

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 1059 of 2015 (F)

PETITIONER :

KURIAKOSE I MATHAI AGED 53 YEARS
S/O.MATHAI, ITHOONICKAL HOUSE, KINGINIMATTAM P.O.
KOLENCHERY, ERNAKULAM DISTRICT-682 311.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS :

1. THE CIRCLE INSPECTOR OF POLICE
PUTHENCROUZ CIRCLE OFFICE, PUTHENCROUZ P.O.
ERNAKULAM DISTRICT-682 308.
2. THE SUB INSPECTOR OF POLICE
PUTHENCROUZ POLICE STATION, PUTHENCROUZ P.O.
ERNAKULAM DISTRICT-682 308.
3. P.A.BHAKSARAN
PALAKKUZHIYIL HOUSE, THIRUVANIYOOR P.O.
ERNAKULAM DISTRICT-682 308.
4. VISWAMBHARAN K.T.
KANJIRATHADATHIL HOUSE, THIRUVANIYOOR P.O.
ERNAKULAM DISTRICT-682 308.
5. BENNY VARGHESE
KALLIKKUZHIYIL HOUSE, THIRUVANIYOOR P.O.
ERNAKULAM DISTRICT-682 308.
6. BINU T.D.
THOTTUNGAMALAYIL HOUSE, VETTICKAL P.O.
ERNAKULAM DISTRICT-682 314.
7. PRASANTH T.D.
THOTTUNGAMALAYIL HOUSE, VETTICKAL P.O.
ERNAKULAM DISTRICT-682 314

R1 & R2 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR.
R3-R7 BY ADV. SRI.C.P.UDAYABHANU
SRI.K.A.SALIL NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-01-2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1.A TRUE COPY OF THE AGREEMENT DATED 30/12/2014 EXECUTED BY THE PETITIONER AND THE SUPERINTENDING ENGINEER, PWD ROADS AND BRIDGES, ALUVA.

EXT.P2.A TRUE COPY OF THE AGREEMENT DATED 14/7/2014 EXECUTED BY THE PETITIONER AND THE SUPERINTENDING ENGINEER, PWD ROADS AND BRIDGES, ALUVA.

EXT.P3.A TRUE COPY OF THE NOC ISSUED BY THE DISTRICT MEDICAL OFFICER, HEALTH, ERNAKULAM TO THE SECRETARY, THIRUVANIYOOR GRAMA PANCHYATH DATED 20/9/2014.

EXT.P4.A TRUE COPY OF THE CONSENT TO OPERATE ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER DATED 15/12/2014.

EXT.P5.A TRUE COPY OF THE D & O LICENCE ISSUED BY THE THIRUVANIYOOR GRAMA PANCHAYATH DATED 17/12/2014.

EXT.P6.A TRUE COPY OF THE PETITION DATED 9/1/2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT WITH COPY TO THE 2ND RESPONDENT.

EXT.P7.A TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 9/1/2015 EVIDENCING RECEIPT OF EXT.P6 PETITION.

RESPONDENTS' EXHIBITS :

EXT.R3A : TRUE COPY OF THE MASS PETITION SUBMITTED BY THE RESIDENTS BEFORE THE THIRUVANIYOOR GRAMA PANCHAYAT.

EXT.R3B : LETTER FORWARDED BY THE THIRUVANIYOOR GRAMA PANCHAYAT TO THE DISTRICT MEDICAL OFFICER OF HEALTH ERNAKULAM.

EXT.R3C : LETTER FORWARDED BY THE THIRUVANIYOOR GRAMA PANCHAYAT TO THE POLLUTION CONTROL BOARD, ERNAKULAM.

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, Ag.CJ & A.M.SHAFFIQUE, J.

W.P.(C). No. 1059 of 2015

Dated this the 22nd day of January, 2015

J U D G M E N T

Shaffique, J

Petitioner has approached this Court seeking police protection in the matter relating to operating a tar mixing unit for carrying out the tarring work providing Bitumen Macadam and Bitumen concreting to Peppathippara Road on a particular distance for Public Works Department.

2. According to the petitioner he has set up a drum mix plant after getting all permission from the Local Authority, Pollution Control Board and all other statutory authorities. Respondents 3 to 7 and their men are preventing the functioning of the drum mix plant alleging pollution. A complaint has been filed seeking adequate police protection for the operation of drum mix plant. But no action has been taken and therefore the petitioner has approached this court to provide adequate protection for operation of the drum mix plant.

3. Counter affidavit has been filed by respondents 3 to 7 inter alia stating that the licence/permit has been obtained by the petitioner misleading the authorities. Respondents have already taken up the matter before the Panchayat, who thereafter called upon the District Medical Officer and Pollution control Board to make further enquiries in this regard and the matter is in progress. Learned counsel for respondents 3 to 7 submits that large scale pollution is being caused by the unit, unless and until orders are passed by the authorities in this regard and directions as prayed for should not be issued.

4. Having regard to the fact that the petitioner is operating the drum mix plant with all licence from the Local Authority as well as statutory authorities, in the absence of any restriction from the Local Authority or Pollution Control Board, as the case may be, it is not open for the private respondents or any other person to obstruct the operation of the unit. The unit is stopped for the last three weeks, is the submission of learned counsel for the petitioner.

5. Under such circumstances, we are of the view that police is bound to ensure that no law and order situation arises in

relation to the operation of drum mix plant. Respondents 1 and 2 are directed to provide protection accordingly. If any restrictive orders are passed by the Local Authority or the Pollution Control Board, the police is bound to comply with such direction.

With the above direction, the writ petition is disposed of.

Sd/-

**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

Sd/-

**A.M.SHAFFIQUE,
JUDGE.**

sou.