

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5689 of 2015 (S)

PETITIONER :

BHOOSAMRAKSHANA SAMITHI,
AYYAMPUZHA, REPRESENTED BY ITS CONVENOR, M.K.JACOB
S/O.KORATH, AGED 60 YEARS, MANGALY HOUSE, AYYAMPUZHA P.O.,
ERNAKULAM DISTRICT. 683 581.

BY ADVS.SRI.T.O.XAVIER
SMT.V.SETHUKUTTY AMMA

RESPONDENTS :

1. AVANI AGRO MILLS,
REPRESENTED BY PERMIT HOLDER, P.E.PAULOSE
PALLIKKAL HOUSE, KIDANGOOR P.O, VIA ANGAMALY 683 581.
2. AYYAMPUZHA GRAMA PANCHAYATH OFFICE
P.O AYYAMPUZHA, 683 581, REPRESENTED BY ITS SECRETARY.
3. PRESIDENT OF AYYAMPUZHA GRAMA PANCHAYATH OFFICE
P.O AYYAMPUZHA 683 581.
4. REVENUE DIVISIONAL OFFICER
FORT KOCHI, ERNAKULAM 682 001.
5. DISTRICT MEDICAL OFFICER
ERNAKULAM DISTRICT, ERNAKULAM 682 011.
6. KERALA STATE POLLUTION CONTROL BOARD, ERNAKULAM 682 030.
7. THAHSILDAR, TALUK OFFICE, ALUVA 682 301.
8. KERALA STATE POLLUTION CONTROL BOARD
PATTOM, TRIVANDRUM
REPRESENTED BY ITS MEMBER SECRETARY 695 003.

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9. GEOLOGICAL SURVEY OF INDIA
COLLECTORATE, KAKKANAD
REPRESENTED BY SECRETARY. 682 030.

10. DISTRICT COLLECTOR, ERNAKULAM 682 011.

R4 TO R7, R9 & R10 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR
R8 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. COPY OF THE NOTICE DATED 18.6.14.

EXHIBIT P1(A).COPY OF ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P1(A).COPY OF THE MINUTES OF THE PROCEEDINGS DATED 23.6.14.

EXHIBIT P1(1)(1).COPY OF ENGLISH TRANSLATION OF THE EXHIBIT P1(A).

EXHIBIT P2. COPY OF THE MINUTES OF THE PROCEEDING DATED 11.7.14.

EXHIBIT P2(A).COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2.

EXHIBIT P3. COPY OF THE LETTER NO.C3-6011/2014 BY THE DEPUTY DIRECTOR.

EXHIBIT P4. COPY OF THE NOTIFICATION NO.A6-4914/14 OF THE AYYAMPUZHA
GRAMA PANCHAYATH.

EXHIBIT P4(A).COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5. COPY OF THE ORDER IN HRMO NO.5022/2014 OF KERALA STATE
HUMAN RIGHTS COMMISSION REPORT OF THE 10TH RESPONDENT
DATED 16.7.14.

EXHIBIT P5(1).COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5.

EXHIBIT P5(A).COPY OF THE STATEMENT ISSUED BY THE 10TH RESPONDENT
DATED 11.7.14 ADDRESSED TO THE KERALA STATE HUMAN
RIGHTS COMMISSION.

EXHIBIT P5(A)(1).COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5(A).

EXHIBIT P6. COPY OF THE BUILDING PERMIT DATED 17.09.14.

EXHIBIT P7. COPY OF THE MASS PETITION (RELEVANT PORTION) DATED 5.11.14
ADDRESSED TO THE 10TH RESPONDENT.

EXHIBIT P7(A).COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P7.

EXHIBIT P8. COPY OF THE CONSENT LETTER ISSUED BY THE 6TH RESPONDENT
DATED 16.09.14.

EXHIBIT P8(A).COPY OF THE LOCATION PLAN.

EXHIBIT P9. COPY OF THE LETTER NO.A1.DISC2/19759/09 DATED 4.11.09 ISSUED
BY THE 5TH RESPONDENT.

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EXHIBIT P10.COPY OF THE ORDER NO.D2 11230/09/DDS DATED 6.2.10 ISSUED
BY THE CHIEF TOWN PLANNER.

EXHIBIT P10(A).COPY OF ENGLISH TRANSLATION OF EXHIBIT P10.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 5689 OF 2015

Dated this the 24th day of February, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court as a public interest litigant seeking the following directions:

"i. To issue a writ of mandamus or such other writ or order to the 5th 6th and 8th respondent to take appropriate remedial action to curb air and water pollution caused by the 1st respondent by putting up a modern rice mill as per Ext.P6 building permit.

ii. To order 1st respondent not to proceed with further construction of modern rice mill in the light of Ext.P4 and P5.

Iii. To issue such other writ or order as this Honourable Court may find, deem fit and proper by considering the facts and circumstances of the case."

2. The petitioner is concerned with the putting up of modern rice mill as per Ext.P6 building permit. Ext.P8 is the consent given by Pollution Control Board to establish the mill. According to the petitioner, if the mill starts functioning, it will

cause pollution to the nearby locality. That apart, the water in the natural canal will be depleted as the mill might use large quantity of water from bore-well as well. The main concern of the petitioner appears to be the depletion of water in the locality and also pollution. As matter stands now, it is evident that the 1st respondent has started to establish the unit based on valid licenses/permissions issued by competent authorities. As far as the question of pollution is concerned, it is a matter coming within the jurisdiction of Pollution Control Board, who had given consent in terms of Ext.P8 which is valid till 15.09.2017. If the petitioner is aggrieved by issuance of Ext.P8, petitioner can avail the appellate remedy, to challenge the said order.

3. We do not find that this is an instance in which this Court can consider the question as to whether an establishment of rice mill will cause pollution in the area. It is open for the competent authority to take a decision in the

matter and petitioner can very well approach such authorities to ventilate his grievance.

Accordingly, we dismiss the writ petition.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**