

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WP(C).No. 16876 of 2015 (H)

PETITIONER(S):

**WILSON, AGED 60 YEARS,
S/O.LAZER, CHUNGATH HOUSE,
MANALUR, THRISSUR.**

BY ADV. SRI.P.K.SAJEEV.

RESPONDENT(S):

- 1. MANALUR GRAMA PANCHAYATH,
KANDASAMKADAVU P.O., THRISSUR-680 613,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
MANALUR GRAMA PANCHAYATH,
KANDASAMKADAVU P.O., THRISSUR- 680 613.**
- 3. MANALUR GRAMA PANCHAYATH COMMITTEE,
KANDASAMKADAVU P.O., THRISSUR-680 613,
REPRESENTED BY ITS PRESIDENT.**
- 4. KERALA STATE POLLUTION CONTROL BOARD,
BUILDING NO. 27/166/13 (BEHIND BIG BAZAR),
KOVILAKATHUMPADAM, CHEMBUKKAVU, THRISSUR-680 020,
REP. BY ITS ENVIRONMENTAL ENGINEER.**

**R1 TO R3 BY ADV. SMT.P.R.REENA.
R4 BY ADV. SRI. M.AJAY, SC.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE COMPLAINT DATED 02-01-2015 GIVEN BY THE PETITIONER TO THE DISTRICT COLLECTOR, THRISSUR.
- EXHIBIT P2 TRUE COPY OF THE LETTER NO.C8-236/15 DATED 28-01-2015 GIVEN BY THE 2ND RESPONDENT TO THE DISTRICT COLLECTOR, THRISSUR.
- EXHIBIT P3 TRUE COPY OF CONSENT TO OPERATE RENEWAL CERTIFICATE NO.PCB/TSR/1C/3592/12 DATED 20-01-2015 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER.
- EXHIBIT P4 TRUE COPY OF THE NOTICE NO.C8-1846/15 DATED 01-04-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXHIBIT P5 TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE NOTICE NO C8-1946 DATED 23-04-2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXHIBIT P7 TRUE COPY OF THE APPEAL GIVEN BY THE PETITIONER TO THE PANCHAYATH COMMITTEE.
- EXHIBIT P8 TRUE COPY OF THE RECEIPT NO.2400 DATED 24-04-2005 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE PLAINT IN O.S. 61/2012 ON THE FILES OF MUNSIF'S COURT, THRISSUR.
- EXHIBIT P10 TRUE COPY OF THE WRITTEN STATEMENT IN O.S. NO.61/2012.
- EXHIBIT P11 TRUE COPY OF THE STATEMENT ACTED 17-01-2015 GIVEN BY THE PLAINTIFF IN OS. NO. 61/2012.
- EXHIBIT P12 TRUE COPY OF THE JUDGMENT DATED 04-02-2014 IN O.S.61/2012.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16876 of 2015

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Dated this the 6th day of July, 2015

JUDGMENT

The petitioner is challenging Ext.P6 notice directing to close down the unit of the petitioner.

2. The petitioner was running a small scale unit under the name and style "Wilson Flour & Oil Mill" at Manalur within the limits of the first respondent panchayat. The petitioner alleges that the first respondent has granted licence to the unit till 31.3.2012 and thereafter they have not issued the same. The petitioner has given a complaint to the District Collector, Thrissur seeking to initiate steps for getting the licence from the panchayat.

3. Subsequently, the petitioner received a copy of the letter given by the second respondent to the District Collector, Thrissur wherein it is informed that Sri.Mohanan, Vadassery had filed O.S No.61 of 2012 before the Munsiff's Court, Thrissur in respect of the subject matter and the same is pending consideration. It is alleged that the petitioner is functioning the unit with Ext.P3 consent to operate-renewal certificate issued from the Kerala State Pollution Control Board which is renewed upto 30.12.2017.

4. As the matter stood thus, the petitioner received Ext.p4 notice from the second respondent stating that his unit is functioning without licence and

a complaint is filed against the functioning of the same To Ext.P4, the petitioner has given Ext.P5 reply stating that the Collector has not directed to close down the mill.

5. Thereafter, the petitioner received Ext.P6 notice issued by the second respondent stating that the petitioner's unit is functioning without licence and he has not given sufficient reason to the show cause notice dated 1.4.2015. Thereafter the petitioner was directed to close down the unit within 7 days. The petitioner filed Ext.P7 appeal against the said notice and pending the appeal, the second respondent has closed down and sealed the mill of the petitioner. It is with this background, the petitioner has approached this Court.

6. Arguments have been heard.

7. The petitioner has obtained a valid consent to operate-renewal certificate from the Pollution Control Board for functioning his unit which is valid upto 31.12.2017. However, the second respondent is not renewing the licence stating that an original suit is pending before the Munsiff's Court, Thrissur.

8. It is submitted by the learned counsel for the petitioner that the suit was in respect of the functioning of unit by one Mohanan, the plaintiff in that suit, and the petitioner has filed a written statement.

9. The learned counsel for the petitioner would further submit that thereafter the original suit was not pressed by the plaintiff unconditionally and therefore, the complaint before the first respondent with respect to the very same subject matter is not maintainable. According to the petitioner, the action of the second respondent in closing down and sealing the unit, that too, without taking into account the pendency of an appeal is arbitrary exercise of power vested in it.

10. The learned counsel for the respondent panchayat would submit that the panchayat is ready to renew the licence of the petitioner if he complies with the conditions in Ext.P3 consent to operate-renewal certificate.

Therefore, the writ petition is disposed of directing the respondent panchayat to renew the licence of the petitioner on the basis of Ext.P3 renewal certificate ensuring that the conditions therein are complied with by the petitioner.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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