

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

WP(C).No. 17126 of 2015 (M)

PETITIONER : -

JOHN VARGHESE,
PROPRIETOR,
R.R.CHICKEN CENTRE,
MANNANKARA LOVELAND,
PUNNAMMOOD (PO), MAVELIKKARA,
KOLLAM DISTRICT.

BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SRI.BALAKRISHNAN GOPINATH
SMT.D.S.THUSHARA

RESPONDENTS : -

1. THE SECRETARY,
MAVELIKKARA MUNICIPALITY,
MAVELIKKARA - 690 101.
2. THE MAVELIKKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY-690 101.
3. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
ALAPPUZHA - 688 001.

BY SRI.RASHEED.C, SC, MAVELIKKARA MUNICIPALITY
BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE LICENCE ISSUED BY THE 1ST RESPONDENT
DATED 26.11.2012.

EXHIBIT P2 : TRUE COPY OF THE ORDER NO.PCB ALP/UCO/2711/13 DATED
8.3.2013.

EXHIBIT P3 : TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
DATED 15.3.2013.

EXHIBIT P4 : TRUE COPY OF THE JUDGMENT IN WRIT PETITION 7832/2013
DATED 20.3.2013.

EXHIBIT P5 : TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
DATED 9.9.2013.

EXHIBIT P6 : TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT
DATED 18.10.2013.

EXHIBIT P7 : TRUE COPY OF THE REPORT OF THE 3RD RESPONDENT DATED
30.12.2013.

EXHIBIT P8 : TRUE COPY OF THE JUDGMENT IN RP 159/2013 DATED 26.5.2014.

EXHIBIT P9 : TRUE COPY OF THE APPLICATION FOR RENEWAL OF LICENCE
WITH CHALAN DATED 21.2.2014.

EXHIBIT P10 : TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE 1ST
RESPONDENT DATED 28.2.2015.

EXHIBIT P11 : TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT
DATED 22.1.2015.

EXHIBIT P12 : TRUE COPY OF THE PROCEEDINGS DATED 3.3.2015 ISSUED BY THE
1ST RESPONDENT.

EXHIBIT P13 : TRUE COPY OF THE PROCEEDINGS OF THE MUNICIPAL COUNCIL
DATED 30.3.2015.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

A.V. RAMAKRISHNA PILLAI,J.

W.P.(c) No. 17126 of 2015

Dated this the 09th day of June, 2015

JUDGMENT

Exhibit P12 stop memo issued by the respondent Municipality is under challenge.

2. The petitioner is the owner in possession of 32 cents of land in Ward No. 17 of Mavelikkara Municipality and is running a poultry farm in the property. Exhibit P1 is the licence issued by the Municipality and Exhibit P2 is the consent issued by the Kerala State Pollution Control Board, which is valid up to 28.02.2016. Alleging pollution his licence was canceled without notice by Exhibit P3 order. The said order was confirmed in Exhibit P5 order and the appeal was dismissed, which is evident from Exhibit P6. Both Exhibits P5 and P6 were interfered with by the Tribunal for Local Self Government Institution in Exhibit P8 order and directed the Municipality to reconsider the application for

licence. Exhibit P7, the report of the Kerala State Pollution Control Board shows that there was no further action. The application for renewal of licence was submitted from time to time, which is evident from Exhibits P9 and P10, which were not considered. Before the Tribunal the Municipality has taken a stand that they have communicated to the petitioner and decided not to renew the licence. These orders are Exhibits P11 and P12. The reasons stated are that the conditions in the consent is not complied with. Exhibit P13 decision of the Municipal Council dated 30.03.2015 issued after Exhibits P11 and P12 makes it clear that the Health Supervisor of the Municipality has reported that the conditions are complied with. Therefore, the petitioner alleges that the entire action is tainted with malafide. Challenging Exhibit P12 and for appropriate relief, the petitioner has come up before this Court.

3. Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondent Municipality as well as the learned Standing Counsel for the Kerala State Pollution Control Board.

4. It appears from record that the main objection of the respondent Municipality in not permitting the petitioner to continue with the poultry farm is that the petitioner has not complied with the conditions in the NOC issued by the Kerala State Pollution Control Board. Therefore, this is Court is of the view that this petition can be disposed of directing the Kerala State Pollution Control Board to make a local inspection to ascertain whether the said conditions have been complied with.

5. In the result, this writ petition is disposed of directing the third respondent to make a local inspection of the petitioner's premises to ascertain whether the conditions in Exhibit P2 NOC has been complied with by the petitioner, within a period of two weeks from the date of receipt of a copy of this judgment. If the answer is positive, the second respondent shall issue a report to that effect to the respondent Municipality, and on the basis of the same the respondent Municipality shall permit the petitioner to continue with the farm. As the writ petition is disposed of, Exhibit P9 application for renewal shall also be considered by the respondent Municipality within one month from the

receipt of the report from Pollution Control Board. Until this exercise is completed, the present state of affairs shall be continued.

A.V. RAMAKRISHNA PILLAI
JUDGE

DMR/-