

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 13018 of 2015 (B)

PETITIONER:

**LATHA SUSAYYA CHARLES,
W/O.SUSAYYA CHARLES @ SAMSON,
ALVIN VILLA, TRA-20 B, THIRUMULLAVARAM,
KOLLAM WEST VILLAGE, KOLLAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S):

- 1. THE KOLLAM CORPORATION,
CORPORATION BUILDING, KOLLAM-691001,
REPRESENTED BY ITS SECRETARY.**
- 2. THE HEALTH OFFICER, KOLLAM CORPORATION,
CORPORATION BUILDING, KOLLAM-691001.**
- 3. THE ENVIORNMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, USHUS BUILDING, BIG BAZAR,
KOLLAM-691001.**
- 4. THE DISTRICT MEDICAL OFFICER,
HEALTH DEPARTMENT, COLLECTORATE,
CUTCHERY P.O., KOLLAM-691013.**
- 5. SRI.KRISHNAKUMAR P.,
PANTHIRIKAL PADINJATTATHIL, NEAR TRA-20-B,
THIRUMULLAVARAM P.O., KOLLAM WEST VILLAGE,
KOLLAM-691012.**

R1 & R2 BY SRI.M.K.CHANDRA MOHAN DAS,SC

R3 BY SRI. M.AJAY, SC,

SRI.M.R.ARUNKUMAR, SC

R4 BY SENIOR GOVT. PLEADER SRI.MUHAMMED SHAFI.M

R5 BY ADVS. SRI.C.RAJENDRAN

SRI.K.R.RANJITH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-10-2015 ALONG WITH WPC. 14003/2015 & WPC. 17823/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

WP(C).No. 13018 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : THE TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, KOLLAM TO THE PETITIONER'S HUSBAND FOR THE YEAR 2014-15.
- P2 : THE TRUE COPY OF THE COMPLAINT DT.24-7-14 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P3 : THE TRUE COPY OF THE COMPLAINT DT.26-8-14 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- P4 : THE TRUE COPY OF THE ORDER NO.PCB/KO/COMP/174/2014 DT.27-9-14 ISSUED BY THE 3RD RESPONDENT TO THE 5TH RESPONDENT.
- P5 : THE TRUE COPY OF THE ORDER NO.H2/40787/14, 40785/14 DT.24-1-15 ISSUED BY THE 1ST RESPONDENT TO THE 5TH RESPONDENT.
- P6 : THE TRUE COPY OF THE COMPLAINT DT.1-4-2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.M. SHAFFIQUE, J.

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W.P. (C) Nos. 13018 14003 & 17823 of 2015

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Dated this, the 12th day of October, 2015

J U D G M E N T

WP(C) No.13018/2015 has been filed by a neighbour of the 5th respondent seeking for directions to respondents 1 to 4 to implement Exts.P4 and P5 and to restrain the 5th respondent from conducting chicken stall in his property. Petitioner contends that chicken stall is being conducted without any licence or permission from the competent authorities and even without complying with the directions issued by the Pollution Control Board.

2. WP(C) No.14003/15 has been filed by 5th respondent in WP(C) No.13018/15 to quash Ext.P3 by which Kollam Municipal Corporation had requested the petitioner by order dated 24/1/2015 to produce certificate from the Pollution Control Board and since the same was not produced within the specified time, the D&O licence issued in his favour was cancelled. Petitioner contended that an appeal has been filed in the matter which was pending consideration.

(3) WP(C) No.17823/15 is also filed by the 5th respondent

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in WP(C) No.13018/15 challenging Exts.P3 and P6. By Ext.P3, he is informed that the Kollam Municipal Council has rejected his appeal. Ext.P6 is another order by which the Municipality had rejected the licence to conduct chicken stall in Ward No.XXXII bearing House No.1387/68A.

(4) The issue in these writ petitions relate to the conduct of a chicken stall by the aforesaid Krishna Kumar. For easy reference, parties are referred to as mentioned in WP(C) No.13018/15.

(5) During the pendency of these writ petitions, by an interim order dated 28/7/2015, the learned Single Judge of this Court directed the Pollution Control Board to submit a report regarding the conduct of the chicken stall and whether any pollution was being caused in the matter.

(6) A report has been filed by the Pollution Control Board *inter alia* stating that the 5th respondent was called upon to rectify certain defects to enable the Pollution Control Board to provide consent for operating the chicken stall and but for one of the item

specified in the said direction, the 5th respondent had complied with the balance requirements.

(7) By an order dated 9/10/2015, I have taken note of the submission of the learned counsel for the 5th respondent that he will comply with the balance requirement as stated by the Pollution Control Board.

(8) Today, learned counsel for the 5th respondent submits that he had complied with the said requirement as well and the building in which the chicken was being slaughtered has been completely constructed with bricks and has been made airtight.

(9) Learned counsel for the petitioner however would submit that as far as the 5th respondent is concerned, right now, he does not have licence to operate the chicken stall as the Corporation has not granted licence in that regard.

(10) Having regard to the factual issues raised in the above cases, what is to be looked into is whether the 5th respondent is entitled to function the chicken stall in the aforesaid premises. Apparently no licence had been produced before this Court from

the Corporation of Kollam. It is stated by the learned counsel for the 5th respondent that his licence was cancelled by the Corporation since he was not in possession of a certificate from the Pollution Control Board. Now that he had already complied with all the conditions stipulated by the Pollution Control Board, definitely the Corporation is entitled to cancel Ext.P3 produced in WP(C) No.14003/15.

(11) Learned counsel for the petitioner however would submit that despite the direction issued by the Pollution Control Board, the said building has not been made airtight and if the foul smell still continues, it is for the Pollution Control Board to consider the same.

(12) Having regard to the aforesaid contentions, the following factual situations are available in the case.

(i) That the licence granted by the Corporation in favour of the 5th respondent was cancelled against which he had filed an appeal, which was also rejected. The reason for cancellation was non production of the certificate from the Pollution Control Board.

(ii) Pollution Control Board after verification has stated that the 5th respondent has to comply with five requirements. Four of the requirements had already been complied with. The fifth requirement is said to be complied with after passing of the interim order dated 9/10/2015.

(iii) Learned counsel for the petitioner still submits that foul smell and odour is still available in the locality.

Having regard to this factual situation, these writ petitions are disposed of as under;

(1) That the Pollution Control Board shall revisit the premises of the 5th respondent and ensure whether there is any pollution being caused to the petitioner or to the surrounding area and ensure that condition No.5 as stipulated in their report is strictly complied with.

(2) If the Pollution Control Board does not certify the compliance of the conditions, the 5th respondent shall not be entitled to operate the chicken stall.

(3) If the Pollution Control Board certifies that the 5th

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respondent had complied with all the conditions, thereafter, the 5th respondent shall submit an application before the Corporation of Kollam, who shall consider his application for fresh licence, which shall be considered within a period of thirty days of submission of the application. In the meantime, 5th respondent shall be permitted to operate the chicken stall.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

13/10/2015

//True Copy//

PS to Judge