

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).NO. 9735 OF 2015 (N)

PETITIONER(S):

**JAMES EMMANUEL,
CHENNAPRAYIL HOUSE, VEMPALLY P.O.,
KOTTAYAM- 686 633.**

BY ADV. SRI.P.S.GEORGE.

RESPONDENT(S):

- 1. THE POLLUTION CONTROL BOARD,
REPRESENTED BY ENVIRONMENTAL ENGINEER,
OFFICE OF THE POLLUTION CONTROL BOARD,
KOTTAYAM -686 001.**
- 2. THE DISTRICT MEDICAL OFFICER,
KOTTAYAM -686 001.**
- 3. THE MEDICAL OFFICER,
PRIMARY HEALTH CENTRE,
ATHIRAMPUZHA, KOTTAYAM- 686 001.**
- 4. ATHIRAMPUZHA GRAMA PANCHAYAT,
ATHIRAMPUZHA P.O., REPRESENTED BY ITS
SECRETARY, PIN- 686 562.**
- 5. ELYKUTTY SEBASTIAN,
CHAMAKALAYIL HOUSE, ATHIRAMPUZHA P.O.,
VEDAGIRI, KOTTAYAM- 686 562.**

R1 BY ADV. SRI. M.AJAY, SC.

R2 & R3 BY SR. GOVT. PLEADER SRI.JOSEPH GEORGE.

R4 BY ADV. SRI.RAJESH THOMAS,SC.

R5 BY ADV. SRI.B.KRISHNA MANI.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: TRUE COPY OF THE LICENCE DATED 07.04.2014 ISSUED BY THE 4TH RESPONDENT PANCHAYATH.**
- P2: TRUE COPY OF THE CONSENT DATED 25.10.2012 ISSUED BY 1ST RESPONDENT POLLUTION CONTROL BOARD.**
- P3: TRUE COPY OF THE LICENCE DATED 10.12.2014 ISSUED BY THE DEPARTMENT OF FACTORIES AND BOILERS.**
- P4: TRUE COPY OF THE COMMUNICATION DATED 21.08.2014 ISSUED BY THE 1ST RESPONDENT.**
- P5: TRUE COPY OF THE COMMUNICATION DATED 09.01.2015 ISSUED BY THE 1ST RESPONDENT.**
- P6: TRUE COPY OF THE REPORT DATED 29.12.2014 ISSUED BY THE 2ND RESPONDENT.**
- P7: TRUE COPY OF THE COMMUNICATION DATED 23.01.2015 ISSUED BY THE 3RD RESPONDENT.**
- P8: TRUE COPY OF THE COVERING LETTER DATED 20.02.2015 ALONG WITH REPORT DATED 20.02.2015 ISSUED BY INTEGRATED ENVIRONMENTAL SOLUTIONS.**
- P9: TRUE COPY OF THE RELEVANT PAGES OF STANDARDS AND GUIDELINES WITH SCHEDULE ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD DATED NIL.**
- P10: TRUE COPY OF THE RECEIPT DATED 03.02.2015 ISSUED BY THE 4TH RESPONDENT.**
- P11: TRUE COPY OF THE COMMUNICATION DATED 19.02.2015 FROM 4TH RESPONDENT TO PETITIONER.**
- P11(A): TRUE COPY OF THE LETTER DATED 18.02.2015 OF 4TH RESPONDENT TO THE 1ST RESPONDENT.**
- P12: TRUE COPY OF THE COMMUNICATION DATED 03.03.2015 ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:-

- EXT.R4A COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT POLLUTION CONTROL BOARD DATED 01/10/2014 EXPRESSING ITS INTENTION TO WITHDRAW THE CONSENT.
- EXT.R4B COPY OF THE DIRECTION DATED 19/12/2014 OF THE DISTRICT COLLECTOR, KOTTAYAM ALONG WITH THE COMPLAINT FILED BY THE 5TH RESPONDENT.
- EXT.R4C TRUE ENGLISH TRANSLATION OF EXT.R4(B).
- EXT.R4D TRUE ENGLISH TRANSLATION OF EXT.P6 IN WP(C).NO.9735/2015.
- EXT.R4E COPY OF THE COMMUNICATION FROM THE PRINCIPAL SECRETARY ENVIRONMENT DEPARTMENT, GOVERNMENT OF KERALA DATED 25/02/2015 CALLING FOR URGENT REPORT ON THE POLLUTION EMANATING FROM THE PETITIONER'S INDUSTRIAL UNIT.
- EXT.R4F TRUE ENGLISH TRANSLATION OF EXT.R4(E).

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 9735 of 2015

Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “i) Issue a writ of mandamus or any other appropriate writ, direction or order directing the 1st respondent to communicate to the 4th respondent that Ext. P2 consent is still valid and the petitioner can operate his unit.*
- ii) Issue a writ of mandamus or any other appropriate writ, direction or order directing the 2nd respondent to communicate to the 4th respondent that in view of Ext P8 and P9 none of the remarks in Ext P6 survives.*
- iii) Declare that the petitioner is eligible to get Ext P1 renewed in view of Ext P2 consent, Ext.P3 licence, Ext P8 report and P9 guidelines.*
- iv) Issue such other writ, order or direction as this Honourable Court deems fit and proper to grant in the facts and circumstances of the case.”*

2. The grievance of the petitioner is that, the application preferred by the petitioner before the 4th respondent Panchayath for renewal of the D&O licence, is not properly acted upon and there is some hide and seek game between the Panchayat and other authorities concerned on the basis of a frivolous complaint

filed by the 5th respondent. It is stated that, the petitioner is engaged in the manufacturing of 'Automobile spring leaves and allied products' which was established in the year 1996, and the petitioner along with his brother took over the same, in the year 2000 from the erstwhile owner. It is stated that, all the requisite licences were obtained from the relevant corners and the unit was being run accordingly. The unit is also having a valid consent issued by the Pollution Control Board. Pursuant to notice on admission, the Panchayat as well as the 5th respondent have entered appearance.

3. The learned counsel for the 5th respondent submits that, high extent of pollution is being caused by the petitioner and the unit is not being operated in conformity with the relevant provisions of law. The learned counsel appearing for the Panchayat submits that, in view of the complaint, the matter was referred to the Pollution Control Board for clarification as to whether any valid consent is in existence vide Ext.P11(a). It is stated that, a reply has been forwarded by the Pollution Control Board as per Exhibit R4(a) to the effect that, some steps are being pursued to revoke the consent.

4. The learned standing counsel appearing for the Pollution Control Board submits that, the consent already issued to the petitioner is valid till 30.06.2015. It is stated that, the Pollution Control Board has issued Ext.P5 to the petitioner as additional measure to safe guard the interest of all concerned and they have submitted a reply vide Ext.P12 to the effect that, the requirements have been satisfied. A further inspection will be conducted with notice to all concerned and appropriate orders will be taken by the Pollution Control Board considering whether the version of the petitioner is correct or any defect is still there to be rectified.

5. In the above circumstance, in so far as the consent already issued by the Pollution Control Board is valid as on date, there will be a direction to the 4th respondent Panchayath to consider the application preferred by the petitioner for renewal of D&O licence and the renewal shall be effected accordingly, if it is otherwise in order. This will not bar the way of the Pollution Control Board in conducting an inspection and to take further steps, if the requirements already specified by them are not complied with by the petitioner or if there is any violation of any

of the terms of the consent or such other relevant provisions of law. Appropriate action shall be taken in conformity with the statutory provisions.

The writ petition stands disposed of. It is open for the Pollution Control Board to send notice to the petitioner, 4th respondent and also to the 5th respondent herein, before finalizing the matter as aforesaid.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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