

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 20143 of 2014 (P)

PETITIONERS:

1. RAVEENDRAN PILLAI, AGED 52 YEARS,
S/O.BHASKARAN PILLAI, MAHISREE, VALIYAPADAM,
VILATHARA.P.O, WEST KALLADA, KOLLAM DISTRICT.
2. AJAYA KUMAR, AGED 44 YEARS,
S/O.BHASKARAN PILLAI, AJAYABHAVANAM, VALIYAPADAM,
VILATHARA.P.O, WEST KALLADA, KOLLAM DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS:

1. WEST KALLADA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, WEST KALLADA,
VILATHARA.P.O, KOLLAM DISTRICT-690 521.
2. THE DEPUTY DIRECTOR OF PANCHAYATH,
KOLLAM-690 001.
3. PRIYA,
W/O.ANTONY ROY, PROPRIETOR, PRIYA FLOOR MILL,
VALIYAPADAM, VILATHARA.P.O, WEST KALLADA,
KOLLAM DISTRICT-690 521.

R1 BY ADV. SRI.BINU GEORGE

R3 BY ADV. SRI.B.MOHANLAL

R BY SMT. K.A. SANJEETHA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-02-2015, ALONG WITH W.P.(C) NO. 35503/2014, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 COPY OF LICENSE DATED 31.10.2011 ISSUED TO THE 3RD RESPONDENT.

EXT.P2 COPY OF THE REPRESENTATION DATED 8.12.2011 BEFORE THE DISTRICT COLLECTOR.

EXT.P3 COPY OF THE ORDER DATED 22/6/2012 ISSUED BY IST RESPONDENT.

EXT.P4 COPY OF THE ORDER DATED 16/7/2012,ISSUED BY IST RESPONDENT.

EXT.P5 COPY OF THE LETTER DATED 26/2/2013 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 COPY OF THE ORDER DATED 20/3/2013 ISSUED BY THE IST RESPONDENT.

EXT.P7 COPY OF THE LETTER DATED 19/6/2013 TO DISCONNECT POWER SUPPLY.

EXT.P8 COPY OF THE LETTER DATED 28/6/2013 TO DISCONNECT POWER SUPPLY.

EXT.P9 COPY OF THE REPORT DATED 23/3/2012 ISSUED BY THE CIRCLE INSPECTOR.

EXT.P10 COPY OF THE CONSENT LETTER.

EXT.P11 COPY OF THE CONSENT LETTER PRODUCED BY THE 3RD RESPONDENT.

EXT.P12: TRUE COPY OF THE ORDER DATED 20.05.2013 REJECTING RENEWAL APPLICATION.

EXT.P13: TRUE COPY OF THE COMMUNICATION DATED 14.08.2013 ISSUED BY THE FIRST RESPONDENT.

EXT.P14: TRUE COPY OF THE ORDER DATED 04.07.2014 PASSED BY THE TRIBUNAL FOR LS &G.

EXT.P15: TRUE COPY OF THE REPRESENTATION DATED 01.08.2014 SUBMITTED BY THE PETITIONERS.

RESPONDENTS' EXHIBITS:

- EXT.R1(a) : TRUE COPY OF LETTER DATED 20.12.2011 OF ENVIRONMENTAL ENGINEER, KOLLAM.
- EXT.R1(b) : TRUE COPY OF REPLY FROM INFORMATION OFFICER, SUB TREASURY, SASTHAMCOTTA.
- EXT.R1(c) : TRUE COPY OF APPEAL MEMORANDUM DATED 17.06.2013.
- EXT.R1(d) : TRUE COPY OF INSPECTION REPORT DATED 25.09.2014.
- EXT.R3(a) : TRUE COPY OF THE ORDER NO.C2-15369/11/DMOHK DATED 23.09.2011 ISSUED BY THE DISTRICT MEDICAL OFFICER, KOLLAM TO THE 3RD RESPONDENT.
- EXT.R3(b) : TRUE COPY OF THE LICENCE NO.A5-79/2011-12 DATED 31.10.2011 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.
- EXT.R3(c) : TRUE COPY OF THE CONSENT IN FILE NO.PCB/KO/CTO/G/74/2012 DATED 23.02.2012 ISSUED BY THE ENVIRONMENTAL ENGINEER, POLLUTION CONTROL BOARD, KOLLAM TO THE 3RD RESPONDENT.
- EXT.R3(d) : TRUE COPY OF THE ORDER IN R.P. NO. 151/2013 OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM DATED 04.07.2014.
- EXT.R3(e) : TRUE COPY OF THE APPLICATION SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT AND ITS RECEIPT DATED 30.07.2014.
- EXT.R3(f) : TRUE COPY OF THE APPLICATION SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT, CONSENT AND ITS RECEIPT DATED 01.08.2014.
- EXT.R3(g) : TRUE COPY OF THE NOTICE NO.A6-2873/2014 DATED 23.08.2014 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.
- EXT.R3(h) : TRUE COPY OF THE NOTICE NO.A6-5311/2014 DATED 19.12.2014 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.
- EXT.R3(i) : TRUE COPY OF THE REPLY TO EXT.R3(h) SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT DATED 24.12.2014 AND ITS RECEIPT.
- EXT.R3(j) : TRUE COPY OF THE NOTICE NO.A6-5311/2014 DATED 22.12.2014 ISSUED BY THE 1ST RESPONDENT TO THE K.S.E.B.

/True Copy/

WP(C).No. 20143 of 2014 (P)

: 4 :

DAMA SESHADRI NAIDU, J.

W.P. (C) Nos. 20143 & 35503 of 2014

Dated this the 18th day of February, 2015.

JUDGMENT

W.P.((C) No. 20143 of 2014 was filed by persons, who are said to be the neighbours affected by the flour mill established by the 3rd respondent. They have assailed Ext.P14 of the Tribunal for Local Self Government Institutions, Thiruvananthapuram (the Tribunal) on the premise that the learned Tribunal has given a direction to the first respondent to consider the 3rd respondent's licence essentially based on surmises and conjunctions regarding the consent said to have been granted by the Kearla State Pollution Control Board.

2. The 3rd respondent in turn filed W.P.(C) No. 35503 of 2014 seeking enforcement of Ext.P14 order of the learned Tribunal. Since both the writ petitions have raised similar issues involving the same set of parties, this Court proposes to dispose of both the writ petitions together through a common judgment. For ease of reference and expression, I initially

refer to W.P.(C) No. 20143 of 2014, apart from describing the parties as have been arrayed in the said writ petition.

3. Initially, the 3rd respondent was issued Ext.P1 licence for running a flour mill, the licence being valid up to 31.03.2012. Even before the licence could expire, the petitioners and others complained to the first respondent Grama Panchayath about what are said to be the health hazardous being caused by the flour mill run by the 3rd respondent. Based on the said complaints, the Grama Panchayath has taken up many remedial measures, which resulted in certain litigation, the reference to which is avoided for the reasons stated infra.

4. After initial rounds of litigation, eventually, the 3rd respondent filed a revision before the learned Tribunal, which rendered Ext.P14 order directing the respondent Grama Panchayath to reconsider the 3rd respondent's application for renewal of the licence.

5. It is the singular contention of the learned counsel for the 3rd respondent that the Pollution Control Board issued

necessary clearance through Ext.R3(c) and the District Medical Officer through Ext.R3(a). He has further contended that there is no statutory obligation on the part of the 3rd respondent to obtain any consent or 'No Objection Certificate' from the petitioners, the so-called neighbours.

6. A perusal of the record, thus, indicates that the permission granted by the Pollution Control Board through Ext.R3(c) was valid only up to 31.12.2014; in other words, for the respondent Grama Panchayath to consider the petitioner's application, Ext.R3(c) may not be sufficient as the period indicated therein already came to an end. Under those circumstances, it is incumbent on the 3rd respondent to obtain once again the necessary permission or clearance from the Pollution Control Board.

7. It is the contention of the learned counsel for the petitioners that though initially all the proceedings emanated and all steps were taken pursuant to the complaints made by the petitioners and other similarly placed persons, the 3rd

respondent deliberately did not array them as parties before the Tribunal, which in fact rendered Ext.P14 order in their absence.

8. Though various pleas have been raised on either side, the fact, however, remains that much water has flowed subsequent to the order in Ext.P14 passed by the learned Tribunal. Indisputably, presently the 3rd respondent is not running the industry for want of licence or the renewal thereof. She is required to submit an application, for her earlier application already stands answered, if not rejected, through Ext.R1(d).

9. In those circumstances, I am of the opinion that the 3rd respondent is at liberty to submit a fresh application along with all the necessary clearances from the authorities concerned in terms of the extant statutory provisions for the purpose of renewal of licence. Once such an application, complete in all respects, is submitted by the petitioner, the first respondent Grama Panchayath shall consider the same in accordance with law, after affording an opportunity of hearing to all parties

concerned, and pass appropriate orders thereon, as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment.

10. It is made clear that in view of repeated rounds of litigation both the parties have taken recourse to, while deciding the 3rd respondent's application, the respondent Grama Panchayath shall not have reference to any delay in the 3rd respondent submitting her application for renewal.

This writ petition is disposed of.

sd/- DAMA SESHADRI NAIDU, JUDGE.

