

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 9975 of 2015 (V)

PETITIONER:

**MUJEEB, S/O.MUSTHAFA,
AGED 29 YEARS, VAYALODATHU VEEDU,
WEST VELIYATHUNADU. P.O, KARUMALLOOR,
ERNAKULAM-683 511.**

**BY ADVS.SRI.PAUL K.VARGHESE,
SMT.A.A.GEETHA.**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
(LOCAL SELF GOVERNMENT DEPARTMENT),
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, COCHIN-682 030.**
- 3. THE DISTRICT MEDICAL OFFICER,
ERNAKULAM-682 036.**
- 4. POLLUTION CONTROL BOARD,
ERNAKULAM-682 011.**
- 5. THE SECRETARY,
KARUMALLOOR GRAMA PANCHAYATH,
KARUMALLOOR. P.O., ERNAKULAM-683 511.**
- 6. SHAMSUDEEN NADUVILAPARAMBIL HOUSE,
VAYALODATHU, VELIYATHUNADU,
WEST VELIYATHUNADU. P.O., ERNAKULAM-683 511.**

**R1 TO R3 BY SR. GOVT. PLEADER SRI.JOSEPH GEORGE.
R4 BY ADV. SRI. M.AJAY, SC.
R6 BY ADV. SRI.DINESH MATHEW J.MURICKEN.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 A TRUE COPY OF THE ORDER IN O.P. NO.1729/2012 OF THE HONOURABLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTION, TRIVANDRUM DATED 22/06/2013.
- EXT.P2 A TRUE COPY OF THE ORDER NO.C2-23873/12 DATED 12/11/2013 ISSUED BY THE DISTRICT MEDICAL OFFICER, ERNAKULAM DATED 12.11.2013.
- EXT.P2(A) ENGLISH TRANSLATION OF EXT.P2.
- EXT.P3 A TRUE COPY OF THE LETTER NO.C2 23873/12 ISSUED BY THE DISTRICT MEDICAL OFFICER DATED 17/04/2013.
- EXT.P3(A) ENGLISH TRANSLATION OF EXT.P3.
- EXT.P4 A TRUE COPY OF THE NOTICE NUMBER C2-23873/12 OF THE DISTRICT MEDICAL OFFICER, ERNAKULAM DATED 09/01/2013.
- EXT.P4(A) ENGLISH TRANSLATION OF EXT.P4.
- EXT.P5 A TRUE COPY OF THE REPORT FILED BY THE 4TH RESPONDENT BEFORE THE KARUMALLOOR PANCHAYATH DATED 25.10.2013.
- EXT.P5(A) ENGLISH TRANSLATION OF EXHIBIT P5.
- EXT.P6 A TRUE COPY OF THE NOTICE NO.A6-7271/13 DATED 02/06/2014 ISSUED BY THE 5TH RESPONDENT IN FAVOUR OF THE 6TH RESPONDENT.
- EXT.P6(A) ENGLISH TRANSLATION OF EXHIBIT P6.
- EXT.P7 A TRUE COPY OF THE NOTICE NO.A6/7271/2013 STOP MEMO ISSUED BY THE SECRETARY KARUMALLOOR PANCHAYATH DATED 02/07/2014.
- EXT.P7(A) ENGLISH TRANSLATION OF EXT.P7.
- EXT.P8 A TRUE COPY OF THE ORDER NUMBER A6-7271/2014 OF THE PANCHAYATH DATED 01/01/2015.
- EXT.P8(A) ENGLISH TRANSLATION OF EXHIBIT P8.

RESPONDENT'S EXHIBITS:-

- EXT.R6A COPY OF THE CERTIFICATE OF MERIT ISSUED BY THE ANIMAL HUSBANDRY DEPARTMENT, GOVERNMENT OF KERALA.

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- EXT.R6B COPY OF THE RECEIPT EVIDENCING OF PAYMENT OF LICENCE
FEE FOR THE PERIOD 2013-2014 DATED 27/03/2013.**
- EXT.R6C COPY OF THE RECEIPT EVIDENCING FILING OF APPEAL BY THE
6TH RESPONDENT BEFORE THE PANCHAYATH COMMITTEE
DATED 19/06/2013.**

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 9975 of 2015

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Dated, this the 6th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- "1. Issue a writ of mandamus or other appropriate writ order or direction commanding the respondents No. 2 to 5 to implement Exhibit P1 to P8 orders forthwith and close down the illegal functioning of the poultry farm by the 6th respondent very close to the petitioner's house.
2. Issue such other writ order or direction as may be necessary in the facts and circumstances of the case."

2. The learned counsel for the petitioner submits that because of the unauthorised operation of the poultry farm situated nearby the residence of the petitioner much hardships are being caused to the petitioner. It is stated that living in the residence of the petitioner has virtually become a difficult task. Despite the fact that the poultry farm is situated with close proximity to public road and in spite of

bringing the nuisance to the notice of the concerned authorities, no proper action has been taken by the respondents till date; including the 4th respondent/Pollution Control Board and 5th respondent/Local Authority, who are not anxious enough to implement Exts. P1 and P8 orders. Hence the writ petition.

3. The learned standing counsel for the Pollution Control Board submits that steps are being taken to abate pollution. Despite completion of service of notice on admission, the 5th respondent has not turned up. The learned counsel for the 6th respondent submits that 6th respondent has not obtained any licence from the Local Authority. It is stated that poultry farm has already been closed yesterday and that the 6th respondent does not intend to continue the operation under any circumstances, without obtaining the licence. The learned counsel also submits that 6th respondent is having as many as 15 cows and that as per the relevant provisions of law, a bio-gas plant has to be established. It is stated that necessary funds have already been identified and that steps are being taken on war footing to start functioning of the bio-gas plant within a one month. The learned counsel for the 6th respondent submits that plant will be opened at any rate within one

month. The said submission is recorded.

4. In the said circumstances, the petitioner is granted one months time to set up the bio-gas plant. The Pollution Control Board (4th respondent), Local Authority (5th respondent) and Health Department (3rd respondent) shall conduct a proper inspection with notice to the petitioner and 6th respondent, to ensure satisfaction of the position, to the effect that no pollution is resulted because of the activities being pursued by the 6th respondent and further that 6th respondent is pursuing activities within the parameters prescribed under the relevant provisions of law. If any violation is noticed, it is open for the concerned respondent to pursue further steps to close down the unit.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the concerned respondent for further steps.

The Writ Petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

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