

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).NO. 11495 OF 2015 (J)

PETITIONER(S):

**NAZIR K.H., M/S.NEW SAFA WOOD INDUSTRIES,
DOOR NO.X/530A, KANDANTHARA, ALLAPRA P.O.,
PERUMBAVOOR-683 556, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.N.DAMODARAN NAMBOODIRI,
SMT.K.P.RANI.**

RESPONDENT(S):

- 1. THE ENVIRONMENTAL ENGINEER,
DISTRICT OFFICE (ERNAKULAM-II),
KERALA STATE POLLUTION CONTROL BOARD,
PERUMBAVOOR-683 547.**
- 2. THE KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY ITS CHAIRMAN, PATTOM,
THIRUVANANTHAPURAM-695 004.**

BY ADV. SRI. M.AJAY, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE LICENSE NO.225/2C/2 DATED 21/08/2006 ISSUED BY THE VENGOLA GRAMA PANCHAYAT TO THE UNIT.
- EXT.P2 COPY OF THE LICENSE NO.366/2013 (ON RENEWAL) DATED 13/11/2013 ISSUED BY THE DIVISIONAL FOREST OFFICER, MALAYATTOOR.
- EXT.P3 COPY OF THE SMALL SCALE INDUSTRIAL REGISTRATION CERTIFICATE NO.32/008/1/2/24779/PART-I, DATED 12/06/2014 ISSUED BY THE DISTRICT INDUSTRIES CENTRE, ERNAKULAM TO THE PETITIONER.
- EXT.P4 COPY OF THE POWER SANCTION LETTER NO.DB/GENERAL/ 2013-14/137 DATED 09/12/2013 ISSUED BY THE ASSISTANT ENGINEER ELECTRICAL SECTION VENGOLA.
- EXT.P5 COPY OF THE NO OBJECTION CERTIFICATE NO.C2-350/15 (L.DIS) DATED 17/01/2015 ISSUED BY THE MEDICAL OFFICER OF HEALTH TO THE PETITIONER.
- EXT.P6 COPY OF THE FACTORY LICENSE NO.N/D10/AWY/03/1725/2009 DATED 28/05/2014 ISSUED BY THE DEPARTMENT OF FACTORIES & BOILERS TO THE PETITIONER.
- EXT.P7 COPY OF THE NO OBJECTION CERTIFICATE NO.G-198/15 DATED 20/01/2015 ISSUED BY THE ASSISTANT DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES TO THE PETITIONER.
- EXT.P8 COPY OF THE TIN CERTIFICATE NO.32151252789C DATED 28/08/2014 ISSUED BY THE COMMERCIAL TAX OFFICER, 1ST CIRCLE, PERUMBAVOOR TO THE PETITIONER.
- EXT.P9 COPY OF THE E-FILING APPLICATION DATED 31/10/2012 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P10 COPY OF THE EXPLANATION NOTICE NO.PCB/HO/EKM/PLY-GEN/ 63/2014 DATED 29/12/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P11 COPY OF THE REPLY DATED 08/01/2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT .
- EXT.P12 COPY OF THE ORDER NO.NIL DATED NIL ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

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EXT.P13 COPY OF THE DOCUMENT OF SETTLEMENT DEED OF THE ALLEGED RESIDENTIAL BUILDING, IN FAVOUR OF THE PETITIONER BEARING NO.404/15 DATED 29/01/2015.

EXT.P13A COPY OF THE DOCUMENT OF SETTLEMENT DEED OF THE ALLEGED RESIDENTIAL BUILDING, IN FAVOUR OF THE PETITIONER BEARING NO.405/15 DATED 29/01/2015.

EXT.P14 COPY OF THE LAND TAX RECEIPT NO.K.4626123 DATED 12/03/2015 DATED 05/04/2014 ISSUED BY THE VILLAGE OFFICER, VENGOLA TO THE PETITIONER.

EXT.P15 COPY OF THE CIRCULAR NO.PCB/T4/115/97 DATED 20/07/2011 ISSUED BY THE 2ND RESPONDENT.

EXT.P16 COPY OF THE CIRCULAR NO.PCB/T4/115/97 DATED 27/08/2011 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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Dated, this the 10th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) To issue a writ in the nature of certiorari or any other appropriate writ or order quashing exhibit P12 order issued by the 2nd respondent.

(ii) To issue a writ in the nature of mandamus or any other appropriate writ or order directing the 2nd respondent to consider the reply and pass orders to granting permission to the petitioner for conducting his business.

(iii) To pass such other orders as this Hon'ble Court may deems justified in the facts and circumstances of the case.

AND

(v) To award the cost of this proceedings to the petitioner.

2. Heard the learned counsel for the petitioner as well as the learned standing counsel appearing for the respondents.

3. The challenge raised by the petitioner is mainly against Ext. P12 order passed by the second respondent, whereby the petitioner has been required to satisfy the distance level in terms of Ext. P15 circular dated 20.07.2011. The case of the petitioner is that Ext. P15 is not applicable to the case of the petitioner, since the petitioner has obtained licence before the cut off date of 01.07.2011 as evident from Ext. P1. It is also stated that issue is squarely covered by the judgment rendered by this Court in W.P. (C) No. 7778 of 2015.

4. During the course of hearing, it is brought to the notice of this Court that followed by Ext. P15 Circular, Ext. P16 clarification dated 27.08.2011 was issued by the Pollution Control Board, whereby the position has been clarified in the following terms :

"Also in cases where consents/permits were already issued before 01.07.2011 from District Industries Centre / Panchayats / local bodies / other relevant forums, for setting up of the units, Boards siting criteria applicable before 01.07.2011 shall be followed."

5. In the above circumstances, this Court finds that the grievance of the petitioner, in so far as the same is concerned only

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with regard to the distance level with reference to Ext. P15 circular, stands answered in favour of the petitioner by virtue of Ext. P16 clarification and as such, the petitioner is entitled to have the benefit. It is ordered accordingly.

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

The writ petition is disposed of.

Sd/-

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

kmd