

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 1146 of 2015 (P)

PETITIONER(S):

**NELLIKUZHY GRAMA PANCHAYAT,
NELLIKUZHY PO, KOTHAMANGALAM VIA
ERNAKULAM DISTRICT, PIN-686 691,
REPRESENTED BY ITS ASSISTANT SECRETARY
IN-CHARGE OF SECRETARY.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.T.ABHILASH**

RESPONDENT(S):

- 1. KERALA STATE HUMAN RIGHTS COMMISSION
TURBO PLUS TOWERS, VIKAS BHAVAN P.O
THIRUVANANTHAPURAM 695 033
REPRESENTED BY ITS REGISTRAR.**
- 2. C.S. MEERAN, PRESIDENT
CHARITHRA POURA SAMITHI, NELLIKUZHY P.O
KOTHAMANGALAM VIA, ERNAKULAM DISTRICT, PIN-686 691.**
- 3. ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT, ROADS DIVISION
KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN-686 691.**
- 4. ASSISTANT EXECUTIVE ENGINEER,
PERIYAR VALLEY IRRIGATION PROJECT,
BHOOTHATHANKETTU, KOTHAMANGALAM, ERNAKULAM DISTRICT,
PIN-686 681.**
- 5. HEALTH SUPERINTENDENT
HEALTH CENTRE, VARAPPETTY P.O, KOTHAMANGALAM
ERNAKULAM DISTRICT, PIN-686 691.**

R1,3-5 BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-04-2015, ALONG WITH WPC.NO.9033/2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE ORDER DATED 14-8-2014 IN HRMP NO.7777/2013
OF THE 1ST RESPONDENT**
- EXT.P1(A) - TRUE COPY OF THE LETTER DATED 23-8-2014 ENCLOSED ALONG
WITH EXT.P1**
- EXT.P2 - TRUE COPY OF THE RESOLUTION NO.1 DATED 4-9-2014 PASSED BY
THE NELLIKKUZHAY GRAMA PANCHAYAT COMMITTEE**
- EXT.P3 - TRUE COPY OF THE PROCEEDING DATED 17-9-2014 OF THE
PETITIONER PANCHAYAT**
- EXT.P4 - TRUE COPY OF THE ORDER DATED 18-9-2014 ISSUED BY THE 1ST
RESPONDENT**
- EXT.P5 - TRUE COPY OF THE REQUEST DATED 13-11-2014 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 1146 and 9033  
of 2015

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Dated, this the 8th day of April, 2015

JUDGMENT

The grievance of the petitioners in both these writ petitions is common, in so far as it is against the contents of the impugned proceedings, whereby the Human Rights Commission has made some apprehension and restricted the local authority/Panchayath from considering the application for granting permit for effecting construction of buildings.

2. W.P.(C) No. 1146 of 2015 has been filed by the local authority; whereas W.P.(C) No. 9033 of 2015 has been filed by a resident within the area of the Panchayath. By virtue of the orders passed by the Human Rights Commission, No Objection Certificate of the Health Department has been stated as a mandatory requirement, which according to the petitioners is contrary to the Scheme of the Statute, particularly, the Kerala Building Rules and other Statutes governing the issue to be dealt with by the Local Authority.

3. The learned Government Pleader points out that the impugned orders came to be passed because of the particular

circumstances, whereby permits were issued without any check measures, as a result of which, large scale construction is being effected by the parties concerned; without any provision for waste removal; in turn dumping the waste and filth in the nearby stream, resulting in heavy pollution. It is stated that there is no proper waste management and that short cut methods are being used by the parties concerned, who are effecting construction. In spite of approaching the local authority, no proper remedial measures were taken, which led to the impugned orders passed by the Human Rights Commission and hence these orders are not liable to be intercepted, submits the learned Government Pleader.

4. After hearing both the sides, this Court finds that orders passed by the Human Rights Commission is with a specific purpose/intent and there cannot be any dispute to the fact that there has to be proper waste management scheme/system. It is for the local authority to see that adequate measures are taken and complied with by the parties concerned when permits are issued. It is also open for the concerned authorities to conduct necessary inspection and to take remedial measures, if at all any violation is resulted. The petitioner Panchayath is set at liberty to consider

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the application preferred by the parties for construction of residential buildings and to pass appropriate orders in accordance with the relevant provisions of law, also intimating that apprehension expressed and noted by the Human Rights Commission shall be abated and that there is no chance for any air or water pollution. Appropriate conditions can be incorporated in the permits to be issued. In case of any application is filed for construction of commercial or industrial buildings, meticulous analysis shall be made as to the scope/chance and extent of pollution, which might be resulted and stringent conditions shall be incorporated in the permits so as to meet the requirement in relation to waste disposal/management.

The Writ Petition is disposed of.

sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd