IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 20907 of 2015 (S)

PETITIONER(S):

ALI AKBAR AGED 38 YEARS
S/O.ABDU RAHIMAN, ODUNGADAN HOUSE, VENNILAPARAMBU
MAITHRA, OORNGATTIRI, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU
SRI.P.A.RAJESH
SRI.R.RANJITH (K/489/2011)
SRI.K.RAKESH
SMT.M.LISHA

RESPONDENT(S):
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1. THE KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS ENVIRONMENTAL ENGINEER
DISTRICT OFFICE, PERINTHALAMANNA ROAD
MALAPPURAM 676 505.

2. THE OORNGATYTIRI GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, OORNGATTIRI
MALAPPURAM DISTRICT. 673 639.

3. THE DISTRICT COLLECTOR
MALAPPURAM, 676 505.

4. THE SUB INSPECTOR OF POLICE
AREACODE POLICE SATION
MALAPPURAM DISTRICT. 673 639.

5. BEERAN HAJI
S/O.AHAMMEDKUTTY, PUZHAKKALTHODI HOUSE, MAITHRA
MALAPPURAM DISTRICT, 673 639.

R5 BY ADV. SRI.P.SAMSUDIN
R5 BY ADV. SRI.K.C.ANTONY MATHEW
R5 BY ADV. SRI.JITHIN LUKOSE
R2 BY ADV. SRI.K.M.JAMALUDHEEN
R3 & 4 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R1 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 20907 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE REPRESENTATION SUBMITTED BY THE RESIDENTS OF THE AREA BEFORE THE 3RD RESPONDENT DATED, NIL.
EXHIBIT P1(A). COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P1.
EXHIBIT P2. COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT DATED 19.5.15 UNDER THE RIGHT TO INFORMATION ACT.
EXHIBIT P2(A). COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2.
EXHIBIT P3. COPY OF THE ORDER PASSED BY THE IST RESPONDENT AS NO.1144254 DATED 29.6.15.
EXHIBIT P3(A). COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3.

RESPONDENT(S)' EXHIBITS

EXHIBIT R5(A): COPY OF RECEIPT OF PAYMENT OF LICENCE FEE DATED 9.3.2001 (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(B): COPY OF PANCAYAT LICENCE DATED 23.7.2008 (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(C): COPY OF RECEIPT OF LABOUR TAX DATED 9.3.2001 (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(D): COPY OF PANCHAYAT LICENCE DATED 29.5.2015 (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(E): COPY OF CONSENT SIGNED BY 95 PERSONS RESIDING NEARBY THE 5TH RESPONDENT'S PREMISES (ALONG WITH ENGLISH TRANSLATION)(ONLY THE FIRST PAGE).
EXHIBIT R5(F): COPY OF CONSENT TO OPERATE BY THE POLLUTION CONTROL BOARD.
EXHIBIT R5(G): COPY OF REGISTRATION UNDER THE KERALA VALUE ADDED TAX ACT.
EXHIBIT R5(H): COPY OF REPORT OF THE DISTRICT MEDICAL OFFICER, MALAPPURAM, DATED 23.6.2015(ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(I): COPY OF LETTER DATED 24.6.2015 ISSUED BY THE 2ND RESPONDENT PANCHAYAT TO THE PETITIONER (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(J): COPY OF COMPLAINT DATED 7.7.2015 SUBMITTED BEFORE THE DISTRICT POLICE CHIEF, MALAPPURAM AND ITS RECEIPT (ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(K): COPY OF RECEIPTDATED 6.8.2015 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT R5(L): COPY OF COVERING LETTER SUBMITTED BY 5TH RESPONDENT BEFORE THE 1ST RESPONDENT DATED 21.7.2015(ALONG WITH ENGLISH TRANSLATION).
EXHIBIT R5(M): COPY OF REPORT SUBMITTED BY THE SUB INSPECTOR OF POLICE TO THE DISTRICT COLLECTOR (ALONG WITH ENGLISH TRANSLATION).

/TRUE COPY/

PS TO JUDGE

ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J

W.P.(C).No. 20907 of 2015

Dated this the 19th August, 2015

JUDGMENT

Shaffique, J.

This public interest litigation has been filed by the petitioner, who claims to be the President of an Action Council, alleging pollution being caused by the fifth respondent in the unit being conducted by him for processing of arecanut. It is stated by the petitioner that the fifth respondent is using sulphur for burning arecanut, which causes high level of pollution in the nearby locality. The petitioner is residing nearby the unit and several other families are also residing very near to the unit of the fifth respondent. On the complaint of the petitioner, the Pollution Control Board conducted an inspection and Exhibit P3 order dated 29.6.2015 has been issued imposing certain restrictions on the fifth respondent. The

complaint of the petitioner is that despite issuing of Exhibit P3 by the Pollution Control Board, no action is being taken by the petitioner and further proceedings are not being initiated by the Board in that regard. It is alleged that pollution still continues and the fifth respondent unabatingly burns sulphur for processing the arecanut.

2. Counter affidavit has been filed by the fifth respondent inter alia stating that he is functioning the unit with all necessary permissions/licences from the competent authorities. He is not using sulphur for burning, whereas he is using sulphur as pesticide. It is also submitted that he has submitted an application before the Pollution Control Board seeking permission to use sulphur as pesticide. He also submits that no pollution is being caused in the unit, as only minor quantity of surphur is used. He submits that he has complied with the conditions as stated in Exhibit P3.

3. Having regard to the various factual issues, it is relevant to note that there is dispute between the parties regarding the use of sulphur. Apparently, it is for the Pollution Control Board to ensure that Exhibit P3 order issued by them is complied with in letter and spirit. Though learned counsel for the Pollution Control Board submits that there is compliance of Exhibit P3, the said fact is disputed by learned counsel for the petitioner.

Under such circumstances, we are of the view that this Writ Petition can be disposed of as under:

The Pollution Control Board shall conduct periodic inspection of the premises of the fifth respondent's unit and ensure that there is compliance of Exhibit P3 subject to further orders that may be passed by the Pollution Control Board in this regard.

ASHOK BHUSHAN
CHIEF JUSTICE

A.M.SHAFFIQUE
JUDGE

vgs20/8/15