

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 5472 of 2014 (H)

PETITIONER:

Mrs.MEENA DAS
PROPRIETRIX, HAPPY INDUSTRIES,
CIVIL STATION ROAD
KAKKANAD.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.M.MANOJKUMAR (CHELAKKADAN)
SMT.ASHA BABU
SMT.AMMU CHARLES

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY SECRETARY
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. THE MUNICIPAL COUNCIL
THRIKKAKARA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, THRIKKAKARA,
KAKKANAD, KOCHI -30.
3. THE SECRETARY,
THRIKKAKARA MUNICIPALITY, THRIKKAKARA,
KAKKANAD, KOCHI -30.

Addl.4. THE DISTRICT OFFICER
GROUND WATER DEPARTMENT, ERNAKULAM, CIVIL STATION
KAKKANADU, PIN - 682 030.

(ADDL. R4 IS IMPEADED AS PER ORDER DATED 03/03/2014 IN IA 3281/2014.)

R1 & ADDL R4 BY GOVERNMENT PLEADER SRI.P.P.PADMALAYAN
R 2 & R3 BY S.C.SRI.S.SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 5472 of 2014 (H)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE SKETCH SHOWING THE LOCATION OF THE HAPPY
INDUSTRY.

EXHIBIT-P2-TRUE COPY OF THE D & O LICENSE DOCUMENT ISSUED BY THE
THRIKKAKARA MUNICIPALITY FOR THE LICENSING YEAR 2001-2002.

EXHIBIT-P3-TRUE COPY OF THE PROCEEDINGS OF KHADI AND VILLAGE
INDUSTRIES DATED 21/01/2004.

EXHIBIT-P4-TRUE COPY OF THE D & O LICENSE FOR THE LICENSING YEAR 2013-
2014 RENEWED BY THE RESPONDENT MUNICIPALITY.

EXHIBIT-P5-TRUE COPY OF THE LAB REPORT STAMPED BY THE ENVIRONMENTAL
SERVICES DATED 05/02/2014.

EXHIBIT-P6- THE SCHEME OF THE NEW TREATMENT PLANT AND ITS BROCHURE
OF THE PETITIONER.

EXHIBIT-P7-TRUE COPY OF THE JUDGMENT DATED 01/07/2013 IN W.P(C)
1759/2013 FILED BY THE PETITIONER.

EXHIBIT-P8-TRUE COPY OF THE LICENCE DOCUMENT DATED 08/10/2013 ISSUED
BY THE FOOD SAFETY AND STANDARD AUTHORITY OF INDIA.

EXHIBIT-P9-TRUE COPY ODF THE NOTICE H1-2116/14 DATED 13/02/2014
ISSUED BY THE RESPONDENT MUNICIPALITY.

EXHIBIT-P10-TRUE COPY OF THE DECISION OF THE HONOURABLE DIVISION
BENCH OF THIS HONOURABLE COURT IN W.A 1143/2012 DATED
21/06/2012.

EXHIBIT-P11-TRUE COPY OF THE REPRESENTATION DATED 15/02/2014
SUBMITTED BY THE PETITIONER.

EXHIBIT-P12-TRUE COPY OF THE RECEIPT ISSUED BY THE MUNICIPALITY FOR
ACCEPTING THE REPRESENTATION.

RESPONDENTS' EXHIBITS: NIL

// TRUE COPY //

TKS

P.S. TO JUDGE

C.T.RAVIKUMAR, J.

W.P.(C)No.5472 of 2014

Dated 6th November, 2015

JUDGMENT

The petitioner was indulging in the business of potable water supply on the strength of Ext.P4 licence issued by the third respondent. While so, as per Ext.P9, the petitioner was directed to stop the sale of potable water forthwith. The petitioner was also cautioned that in case of failure to comply with the direction coercive steps would be taken. This writ petition has been filed mainly seeking the following prayers:-

- "i. to call for the records leading to the issuance of Exhibit-P9 notice and quash the same by issuing a writ of certiorari or any other appropriate writ or order by declaring it as illegal and the one issued without authority of law.
- ii. to issue a writ of mandamus or any other appropriate writ or order directing respondents 2 and 3 not to interfere with the business of the petitioner without issuing proper notice, indicating the provision of law if any, violated by the petitioner and also without affording opportunity to the petitioner to submit the explanation if so advised.
- iii. to declare that the 3rd respondent has no authority of law to prevent the functioning of the 'Happy Industries' as the same is an establishment duly licensed by the Municipality."

2. I have heard the learned counsel for the petitioner, the learned counsel appearing for respondents 2 and 3 and also the learned Government Pleader.

3. Evidently, the period of Ext.P4 licence expired on 31.3.2014. It is submitted that subsequent to the expiry of the said licence the petitioner herein applied for renewal of the licence. The delay in the matter of its consideration constrained the petitioner to file W.P. (C)No.23976 of 2015. It is submitted by the learned counsel appearing for respondents 2 and 3 that all the contentions which are raised in this writ petition were virtually taken in the said writ petition as well. That apart, it is submitted that in the said writ petition an interim direction was issued on 13.8.2015 to the 3rd respondent herein to consider and pass orders on the application submitted by the petitioner herein for renewal of the licence. It is also submitted that subsequent to such consideration, in terms of the directions in the said interim order, that application was rejected on 20.8.2015. It is submitted by both sides that W.P.(C)No.23976 of 2015 is still pending. Taking into account the pendency of the said writ petition and also the fact that the period of Ext.P4 licence expired long ago viz., on 31.3.2014, I am of the view that

nothing survives for consideration in this writ petition and the interest of the petitioner could be safeguarded by giving liberty to the petitioner to raise all the contentions in W.P.(C)No.23976 of 2015. In the said circumstances, giving liberty to the petitioner to take up all contentions in W.P.(C)No.23976 of 2015 which is pending on the same issue, this writ petition is closed.

Sd/-
C.T.RAVIKUMAR
Judge

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