

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 6315 of 2013 (L)  
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PETITIONER(S):  
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GRACY VINCENT  
ARAKKAL HOUSE, S.N.PARK ROAD, POOTHOLE.P.O.  
THRISSUR -680004  
REPRESENTED BY HER POWER OF ATTORNEY HOLDER SHIHABUDHEEN.T.  
THACHOTH HOUSE, THEKKENKUTTUR.P.O.  
MALAPPURAM -676551.

BY SRI SHIHABUDHEEN.T. (P/A HOLDER-IN-PERSON)

RESPONDENT(S):  
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- 1.THRISSUR CORPORATION  
REPRESENTED BY SECRETARY  
M.O.ROAD, THRISSUR -1.
- 2.THE SECRETARY, THRISSUR CORPORATION  
M.O.ROAD, THRISSUR-1.
3. FEJO SIMON  
(VIJAYA DISTRIBUTORS), T.C.2/417A, S.N.PARK ROAD  
POOTHOLE, THRISSUR -4.

Addl.4. THE ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD  
DISTRICT OFFICE, THRISSUR - 680001.

ADDL. R4 IS IMPEADED AS PER ORDER DATED 21/06/2013 IN IA 8097/2013.

R1,R2 BY ADV. SRI.K.P.VIJAYAN, SC  
R1,R2, BY ADV. SRI.V.M.SYAM KUMAR  
R1,R2 BY ADV. SMT.C.B.SUMA DEVI  
R1,R2 BY ADV. SMT.KRIPA ELIZABETH MATHEWS  
R1,R2 BY ADV. SRI.V.N.HARIDAS  
R3 BY ADV. SRI.NELSON J.MANAYIL  
R3 BY ADV. SRI.K.A.SALIL NARAYANAN  
R4 BY ADV.SRI.M.AJAY, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-03-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER's EXHIBITS:

- P1:TRUE COPY OF RIGHT TO INFORMATION (HEREINAFTER R.T.I) REPLY RECEIVED BY THE PETITIONER DATED 17.12.2011.
- P2:TRUE COPY OF POLICE REPORT SEND TO THE PETITIONER DATED 16.02.2012.
- P3:TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE ZONAL OFFICER, THRISSUR CORPORATION DATED 23.03.2011.
- P4:TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE THRISSUR CORPORATION SECRETARY DATED 28.12.2011.
- P5:TRUE COPY OF THE MASS PETITION FILED BY THE S.N.PARK ROAD RESIDENTS BEFORE THE THRISSUR CORPORATION SECRETARY DATED DECEMBER, 2011.
- P6:TRUE COPY OF HUMAN RIGHT COMMISSION ORDER DATED 13.02.2012.
- P7:TRUE COPY OF REPORT SUBMITTED BY ENVIRONMENT ENGINEER BEFORE THE HUMAN RIGHT COMMISSION DATED 13.01.2012.
- P8:TRUE COPY OF REPORT SUBMITTED BY POLLUTION CONTROL BOARD BEFORE THE CHIEF MINISTER'S GRIEVANCE REDRESSAL CELL DATED 16.11.2012.
- P9:TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE THRISSUR CORPORATION MAYOR DATED 19.03.2012.
- P10:TRUE COPY OF THE COMPLAINT GIVEN TO THE SUB-INSPECTOR OF POLICE, THRISSUR WEST POLICE STATION DATED 11.05.2012.
- P11:TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE HON'BLE OMBUDSMAN DATED 19.10.2012.
- P12:TRUE COPY OF THE HON'BLE OMBUDSMAN'S ORDER DATED 23.01.2013.
- P13:TRUE COPY OF THE APPLICATION FOR LICENSE SUBMITTED BY THE THIRD RESPONDENT DATED 7.2.2011.
- P14:TRUE COPY OF THE LICENSE ISSUED BY THE CORPORATION DATED 19.9.2011.
- P15:TRUE COPY OF THE RTI REPLY RECEIVED BY MR.ANILKUMAR DATED 12.7.2012.
- P16:TRUE COPY OF ANOTHER RTI REPLY RECEIVED BY ANILKUMAR DATED 13.06.2012.
- P17:TRUE COPY OF THE REPORT SUBMITTED BY THE CORPORATION BEFORE THE HON'BLE OMBUDSMAN DATED 19.11.2012.
- P18:TRUE COPY OF RTI REPLY FROM COMMERCIAL TAX OFFICE THRISSUR DATED 29.02.2012.
- P19:TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER's HUSBAND TO THE SUB-INSPECTOR OF POLICE, WEST POLICE STATION THRISSUR DATED 18.01.2013.

P20:TRUE COPY OF THE PHOTOGRAPH OF THE THIRD RESPONDENT's FIRM DATED 30.5.2013.

P21:TRUE COPY OF THE PHOTOGRAPH OF THE THIRD RESPONDENT's FIRM DATED 22.5.2013.

P22:TRUE COPY OF THE PHOTOGRAPH OF THE THIRD RESPONDENT's FIRM DATED 7.11.2011.

P23:TRUE COPY OF COMPLAINT LODGED BY SMT.SHERLY BABU DATED 17.4.12.

P24:TRUE COPY OF RIGHT TO INFORMATION REPLY FROM THRISSUR CORPORATION DATED 6.5.2013.

P25:TRUE COPY OF THE TITLE DEED DATED 22.4.1992.

P26:TRUE COPY OF REVENUE RECEIPT OF ARAKKANTTUKARA VILLAGE OFFICE DATED 22.6.2012.

P27:TRUE COPY OF THE RTI APPLICATION DATED 2.11.12.

P28:TRUE COPY OF THE RTI REPLY DATED 27.11.12.

P29:TRUE COPY OF THE RTI APPLICATION DATED 23.5.12.

P30:TRUE COPY OF THE APPLICATION SUBMITTED BY THE THIRD RESPONDENT BEFORE THE POLLUTION CONTROL BOARD DATED 6.6.12.

P31:PHOTOGRAPH OF THE BUILDING.

P32:TRUE COPY OF THE RTI REPLY FROM THRISSUR COMMERCIAL TAXES OFFICE.

RESPONDENTS' EXHIBITS:

R3(A):TRUE PHOTOCOPY OF CERTIFICATE OF REGISTRATION DATED 27.2.2008 ISSUED TO THE THIRD RESPONDENT.

R3(B):TRUE PHOTOCOPY OF THE LICENSE DATED 25.2.2013 ISSUED BY THE CORPORATION OF THRISSUR FOR THE PERIOD 2013-2014.

R3(C):TRUE PHOTOCOPY OF THE LICENSE ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD VALID UP TO 31.12.2014 TO THE THIRD RESPONDENT.

R3(D):TRUE PHOTOCOPY OF THE BUILDING TAX RECEIPT DATED 21.7.2012 ISSUED BY CORPORATION OF THRISSUR.

R3(E):TRUE PHOTOCOPY OF THE PLAINT IN O.S.2946/2012 FILED BEFORE THE MUNSIFF'S COURT, THRISSUR.

R3(F):TRUE PHOTOCOPY OF NO OBJECTION CERTIFICATE ISSUED BY THE NEARBY RESIDENTS.

R3(G):TRUE PHOTOCOPY OF LETTER DATED 4.1.2012 OBTAINED UNDER RTI ACT FROM THE PUBLIC INFORMATION OFFICER, THRISSUR CORPORATION.

//TRUE COPY//

P.A.TO JUDGE

**C.T. RAVIKUMAR, J.**

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**W.P.(C). No.6315 OF 2013**

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Dated this the 23<sup>rd</sup> day of March, 2015

**JUDGMENT**

The petitioner, a resident in Division No.48 of Thrissur Corporation, filed this writ petition through her power of attorney holder seeking mainly to issue a writ of mandamus commanding the first and second respondents to cancel the business license issued to the third respondent to conduct wholesale business in household plastic items, stoves etc. The further prayer is to issue a direction to the said respondents to close down the said business and to ensure that no license is issued in future to the third respondent, under any circumstances. Relief No.3, 4(a) and 4(b) sought for are as follows:-

“3.To direct the first and second respondents to pay Rs.5 lakhs which is to be recovered from the officers concerned and another Rs.5 lakhs from third respondent as compensation for the petitioner for the loss and mental agony caused to her because of the unlawful actions both

from the said Corporation and from the third respondent.

4(a).To direct the additional 4<sup>th</sup> respondent to cancel the consent issued to the 3<sup>rd</sup> respondent for the reasons stated in the statement of facts and grounds.

4(b).To direct the 1<sup>st</sup> and 2<sup>nd</sup> respondent to take necessary legal action against the illegal constructions done by the 3<sup>rd</sup> respondent.”

2. At the outset, it is to be noted that the third respondent is not properly arrayed in this writ petition and the third respondent's address is given in the writ petition as “Fejo Simon (Vijaya Distributors), T.C.2/417A, S.N Park Road, Poothole”. Since Sri.Fejo Simon has already entered appearance and filed counter affidavit I do not think it necessary to delve into the matter any further. Mr. Fejo Simon is the Managing Partner of Vijaya Distributors which is a partnership firm that runs wholesale business in household plastic, kitchen utensils etc. The petitioner contended that the area in question where her residential building with No.T.C/48 situates, is a residential zone under the town planning scheme and therefore, the

third respondent should not have been permitted to conduct the aforesaid business from a building situated within the said residential area and by granting the licence as aforesaid, to operate the said business from there, respondents 1 and 2 have contravened the provisions under section 381A and 382 of the Kerala Municipality Act as also Rule 30(1) and (2) of the Kerala Municipality Building Rules, 1999. It is further contended that there is inaction on the part of the Pollution Control Board to enforce the directions of the Human Rights Commission in Ext.P6 order. That apart, it is contended that the Ombudsman for Local Self Government Institutions passed Ext.P12 order dated 23.1.2013 without hearing the petitioner and the same violates the salutary principle of natural justice. It is also the case of the petitioner that the functioning of the partnership firm indulging in the aforesaid business in the aforesaid building situated just in front of the residential building of the petitioner, destroys her peaceful and dignified life and as such, it violates Article 21 of the Constitution of India. It was, inter alia,, with such allegations that the

captioned writ petition has been filed with the aforesaid prayers.

3. A counter affidavit has been filed jointly by respondents 1 and 2. In the said counter affidavit, it is submitted that the third respondent is running an establishment by name Vijaya Distributors in the building in question on the strength of the license issued by the Corporation and that the third respondent is doing only wholesale business of plastic chair, plastic kitchen containers and Newthan stove in the building which is situated across the road on the opposite side of the building where the petitioner resides. It is also stated therein that the third respondent has been running the aforesaid business in the building in question from 7.2.2011 onwards and that he has been remitting commercial tax as well. According to respondents 1 and 2, no production activities are being conducted in the building. Nonetheless, it is a fact that as an abundant caution the third respondent has covered plastic sheets in front of the building in question. It is further stated therein that on inspection of the premises,

nothing suggestive of violation of the conditions of the license could be detected. It is also stated in the counter affidavit that the third respondent was required to comply with the conditions in the consent issued by the Pollution Control Board. O.P.No.1651 of 2012 filed by the petitioner before the Ombudsman for cancellation of the D & O license given to the third respondent was dismissed as per Ext.P12 order dated 23.1.2013. As discernible from Ext.P12, the petitioner was absent before the learned Ombudsman and it was taking into account the submissions of the second respondent herein, the Secretary of the first respondent Corporation including the one that the third respondent herein was granted license on obtaining clearance from the fourth respondent, the Pollution Control Board that the said Original Petition was dismissed. With respect to the grievance of the petitioner regarding the failure to comply with the directions of the Human Rights Commission dated 13.2.2012, it is stated therein that no direction whatsoever was issued by the Human Rights Commission to take steps to close down the business run by the third respondent in

the said building and the only direction issued by the Human Rights Commission was to ensure compliance with the conditions and directions of the PCB and also to take steps to avoid creation of traffic blocks.

4. A separate counter affidavit has been filed by the third respondent. In the said affidavit, it is stated that the petitioner is represented in this proceedings by the power of attorney holder and such a power of attorney holder got no locus standi to appear in person and prosecute the matter before the court. The third respondent has also produced Ext.R3(A) sales tax registration certificate issued in favour of Vijaya Distributors and also Ext. R3 (B) license dated 25.2.2014 issued by the Corporation of Thrissur for conducting the business for the period from 2013-14. Ext.R3 (C) is the consent to operate the said business issued by the PCB. It is also stated in the counter affidavit that the attempt on the part of the petitioner is only to harass the third respondent and to see that the

third respondent is abandoning the business and leaving the location. Above all, it is submitted that the petitioner has approached various competent authorities with frivolous and vexatious complaints and some of such forums have already found the complaints of the petitioner as unsustainable.

5. I have heard the power of attorney holder of the petitioner who was permitted to represent the petitioner and also to conduct this case on her behalf with the right to plead and to argue, in the light of the decision in **T.C.Mathai v. Prl. Dist. & Sessions Judge [1999 (2) KLT 108]**, the learned standing counsel appearing for respondents 1 and 2, the learned counsel appearing for the third respondent and also the learned standing counsel for the fourth respondent.

6. At the very outset, it is to be noted that though the petitioner raised grievances against Ext.P12 order passed by the Ombudsman for Local Self Government Institutions dated 23.1.2013,

no specific relief has been sought against the said order. So also, despite raising certain grievances against non-implementation of the directions of the Kerala State Human Rights Commission in Ext.P6 order dated 13.2.2012, no relief has been sought for touching the said issue. A perusal of Exts.P6 and P12 orders would reveal that there is substance in the contention of the third respondent that the petitioner has been approaching different authorities raising grievances against him in the matter of operating the business from the building in question. In the complaint that culminated in Ext.P6 order of the Kerala State Human Rights Commission, evidently, the petitioner has taken up grievances against the functioning of the business and the inaction on the part of respondents 1 and 2. Ext.P6 would also reveal that virtually the contentions raised in this writ petition were taken up before the Human Rights Commission as well. After considering the complaint filed by the petitioner as HRMP No.3951/2011 the Commission issued the following directions:-

- "1. എതിർക്കു്ചി സ്ഥാപനത്തിൽ സാധനങ്ങൾ കയറ്റി റക്കൂണതിന് വരുന്ന വാഹനങ്ങൾ റോഡിൽ പാർക്കു്

ചെയ്ത മാർഗ്ഗതടസ്സം സൃഷ്ടിക്കാതെ ടി വാഹനങ്ങൾ എതിർകക്ഷിയുടെ കോമ്പുണ്ടിൽ തന്നെ കയറ്റിറക്ക് നടത്തുക. ആയത് നടപ്പിലാക്കാൻ തൃശ്ശൂർ വെസ്റ്റ് പോലീസ് എസ്.ഐ.യോട് കമ്മീഷൻ നിർദ്ദേശിക്കുന്നു.

2. മലിനീകരണ നിയന്ത്രണബോർഡ് നിഷ്ക്കർഷിച്ചതുപോലെ പ്ലാസ്റ്റിക് സാധനങ്ങൾ എതിർകക്ഷി കെട്ടുറപ്പുള്ള ഒരു മറച്ച കെട്ടിടത്തിലേയ്ക്കു മാറ്റുക. രാത്രി കാലങ്ങളിൽ എതിർകക്ഷിയുടെ പ്രവൃത്തികൾ പൂർണ്ണമായി നിർത്തിവെയ്ക്കുക. ടി പ്രവൃത്തികൾ എതിർകക്ഷി നടപ്പാക്കുന്നുണ്ടോയെന്ന് മലിനീകരണനിയന്ത്രണബോർഡ് എൻജിനീയർ നേരിട്ട് ബോധ്യപ്പെടുക.
3. എതിർകക്ഷി, മലിനീകരണ നിയന്ത്രണബോർഡ് നിർദ്ദേശിച്ച വ്യവസ്ഥകൾ പാലിക്കാതെയും ബോർഡിന്റെ ലൈസൻസ് വാങ്ങാതെയും ടി സ്ഥാപനം നിയമപരമായി നടത്താൻ പാടില്ലാത്തതിനാൽ മേൽപ്പറഞ്ഞ പ്രവൃത്തികൾ എതിർകക്ഷി നടപ്പിലാക്കാതിരുന്നാൽ ടി സ്ഥാപനം നിർത്തിവെയ്ക്കാനുള്ള നടപടി ബോർഡ് സ്വീകരിക്കേണ്ടതാണ്.
4. കമ്മീഷന്റെ ടി ഉത്തരവ് അനുസരിച്ച് സ്വീകരിച്ച നടപടികൾ തൃശ്ശൂർ വെസ്റ്റ് പോലീസ് സി.ഐ., മലിനീകരണ നിയന്ത്രണബോർഡ് എന്നിവർ കമ്മീഷനെ രണ്ടു മാസത്തിനകം അറിയിക്കണം."

7. In such circumstances, certainly, in case of any grievance regarding non-implementation of the directions in Ext.P6, the

petitioner could have and should have taken appropriate action in accordance with law. As noticed hereinbefore, the petitioner did not seek any relief in that regard in this proceedings. At the same time, it is to be noted that the statements filed by the respondents 1 and 2 in this case would reveal that there is no violation of the directions and conditions of the Pollution Control Board and in fact, the third respondent is conducting the business after complying with such conditions in the consent to operate issued by the PCB. Learned counsel for PCB also did not make any submission to the contrary. The counter affidavit filed by respondents 1 and 2 as also the pleadings of the petitioner would reveal that the third respondent has obtained necessary license from the Corporation to conduct the said business in the aforesaid place. In the counter affidavit filed by respondents 1 and 2, they have stated the steps taken for the purpose of averting the traffic jam. As regards Ext.P12 order passed by the Ombudsman for the Local Self Government Institutions, it is evident that O.P.1651/2012 which ultimately culminated in the said order was

filed by the petitioner projecting problems posed by the functioning of the godown belonging to the third respondent herein. At the same time, it is evident that the petitioner herein was absent when that matter was taken up and the Secretary of the first respondent herein submitted before the Ombudsman that the third respondent had obtained clearance from the PCB and it is after taking into account the same and the other materials that license was granted to the third respondent. That apart, it is stated that in respect of the same matter, the petitioner herein has already moved the Munsiff Court, Thrissur by filing O.S.2946/2012 seeking for cancellation of the license as well. The Ombudsman dismissed the said O.P observing that the Corporation had already granted the license and in such circumstances, anybody aggrieved by the issuance of such license got an appropriate remedy to approach the appellate authority and the Ombudsman could not usurp the jurisdiction of the appellate authority. A perusal of the pleadings of the petitioner would reveal that the petitioner has not stated anything with respect to the original

suit which she filed before the Munsiff Court, Thrissur. The petitioner did not have a case that the order in Ext.P12 was successfully challenged by her. Thus, it is evident that raising grievance against the third respondent, the petitioner has approached almost all forums. However, no orders have so far been passed by any such forums for the closure of the business from the building in question. True that as per Ext.P6, certain directions were issued and such directions extracted above would reveal that virtually the Human Rights Commission did not issue any order for the closure of the business being run by the third respondent in case he is running it on the strength of necessary licenses/consent issued by the authorities and in compliance with the conditions in such permits, consent etc. In this context, it is to be noted that earlier, the Environmental Engineer attached to the fourth respondent, PCB filed Ext.P7 report dated 13.1.2011 before the Human Rights Commission. It is evident from the same that the minimum distance between such a concern and the nearest house should be three metres and the distance between the

third respondent's concern and the petitioner's residence is 13.40 metres. It was stated therein that in case, the suggestions and conditions mentioned therein are complied with and the concern obtains the consent from the PCB, the grievances of the petitioner would be redressed. Ext.P8 is dated 16.11.2012. It is a communication from the member secretary of the PCB to the Grievance Redressal Cell of the Chief Minister pursuant to the submission of complaint by the petitioner before the said Redressal Cell. It is stated therein that the application of the petitioner would be considered only after satisfying compliance with all the instructions of the PCB and that such information had been given to the person concerned of Vijaya Distributors. It is also to be noted that it is thereafter that Ext.R4(c) consent to operate has been given in favour of Vijaya Distributors in the year 2013. Though initially, the petitioner raised grievance that it has been functioning without obtaining 'consent' from the PCB relief No.4(a) extracted earlier, sought for by the petitioner would undoubtedly reveal that the

petitioner herself admits the fact that the said concern is functioning with the 'consent to operate' issued by the Pollution Control Board. Thus, obviously it is after such unsuccessful attempts for getting an order to close down the business run by the third respondent from the different forums that the captioned writ petition has been filed to cancel the license as also for closing down of the business being operated by the third respondent from the building in question. Admittedly, the third respondent is operating only wholesale business in household plastics, stoves etc. from the building in question that situates opposite to the petitioner's residential building. Though the petitioner alleged violation of Building Rules she has not precisely stated about the actual violations. In such circumstances, in the light of the specific contentions of respondents 1 and 2 as noticed hereinbefore and their specific denial of any such violations of KMBR from the part of the third respondent, I do not find any reason to accept the contention of violation of the Building Rules. It is to be noted that the specific contention of respondents 1 and 2 is that the

third respondent is running the wholesale business in household plastic, stoves etc. from the aforesaid building on the strength of the license issued by the Corporation. In the context of the contentions, it is relevant to refer to the affidavit filed by the second respondent pursuant to the order of this Court dated 1.1.2014. In paragraph 5 thereunder, it is stated that in the year 2011 an application bearing No.AWL/R1/5076/11 was made by the owner of the building in question seeking to convert the nature of the building into a commercial building. It is further stated therein that after conducting enquiries thereto, the application was allowed and occupancy with respect to the building was converted from residential to a commercial one and consequent to the change of nature of the occupancy into a commercial building and pursuant to the assessment in that regard property tax at the commercial rate was fixed @ 5850 per annum taking the annual rent value as Rs.3750 + 45000 and it is being paid by the owner. It is stated therein that the professional tax is being paid by the occupant of the building. In paragraph 6, it is specifically

stated that the unit by name Vijaya Distributors functioning within the aforesaid building now converted into a commercial building and that the said unit was granted D & O license on 7.2.2011 for conducting wholesale business of plastic chairs, Nuwthan stoves etc. As noticed hereinbefore, the unit in question has been issued with Ext.R4(c) consent consent to operate from the Pollution Control Board. There can be no doubt consent to operate would be issued only after issuance of consent to establish at an earlier point of time. With respect to the allegation of reconstruction, it is stated in the counter affidavit filed by respondents 1 and 2 that the total area of the building at present is 170.95 sq.mts and there is no change in the total area of the building from the area sanctioned as per building permit No.W.B.119/95-96 issued by the Corporation. Virtually, the contentions raised by the third respondent in the counter affidavit are also in tune with the aforesaid contentions of respondents 1 and 2. If at all any additional construction is there, it will always be open to respondents 1 and 2 to take appropriate action in case of violation of

KMBR is noticed. But, then, in this case, the petitioner's main grievance is relating its functioning and the inconveniences and disturbances being caused by the same. In the context of the contentions, it is also relevant to note that there is no case for the petitioner that manufacturing activities are taking place in the building in question and in fact, the commercial activity is restricted only to the wholesale business of plastic, stoves and similar items. It is nobody's case that the unit of the 3<sup>rd</sup> respondent is the one and the only business unit functioning in the area in question. Statements made by respondents 1 and 2 as referred above would reveal that the owner of the building sought for conversion of the nature of the building into commercial one and that was properly enquired into and it is only thereafter that license was issued. Respondents 1 and 2 or the fourth respondent did not have a case that the third respondent has violated the conditions of the license or consent to operate. The fourth respondent did not so far notice any instance of air pollution or violation of any condition in Ext.R3(c). If any such instance has come

to the notice of the fourth respondent it is always open to the PCB to take appropriate action. Considering the nature of activities taking place in the premises in question there is no chance for any pollution owing to its functioning. Evidently, what is going on there is only the wholesale business in household plastics, stoves etc. In the said circumstances, I do not find any reason at all to hold that the functioning of Vijaya Distributors in the building in question violates any of the fundamental rights of the petitioner. It is also to be noted that respondents 1 and 2 have stated in their affidavit that as an abundant caution, the third respondent has covered the front side of the building with plastic sheets to avoid any chance of nuisance being created owing to its functioning in the premises to the neighborhood.

8. The petitioner is also having a grievance that owing to the functioning of Vijaya Distributors, traffic block occurs in the location. In the affidavit filed by the second respondent pursuant to the order of this Court dated 1.1.2014, it is stated that the gate at the entrance of

the building in question was widened and at present heavy vehicles could easily be parked in the compound of the building and loading and unloading of goods could be undertaken without any traffic block in front of the building. In such circumstances, there is no reason to believe that the traffic block would be created in the locality in question due to the functioning of the business in question and certainly, in case of any traffic congestion, it is for the appropriate authorities to take appropriate measures to avert such situations. But, certainly that cannot be a reason for this Court to order for the closure of an ongoing business. Evidently, the materials produced in this proceedings, referred above, would reveal that the grievances of the petitioner relating pollution and traffic jam in the area were properly taken into account by respondents 1, 2 and 4. In view of the above discussions, I do not find any merit in this writ petition. It is liable to fail and accordingly, it is dismissed.

**Sd/-**  
**C.T. RAVIKUMAR**  
**(JUDGE)**

**spc/**

**C.T. RAVIKUMAR, J.**

**JUDGMENT**

**September, 2010**