

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 04TH DAY OF AUGUST 2015 / 13TH SRAVANA, 1937

WP(C).No.12781 of 2015

PETITIONER:

LAILA HAMSA, W/O. LATE HAMSA, PEDIKKATT (H) ,
POOVATHUSSERY. P.O,
ANNAMANADA PANCHAYATH, THRISSUR (DIST) , PIN-680741.

BY ADVS.
SMT.M.REMA MENON
SMT.T.MANASY

RESPONDENTS:

- 1 ANNAMANADA GRAMA PANCHAYATH
REPRESENTED BY IT'S SECRETARY, ANNAMANADA. P.O, THRISSUR
DISTRICT,
PIN-680741.
- 2 THE SECRETARY
ANNAMANADA GRAMA PANCHAYATH, ANNAMANADA. P.O,
THRISSUR (DIST) , PIN-680741.
- 3 THE MEDICAL OFFICER,
PRIMARY HEALTH CENTRE, ANNAMANADA. P.O,
THRISSUR (DIST) , PIN-680741.
- 4 THE HEALTH INSPECTOR,
PRIMARY HEALTH CENTRE, ANNAMANADA. P.O,
THRISSUR (DIST) , PIN-680741.
- 5 THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL,
NEAR BIG BAZAR, THRISSUR-20.
- 6 JOHN, AGED 52 YEARS, PANAKKAL (H) , POOVATHUSSERY. P.O,
THRISSUR (DIST) , PIN-680741.
- 7 LISSY JOHN
AGED 48 YEARS
W/O. JOHN, PANAKKAL (H) , POOVATHUSSERY. P.O, THRISSUR (DIST)
, PIN-680741.

8 CYRIL
 AGED 26 YEARS
 S/O.JOHN,PANAKKAL(H),POOVATHUSSERY.P.O,
 TRISSUR(DIST),PIN-680741.

R3 & R4 BY GOVT.PLEADER SMT.ANITHA RAVINDRAN
R1 & R2 SRI.FRANCO T.J.
R5 BY SRI M.AJAY, SC
R6 TO R8 BY ADVS.C.P.WILSON SRI TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04.08.2015, ALONG WITH WP(C).16479/2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 04TH DAY OF AUGUST 2015 / 13TH SRAVANA, 1937

WP(C).No.16479 of 2015

PETITIONER:

SYRIL JOHN,
S/O.JOHN, PANAYKKAL HOUSE, POOVATHUSSERY
(P.O)THRISSUR.

BY ADVS.
SRI.C.P.WILSON
SRI.V.TEKCHAND

RESPONDENTS:

- 1 ANNAMANADA GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, ANNAMANDA,
THRISSUR DISTRICT PIN - 680741
- 2 SECRETARY
ANNAMANADA GRAMA PANCHAYAT, ANNAMANDA, THRISSUR
DISTRICT ,PIN-680741
- 3 LAILA HAMSA
W/O.LATE HAMSA,PEDIKKAT HOXSE, POOVATHUSSERY P.O.,
THRISSUR PIN 680741

BY ADVS.
R1 & R2 BY SRI.FRANCO T.J.
R3 BY ADV.SMT.M.REMA MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04.08.2015, ALONG WITH WP(C).12781/2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP (C) 12781/2015 ,WP (C) .16479/2015]

These writ petitions relate to the functioning of a brick manufacturing unit by the petitioner in WPC No.16479/2015. WPC No.12781/2015 is filed by a local resident opposing the functioning.

2. According to the petitioners in WPC No.12781/2015, the functioning of the unit is unauthorised. However, the petitioner who is running the unit, i.e. the petitioner in WPC No.16479/2015 is aggrieved by the stop memo issued by the respondent Panchayat.

3. I have heard the learned counsel for the petitioner in WPC No.16479/2015, the learned standing counsel for the respondent Panchayat, the learned standing counsel for the Kerala State Pollution Control Board and Smt.Reman Menon the learned counsel for the party respondent in WPC No.16479/2015 (petitioner in WPC No.12781/2015).

4. The third respondent in WPC No.16479/2015 has filed a

detailed counter affidavit refuting all the allegations in WPC No.16479/2015.

5. When the matter came up for hearing on a specific query put by me as to whether the Panchayat had given clearance for the petitioner in WPC No.16479/2015.

6. The learned standing counsel for the respondent Panchayat submitted that all applications submitted by the petitioner in WPC No.16479/2015 are pending consideration before the respondent Panchayat and they have not processed the same on account of the interim orders passed in these writ petitions.

7. The learned counsel for the petitioner in WPC No.16479/2015 inviting my attention to Ext.P4 in that writ petition would submit that the Kerala State Pollution Control Board has imposed certain conditions before making the unit operational. According to the learned counsel, none of those conditions have been complied with.

8. As the applications are now pending before the respondent Panchayat, this Court is of the view that it is only just and proper to direct the respondent Panchayat to consider the applications after affording both the petitioners an opportunity of being heard within a time frame.

Therefore, these writ petitions are disposed of directing the respondent Panchayat to consider the issue, after affording both the petitioners an opportunity of being heard within a period of one month from the date of receipt of a copy of this judgment. Before considering the issue, the authorised representative of the respondent Panchayat shall make a local inspection of the unit of the petitioner in WPC No.16479/2015 to ascertain whether the conditions imposed by the Kerala State Pollution Control Board in Ext.P4 have been complied with in letter and spirit. This shall be done with due notice to both petitioners. Only after making the inspection and satisfying themselves that the conditions imposed by the Pollution Control Board has been complied with, further hearing of the parties shall be conducted. If the conditions are complied with, it shall be open to the respondent Panchayat to grant license if the application is otherwise in order. The entire exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment.

sd/-

A.V.RAMAKRISHNA PILLAI

JUDGE

APPENDIX OF WP (C) 12781/2015**PETITIONER'S EXHIBITS:**

EXHIBIT P1	EXT.P1 TRUE COPY OF COMPLAINT DATED 01-10-2013 TO THE SECRETARY,ANNAMANADA GRAMA PANCHAYATH
EXHIBIT P2	EXT.P2 TRUE COPY OF COMPLAINT DATED 16-08-2014 TO THE SECRETARY,ANNAMANADA GRAMA PANCHAYATH
EXHIBIT P3	EXT.P3 TRUE COPY OF THE APPLICATION SUBMITTED TO THE PUBLIC INFORMATION OFFICER,ANNAMANADA GRAMA PANCHAYATH,DTD 22-08-2014
EXHIBIT P4	EXT.P4 TRUE COPY OF THE REPLY ISSUED BY SECRETARY,ANNAMANADA GRAMA PANCHAYATH DATED 18-09-2014
EXHIBIT P5	EXT.P5 TRUE COPY OF THE LETTER ISSUED FROM THE O/O THE CHIEF MINISTER DATED 24-10-2014
EXHIBIT P6	EXT.P6 TRUE COPY OF THE LETTER NO:C-3-66148/2014,ISSUED FROM THE DISTRICT COLLECTOR,THRISSUR,DATED 18-11-2014
EXHIBIT P7	EXT.P7 TRUE COPY OF THE AWARD DATED 19-12-2014,OF LOK ADALATH.IRINJALAKUDA IN PLP.906/2014
EXHIBIT P8	EXT.P8 TRUE COPY OF THE COMPLAINT SUBMITTED TO THE ENVIRONMENTAL ENGINEER,POLLUTION CONTROL BOARD ON 08-01-2015.

RESPONDENT'S EXHIBITS : NIL

APPENDIX OF WP (C) 16479/2015

PETITIONER'S EXHIBITS:

- EXHIBIT P1 P1 - TRUE COPY OF THE ACKNOWLEDGMENT FROM
THE DEPARTMENT OF INDUSTRIES, GOVERNMENT OF
KERALA DATED 18.07.2013
- EXHIBIT P2 P2 - TRUE COPY OF THE SANITARY FITNESS
CERTIFICATE.
- EXHIBIT P3 P3 - TRUE COPY OF THE POWER ALLOCATION
ORDER
- EXHIBIT P4 P4 - TRUE COPY OF THE CONSENT TO ESTABLISH
ISSUED BY THE KERALA STATE POLLUTION
CONTROL BOARD.
- EXHIBIT P5 P5 - TRUE COPY OF THE STOP MEMO ISSUED BY
2ND RESPONDENT
- EXHIBIT P6 P6 - TRUE COPY OF THE REPLY SUBMITTED ON
20.4.2014
- EXHIBIT P7 P7 - TRUE COPY OF THE ORDER IN
WPC.NO.12781/2015

RESPONDENT'S EXHIBITS:

- EXT.R3(A) TRUE COPY OF COMPLAINT DATED 1.10.2013 TO THE SECRETARY
ANNAMANADA GRAMA PANCHAYAT
- EXT.R3(B) TRUE COPY OF COMPLAINT DATED 16.8.2014 TO THE SECRETARY, ANNAMANADA
GRAMA PANCHAYAT
- EXT.R3(C) TRUE COPY OF THE LETTER NO.C3-66148/2014, ISSUED BY THE DISTRICT
COLLECTOR, THRISSUR DATED 18.11.2014.
- EXT.R3(D) TRUE COPY OF THE COMPLAINT SUBMITTED TO THE ENVIRONMENTAL
ENGINEER, POLLUTION CONTROL BOARD, THRISSUR ON 6.1.2015.

MBR/