

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 21325 of 2015 (M)

PETITIONER:

**SOUTHERN TRANSPORT COMPANY
7/151, VIDAKKUZHA TEMPLE ROAD,
THAYIKKATTUKARA PO
ALUVA
REPRESENTED BY ITS MANAGING PARTNER-P.N.CHANDRAN.**

BY ADV. SRI.M.KRISHNAKUMAR

RESPONDENTS:

- 1. KALAMASSERY MUNICIPALITY
KALAMASSERY-683 104,
REPRESENTED BY SECRETARY.**
- 2. THE SECRETARY
KALAMASSERY MUNICIPALITY,
KALAMASSERY-683 104.**
- 3. THE CHAIRMAN
KALAMASSERY MUNICIPALITY,
KALAMASSERY-683 104.**
- * ADDL.R4 SUO MOTO IMPLEADED**
- 4. THE KERALA STATE POLLUTION CONTROL BOARD
PATTOM P.O.,
THIRUVANANTHAPURAM - 4**
- ** ADDL. R5 IMPLEADED**
- 5. JIYAS C.J., AGED 26 YEARS
S/O. JAMAL,
CHERATTU HOUSE
VIDAKUZHA,
THAIKKATTUKARA P.O.
ALWAYE - 683 106**

WP(C).No. 21325 of 2015 (M)

*** ADDL. R4 SUO MOTO IMPEADED AS PER ORDER DATED 17.08.2015**

**** ADDL. R5 IS IMPEADED AS PER ORDER DATED 15.10.2015 IN I.A. NO.
14273/2015**

**R1 TO R3 BY ADV. SRL.M.K.ABOOBACKER, SC KALAMASSERY MUNICIPALITY
ADDL R4 BY ADV. SRI. M.AJAY, SC, KERALA STATE POLLUTION
CONTROL BOARD**

**ADDL.R5 BY ADVS. SRL.P.J.JUSTINE
SMT.A.A.GEETHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF TRADE LICENCE FROM THE 1ST RESPONDENT UNDER SECTION 447 OF THE KERALA MUNICIPALITIES ACT, 1994.**
- P2 : TRUE COPY OF THE RECEIPT EVIDENCING THE PAYMENT OF PROFESSIONAL TAX.**
- P3 : TRUE COPY OF THE RECEIPT EVIDENCING THE SUBMISSION OF THE APPLICATION FOR RENEWAL.**
- P4 : TRUE COPY OF THE REQUEST ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- P5 : TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN WPC.NO.3644/2015.**
- P6 : TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE 2ND RESPONDENT.**
- P6(A) : TRUE COPY OF THE REPLY FILED BY THE PETITIONER.**
- P7 : TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE ASSISTANT ENGINEER, KSEB, ALUVA.**
- P8 : TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE ASSISTANT ENGINEER, KSEB, ALUVA TO THE PETITIONER**
- P9 : TRUE COPY OF THE REPLY FILED BY THE PETITIONER TO THE ASSISTANT ENGINEER, KSEB, ALUVA.**
- P10 : TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P11 : TRUE COPY OF THE REPLY FILED BY THE PETITIONER.**
- P12: TRUE COPY OF THE COMPLAINT DATED 23.3.2015 TO THE POLICE**
- P13: TRUE COPY OF THE RECEIPT ISSUED TO ME FROM THE POLICE STATION ON 23.3.2015**
- P14: TRUE COPY OF THE DOCUMENT OF NO OBJECTION SIGNED BY 59 RESIDENTS**
- P15: TRUE COPY OF THE LETTER ISSUED BY SECRETARY OF THE SRI KRISHNASWAMI TEMPLE**

WP(C).No. 21325 of 2015 (M)

RESPONDENT(S)' EXHIBITS:-

EXT. R4(a): TRUE COPY OF THE REPRESENTATION DATED 3.3.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT/1ST RESPONDENT MUNICIPALITY STATING THE DIFFICULTIES OF THE LOCAL PEOPLE AND ABOUT THE POLLUTION, HEALTH PROBLEMS AND ENVIRONMENTAL PROBLEMS DUE TO THE FUNCTIONING OF YARD

EXT. R4(b): TRUE COPY OF THE DIRECTION OF THE 1ST RESPONDENT DATED 20.05.2015, DIRECTING THE PETITIONER TO PRODUCE NOC FROM THE POLLUTION CONTROL BOARD AND ALSO DIRECTED TO RAISE THE GATE OF BOUNDARY WALL AND TO CONSTANTLY WATER THE SURROUNDINGS TO SETTLE THE DUST

EXT. R4(c): TRUE COPY OF THE OFFICE NOTE OF ACTIONS AND REPORT WHICH IS TAKEN AS PER RT ACT

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO.21325 OF 2015

Dated this the 15th day of October, 2015

JUDGMENT

The Municipality points out that the petitioner is obliged to obtain a license under Section 448 of the Municipality Act, 1994. This is because electrical power is used in the premises wherein business in steel is conducted. The Pollution Control Board has filed a report dated 13.10.2015 which reads as follows:-

“In compliance to the judgment dated 22.09.2015, inspection was conducted from this office on 08.10.2015. During inspection, it was noticed that they were covered the unit with GI sheet and increased the height of the compound wall using GI sheets. The sound level was measured at 1 m outside the boundary was obtained as 54.4 dB(A). Permissible limit of ambient sound level at residential area is 55 dB(A).”

2. The petitioner is permitted to put in an application for grant of a license in physical form. Such application if filed within two weeks from today shall be

dealt with within two months therefrom. The petitioner as well as respondents 4 and 5 shall be put on notice and heard in the exercise.

3. The petitioner enjoys a deemed license by virtue of an interim order in this writ petition. The status quo as on today shall continue till orders are passed on the application if any filed within the time stipulated.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS