

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 9698 of 2013 (J)

PETITIONER(S):

**RADHAKRISHNAN, AGED 58 YEARS
S/O.RAGHAVAN, RADHA MANDIRAM, KODUMON MURI
KODUMON VILLAAGE, KODUMON P.O., PIN 691555,
PATHANAMTHITTA DISTRICT.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S**

RESPONDENT(S):

- 1. THE ENVIRONMENTAL ENGINEER
KERALA STATE POLLUTION CONTROL BOARD
DISTRICT OFFICE, MAKKAMKUNNU, PATHANAMTHITTA-689645.**
- 2. KODUMON GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, KODUMON P.O.
PATHANAMTHITTA DISTRICT, PIN 691555.**
- 3. JAYAPRAKASH
PRAKASH MANDIRM, KODUMON P.O.,
PATHANAMTHITTA DISTRICT,
PIN 691555.**

**R1 BY ADV. SRI.M.R.ARUNKUMAR, SC
R3 BY ADV. SRI.P.VIJAYAKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1:** TRUE COPY OF COMPLAINT DATED 19/11/2012 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXHIBIT-P2:** TRUE COPY OF COMPLAINT DATED 29/11/2012 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
- EXHIBIT-P3:** TRUE COPY OF NOTICE NO.PCB/PTA/COMP/237/2010 DATED 24/12/2013 ISSUED BY THE FIRST RESPONDENT TO THE THIRD RESPONDENT.
- EXHIBIT-P4:** TRUE COPY OF LETTER NO.C3 68/13 DATED 28/01/2013 ISSUED TO THE PETITIONER BY THE SECOND RESPONDET PANCHAYAT.
- EXHIBIT-P5:** TRUE COPY OF PETITION DATED 12/02/2013 SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R3(A):** LICENSE GRANTED BY R2 FOR CONDUCTING AUTO SPARE PARTS SHOP
- EXHIBIT R3(B):** LETTER FROM R2 DATED 7/1/13 REQUIRING NOC FROM OTHER AUTHORITIES IF REQUIRED
- EXHIBIT R3(C):** COMPLAINT DATED 21/6/01 FILED BY THE PETITIONER AGAINST ME BEFORE THE ON OMBUDSMAN.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 9698 of 2013

Dated this the 23rd day of January, 2015

J U D G M E N T

The petitioner seeks a direction to respondents 1 and 2 directing to stop the illegal functioning of the three wheeler workshop of the 3rd respondent.

2. The petitioner alleges that the 3rd respondent is running an illegal three wheeler workshop just adjacent to the house of the petitioner without obtaining any permission, permit and licence etc. as well as consent from the Kerala Pollution Control Board. The petitioner also points out that the 3rd respondent also failed to adhere to the direction of the Pollution Control Board. In support of his case, the petitioner produced Ext.P3 notice of the Kerala Pollution Control Board and Ext.P4 letter from the local authority. The petitioner further alleges that though Exts.P1, P2 and P5 petitions have been filed requesting to take appropriate action against the illegal functioning of the workshop of the 3rd respondent, respondents 1 and 2

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have not taken any action against the 3rd respondent. It is with this background, the petitioner has come up before this Court.

3. In the counter affidavit filed by the party respondent, he has admitted that he has received Ext.R3 (b) letter dated 07.01.2013 from the panchayath asking him to produce NOCs from the Kerala Pollution Control Board, the District Medical Office, the Fire Force Department, the Employment Department, the Factories Inspector and Consent Statement from the neighbours to consider his application for licence from panchayath. The stand taken by the 3rd respondent is that on receipt of Ext.R3(b), he made enquiries with his lawyer in Pathanamthitta, who told him that panchayath licence is not required for the functioning of workshop functioning without any power or machinery; and the 3rd respondent conveyed the said fact to the local authorities.

4. Arguments have been heard.

5. A duty is cast upon respondents 1 and 2 to consider the complaints of the petitioner to stop the illegal

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functioning of the three wheeler workshop, especially, in the light of Ext.P3 notice and contents of Ext.P4.

Therefore, this Court is of the view that this writ petition can be disposed of directing respondents 1 and 2 to ascertain whether the 3rd respondent has obtained any licence to run the workshop as per law. If he has not procured the necessary licence by this time, the 3rd respondent shall be given one month's time to procure the licence. If the 3rd respondent does not procure the necessary licence within the aforesaid period, respondents 1 and 2 shall proceed with the action to close down the workshop run by the 3rd respondent. Respondents 1 and 2 shall ensure that till final orders are passed by the panchayath in the matter, functioning of the workshop of the 3rd respondent shall be confined between 8.00 am and 7.30 pm.

The writ petition is disposed of as above.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-