**

**BY SRI.C.RAJENDRAN
BY SRI.M.K.CHANDRA MOHAN DAS,SC,
R3 BY SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD
R4 BY SPL. GOVERNMENT PLEADER SMT. GIRIJA GOPAL**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 18-08-2015,THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

WA.No. 1836 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES :

**ANNEXURE A1: COPY OF THE NOTICE NO.PCB/KO/ICO/G/514138/2015
DT 04/07/2015 ISSUED BY THE R3 TO THE R5 TO REVOKE THE
CONSENT.**

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUGE

bp

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.1836 of 2015

Dated this the 18th day of August 2015

J U D G M E N T

Shaffique, J

This appeal is filed by the petitioner in W.P.C.No.13018/2015 challenging the common order dated 28/07/2015 in W.P.C.Nos.13018, 14003 & 17823 of 2015. By virtue of the said common order, the learned Single Judge had directed the Pollution Control Board (for short 'PCB') to pass appropriate orders with reference to the chicken stall being conducted by the 5th respondent herein, who is the petitioner in W.P.C.No.14003/2015.

2. The issue in the writ petition relates to the conduct of a chicken stall by the 5th respondent. The appellant contended that the stall is causing pollution in the nearby locality and that it is functioning without valid licence from the Corporation. The learned Single Judge, while considering all writ petitions together, observed that since the cancellation of licence by the respondent Corporation is during the period when the consent to operate

issued by the PCB was in force, the state of affairs existing as on the date should continue. Accordingly, interim stay granted in favour of the writ petitioner in W.P.C.No.14003/2015 was directed to be continued for a period of three months.

3. The learned counsel for the appellant, while impugning the aforesaid order, submits that the learned Single Judge has committed serious error in permitting the 5th respondent to conduct the chicken stall especially when there was no valid licence from the Corporation.

4. Heard learned counsel for the appellant, Sri.Chandra Mohan Das, learned Standing Counsel appearing for respondents 1 and 2 and the learned counsel appearing for the 5th respondent.

5. It is submitted by the learned counsel for the 5th respondent that the aforesaid order came to be passed in W.P.C.No.14003/2015, wherein stay has been granted against cancellation of licence especially on account of the fact that he has taken all necessary steps to ensure that no pollution is being caused in the nearby locality. It is submitted that the PCB has only been permitted to conduct a further inspection in the matter and file a report before the Court. Accordingly, no pollution is

being caused to the locality and he shall abide by the directions issued by the PCB in the matter. It is also brought to the notice of this Court that PCB had fixed 21/08/2015 as the date for inspection.

6. Having regard to the aforesaid factual situation, it is relevant to note that the learned Single Judge had passed the interim order taking into account the fact that the licence of the petitioner was cancelled at a time when the consent to operate issued by the PCB was in force. It is brought to the notice of this Court by the learned counsel for the appellant that on several occasions, the 5th respondent was given opportunity to comply with the standards prescribed by the PCB and there was failure on his part.

7. Having regard to the fact that the learned Single Judge felt it necessary for the PCB to visit the premises of the 5th respondent and submit a report, we are of the view that the conduct of the chicken stall shall be subject to further orders to be passed by the PCB. If the PCB is of the opinion that at present, the chicken stall conducted by the petitioner is causing pollution and the consent to operate has to be withdrawn, the 5th

respondent shall not be permitted to carry on the functioning of the chicken stall.

8. In the said circumstances, we modify the above interim order to the following extent:

i) The conduct of chicken stall by the 5th respondent will be subject to further orders issued by PCB, based on their inspection.

ii) If any directions are issued by the PCB to rectify any deficiency, the conduct of chicken stall shall be continued only after complying with the said directions.

iii) Parties are at liberty to approach the learned Single Judge for an early hearing of the matter.

This writ appeal is disposed of as above.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

