

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 3646 of 2015 (E)

PETITIONER:

**BAIJU M.R.
MARIKKAL HOUSE, KUZHUR PO, PARAPPURAM
THRISSUR 680724**

**BY ADVS.SRI.K.JAJU BABU (SR.)
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN**

RESPONDENT:

- 1. KUZHUR GRAMA PANCHAYATH
KUZHUR PO, PARAPPURAM
THRISSUR DISTRICT 680734 REPRESENTED BY ITS SECRETARY**
- 2. THE SECRETARY
KUZHUR GRAMA PANCHAYATH, KUZHUR PO, PARAPPURAM
THRISSUR DISTRICT 680734**
- 3. THE ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD BUILDING
NO 27/166/13(BEHIND BIG BAZAR) KOVILAKATHUMPADAM
CHEMBUKKAVU THRISSUR 680120**
- 4. SRI. K.V. MOHANAN
KUNNAPPILLY HOUSE, KUZHUR PO, THRISSUR DISTRICT 680724**

**R1 & R2 BY ADV. SRI.S.VIDYASAGAR
R4 BY ADV. SRI.A.JAYASANKAR
R4 BY ADV. SRI.C.V.MANUVILSAN
R4 BY ADV. SRI.MANU GOVIND
R3 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BO**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 3646 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: COPY OF THE RECEIPT OF APPLICATION FEE NO.11401100755 DATED 23.7.2014 ISSUED BY THE 1ST RESPONDENT

EXHIBIT P2: COPY OF THE CONSENT NO.PCB/DO/TSR/F/ICO/3840/2014 ISSUED BY THE 3RD RESPONDENT

EXHIBIT P3: COPY OF THE LETTER NO. A3.3738/14 DATED 29.12.2014 ISSUED BY THE 2ND RESPONDENT ALONG WITH ENGLISH TRANSLATION OF EXT.P3.

EXHIBIT P4: COPY OF THE LETTER NO.PCB/TSR/COM/MKM/188/2014 DATED 21.11.2014 ISSUED BY THE 3RD RESPONDENT ALONG WITH ENGLISH TRANSLATION OF EXT.P4.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

DAMA SESHADRI NAIDU, J.

W.P.(C) No.3646 of 2015

Dated this the 11th day of March, 2015

JUDGMENT

Briefly stated, the petitioner, who is running a small scale industrial unit in a temporary shed within the territorial limits of the respondent-Grama Panchayat, submitted an application, as evidenced by Ext.P1 receipt, for building permit to construct a permanent structure to shift the said industrial unit.

2. Initially the third respondent issued Ext.P2 consent, but later issued Ext.P4 letter to the respondent-Grama Panchayat that it had not issued Ext.P2 consent letter. It appears based on Ext.P2 and also based on objections raised by the fourth respondent, as well as other statutory constraints, the respondent-Grama Panchayat has not considered petitioner's claim for building permit. Aggrieved thereby, the petitioner filed the present writ petition.

3. The learned standing counsel for the third respondent has submitted that in fact the Pollution Control Board issued Ext.P2 consent letter. By over sight it informed the respondent-

Grama Panchayat that it had not issued Ext.P2. As such according to the learned standing counsel, Ext.P4 was issued inadvertently by the third respondent.

4. The learned counsel for the writ petitioner has submitted that in the face of the clarification issued by the third respondent, there is no impediment for the respondent-Grama Panchayat to consider the petitioner's application for building permit positively.

5. The learned counsel for the Grama Panchayat has however contended that apart from PCB's objection which may have been withdrawn by it, there are various other statutory constraints for the respondent-Grama Panchayat to consider petitioner's application. The learned counsel for the fourth respondent has, in turn, submitted that before the Grama Panchayat takes any decision on petitioner's application, it shall hear the affected persons including the fourth respondent.

6. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the first and second respondents, the learned standing counsel for the third respondent, as well as the learned counsel for the fourth respondent, this Court without

expressing any opinion on the merits of the matter, disposes of this writ petition with a direction to the first and second respondents to consider petitioner's application for building permit, in accordance with law, after affording an opportunity of hearing to the petitioner and also the 4th respondent, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

Sd/-
DAMA SESHADRI NAIDU,
JUDGE

//true copy//

P.A to Judge

smv