

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 965 of 2014 (U)

PETITIONERS:-

1. M.G GIRISH KUMAR, AGED 35 YEARS,
S/O.M.K. GOVINDAN NAIR,
RESIDING AT UZHUNNANTTUMADATHIL,
AIRAPURAM P.O., PIN - 683 541.
2. DR.A.V.PAULOSE, AGED 64 YEARS,
S/O.LATE VARKEY, RESIDING AT AMIKKARAYIL HOUSE,
AIRAPURAM P.O., PIN - 683 541.

BY ADVS.SRI.PEYUS A.KOTTAM
SRI.T.P.NISHAD KHAN

RESPONDENTS:-

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT ANNEX,
TRIVANDRUM - 695 001.
2. DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD,
ERNAKULAM, PIN - 682 030.
3. DISTRICT MEDICAL OFFICER,
DEPARTMENT OF HEALTH,
ERNAKULAM DISTRICT - 682 011.
4. MAZHUVANNUR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, MAZHUVANNUR - 686 669.
5. PAUL T. THOMAS,, AGED 41 YEARS,
S/O.THOMAS, THODATHIL HOUSE, VENGOLA KARA,
VALAYANCHIRANGARA P.O. - 683 556.
6. RESSI PAUL, AGED ABOUT 34 YEARS,
W/O.PAUL T. THOMAS, THODATHIL HOUSE,
VENGOLA KARA, VALAYANCHIRANGARA P.O. - 683 556.

7. K.P.MATHEW, AGED ABOUT 62 YEARS,
RESIDING ATKANNIYANKUDDIYIL HOUSE,
VALAYANCHIRANGARA P.O - 683 556.
8. BIJI SAJU,
W/O.SAJU, WARD MEMBER, WARD NO.XI,
MAZHUVANNUR GRAMA PANCHAYATH - 686 669.
9. CHIEF ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
GANDHI NAGAR, ERNAKULAM - 682 020.

R4 BY ADV.SRI.JOHN K.GEORGE
R5-R7 BY ADV. SRI.JOICE GEORGE
R5 -R 7 BY ADV. SRI.LIJL.J.VADAKEDOM
R5 -R 7 BY ADV. SRI.RAJEEV JYOTHISH GEORGE
R8 BY ADV.SRI.JUVAZE MUHAMMED
R9 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS : -

- EXHIBIT P1 : TRUE COPY OF JUDGMENT DATED 17.08.2012 OF THIS HONOURABLE COURT IN WPC NO.1812/2012-(B).
- EXHIBIT P2 : TRUE COPY OF LETTER NO.C3-11137/2013 DATED 03.01.2014 ISSUED BY THE DISTRICT MEDICAL OFFICER (HEALTH) TO THE SECRETARY MAZHUVANNUR GRAMA PANCHAYATH.
- EXHIBIT P3 : TRUE COPY OF LICENSE NO.C3 8744/13 DATED 04.01.2014 ISSUED BY THE SECRETARY MAZHUVANNUR GRAMA PANCHAYATH TO K P MATHEW.
- EXHIBIT P4 : TRUE COPY OF LTEER DATED 22.07.2013 SUBMITTED BY BIJI SAJU, WARD MEMBER TO THE SECRETARY, MAZHUVANNUR GRAMA PANCHAYATH.
- EXHIBIT P5 : TRUE COPY OF MASS PETITION DATED 03.09.2012 SUBMITTED PETITIONERS AND OTHERS BEFORE THE SECRETARY, MAZHUVANNUR GRAMA PANCHAYATH.
- EXHIBIT P6 : TRUE COPY OF THE FIRST INFORMATION REPORT NO.581 DATED 11.07.2013 OF KUNNATHUNADU POLICE STATION.
- EXHIBIT P7 : TRUE COPY OF APPROVED SITE PLAN-100 M RADIUS PLAN FOR ACHUS FARM AT AIRAPURAM, KUTTIPPILLY.

RESPONDENTS' EXHIBITS : -

- EXHIBIT R5(a) : TRUE COPY OF THE CONSENT GIVEN BY THE 4th RESPONDENT DATED 17.01.2012 TO THE 7th RESPONDENT TO OPERATE A POULTRY FARM IN THE PETITIONERS PROPERTY.
- EXHIBIT R5(b) : TRUE COPY OF THE CONSENT RENEWAL ORDER No. PCB/EKM/DO2/IC-R1/83/2013 DATED 17.04.2013 ISSUED BY THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD.
- EXHIBIT R5(c) : TRUE COPY OF THE REPRESENTATION DATED 26.11.2013 FILED BY THE 5th RESPONDENT BEFORE THE PRESIDENT OF THE 4th RESPONDENT PANCHAYAT.
- EXHIBIT R5(d) : TRUE COPY OF THE REPRESENTATION DATED 26.11.2013 FILED BY THE 7th RESPONDENT BEFORE THE PRESIDENT OF THE 4th RESPONDENT PANCHAYAT.

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EXHIBIT R5(e) : TRUE COPY OF THE RESOLUTION No.7 DATED 21.12.2013 OF
THE 4th RESPONDENT GRAMA PANCHAYAT.

EXHIBIT R5(f) : TRUE COPY OF THE NO OBJECTION CERTIFICATE No.222/2013
DATED 01.06.2013 ISSUED BY THE HEALTH SUPERVISOR,
COMMUNITY HEALTH CENTRE, VADAVUKODE.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 965 of 2014

Dated this the 03rd day of March, 2015

JUDGMENT

Heard the learned counsel for petitioners and the learned counsel for respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners, who are said to be the residents of Ward No. XI of the respondent Grama Panchayat, have a grievance that the respondent Grama Panchayat has issued Exhibit P2 licence to respondents 5 to 7 for establishing a poultry farm, illegally and arbitrarily. Having filed the present writ petition, later in the face of objection raised by the respondent Grama Panchayat that the petitioners have an efficacious alternative remedy against Exhibit P2 licence in terms of Section 271 of the

Panchayat Raj Act, the petitioners are said to have filed R.P. No. 100/2014 before the Tribunal for Local Self Government Institutions, Thiruvananthapuram.

3. In the light of the subsequent developments, the learned counsel for the petitioners confines his relief for the disposal of the Revision Petition expeditiously by the Appellate Authority.

4. Having regard to the submission of the learned counsel for the petitioners, it is to be observed that the Revision Petition is said to have been filed recently; I do not have any manner of doubt that the learned Tribunal will consider the Revision Petition expeditiously, subject to other constraints.

Accordingly, with the above observation this Court disposes of the writ petition, making it clear that the petitioners are at liberty to maintain all their pleas legally available to them before the learned Tribunal in the revision petition.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-