

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1419 of 2015 (B)

PETITIONER(S):

T.S.SAJEEV, AGED 51 YEARS,
THAIKKATTU HOUSE, NOCHIMA, NAD P.O., PIN-683 563.

BY ADVS.SRI.N.KRISHNA PRASAD
SRI.P.RAVINDRA NATH

RESPONDENT(S) :

1. EDATHALA GRAMA PANCHAYATH,
EDATHALA, ERNAKULAM-683 563.
2. THE SECRETARY,
EDATHALA GRAMA PANCHAYATH, EDATHALA,
ERNAKULAM-683 563.
3. G.K.SIVARAJAN,
S/O.KRISHNANKUTTY, GRAMAPARAMBIL HOUSE, NAD POST,
NOCHIMA, ALWAYS, ERNAKULAM-683 563.
4. K.S.ABOOBAKER,
S/O.SAIDUMOHAMMED, PARCKKATTIL HOUSE, NAD POST,
ALWAYS, ERNAKULAM-683 563.
5. KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY ITS SECRETARY, PATTOM POST,
THIRUVANANTHAPURAM-695 004.

R1 & R2 BY ADV. SRI.ANIL K.MOHAMMED
R5 BY ADV. SRI. M.AJAY, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** TRUE COPY OF THE LICENSE DATED 12.01.1987 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT PANCHAYATH.
- P1(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P1.
- P2 :** TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 21.04.2010.
- P3 :** TRUE COPY OF THE ORDER NO.PCB/EKM/DO1/IAO-428/2011 DATED 22.05.2012 ISSUED BY THE ENVIRONMENTAL ENGINEER OF THE FIFTH RESPONDENT.
- P4 :** TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 08.06.2012.
- P4(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P4.
- P5 :** TRUE COPY OF THE TEST REPORT 10.09.2013 FILED BY THE 5TH RESPONDENT BEFORE THE APPELLATE AUTHORITY, THIRUVANANTHAPURAM IN APPEAL NO.26/2012.
- P6 :** TRUE COPY OF THE JUDGMENT IN WRIT PETITION (CIVIL)NO.7354/2014 DATED 26.03.2014.
- P7 :** TRUE COPY OF THE CONSENT DATED 26.09.2014 VALID UP TO 30.06.2015.
- P8 :** TRUE COPY OF THE JUDGMENT DATED 15.10.2014 IN WRIT PETITION (CIVIL) NO. 16180 OF 2013.
- P9 :** TRUE COPY OF THE VALID CERTIFICATE ISSUED BY THE HEALTH INSPECTOR DATED 19.12.2014.
- P10 :** TRUE COPY OF THE RELEVANT EXTRACT OF THE DECISION OF THE COMMITTEE OF THE FIRST RESPONDENT.
- P10(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P10.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

A.M.SHAFFIQUE, J.

W.P.(C) No.1419 of 2015

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner has approached this court seeking to challenge Ext.P10 and for a direction to the respondents to issue a valid licence for the year 2014-2015 forthwith to the petitioner.

2. The facts involved in the writ petition would show that the petitioner was operating a unit in carpentry works for the last several years. Some issues had arisen with the neighbouring property owners and on account of which the consent to operate the unit was refused by the Pollution Control Board. Later, by Ext.P7, the Pollution Control Board has issued consent to operate the unit for a period up to 30.06.2015. The petitioner also obtained a certificate from the Health Inspector stating the satisfactory condition of the unit. The complaint of the petitioner is that despite submission of the aforesaid documents, the Panchayath has not considered the application for renewal of licence. The petitioner had

applied seeking information under the Right to Information Act, for which a reply was received enclosing the resolution of the Panchayath by which the decision has been deferred. This decision is under challenge.

3. It is not in dispute that the petitioner has been operating the unit for quite some time and as matters stand now, the petitioner has applied for a licence for the year 2014-2015 along with necessary certificates. Ext.P10 only indicates that the decision of the Panchayath has been deferred. Statute permits the petitioner to have a deemed licence on certain conditions being complied. If there is a delay on the part of the Panchayath in issuing licence, it is always open for the petitioner to seek the benefit of deemed licence subject to compliance of the statutory provisions. Under such circumstances, I do not think that Ext.P10 is open for challenge. Ext.P10 is only an internal administrative process by which a decision was taken by the Panchayath to defer the consideration of the application of the petitioner. Local authority is under obligation to comply with the statutory provisions and in

a matter relating to consideration of application for licence within the time specified in the statute. If the application is not allowed or refused within a specified time, subject to certain conditions, the applicant is entitled to have deemed licence. Under such circumstances, Ext.P10 being not a communication officially communicated to the petitioner cannot have any legality attached to it, unless it is communicated by the Panchayath to the petitioner.

With the above observation, this writ petition is closed.

Sd/-
A.M.SHAFIQUE,
JUDGE

//true copy//

P.S. To Judge

St/-