

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 23254 of 2014 (F)

PETITIONER(S):

N. SARATH, AGED 42 YEARS
S/O.K.RAJAGOPALAN NAIR, RESIDING AT AMBILI
P.O.CHEMANCHERY, POOKAD, KOZHIKODE.

BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENT(S):

1. THE SUB INSPECTOR OF POLICE,
MAVOOR POLICE STATION, MAVOOR, KOZHIKODE - 673 008.
2. SAHJAN, AGE AND FATHER'S NAME NOT KNOWN,
RESIDING AT MARUMAYIL HOUSE, P.O.CHERUKULATHUR
PERIYANGAD, KOZHIKODE - 673 008.
3. SREEJESH, AGE AND FATHER'S NAME NOT KNOWN,
RESIDING AT CHERUKULATHUR, PERIYANGAD
KOZHIKODE - 673 008.
4. UMMER, AGE AND FATHER'S NAME NOT KNOWN,
RESIDING AT PUTHENPARAMBIL, P.O.CHERUKULATHUR
PERIYANGAD, KOZHIKODE - 673 008.
5. SAJEEVAN, AGE AND FATHER'S NAME NOT KNOWN,
RESIDING AT CHERUKULATHUR, PERIYANGAD
KOZHIKODE - 673 008.
6. SREENIVASAN, AGE AND FATHER'S NAME NOT KNOWN,
RESIDING AT CHERUKULATHUR, PERIYANGAD
KOZHIKODE - 673 008.
- ADDL.7. THE PERUVAYAL PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
P O POOVATTYPARAMBA, KOZHIKODE - 673008.
- ADDL.8. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
REGIONAL OFFICE, 3rd FLOOR,
ZAMORINS SQUARE, LINK ROAD,KOZHIKODE-673002.
(ADDL.R7 AND R8 ARE IMPEADED AS PER ORDER
DATED 17.10.2014 IN I.A.13176/14.)

R2-R6 BY ADV. SRI.P.S.SREEDHARAN PILLAI
R2-R6 BY ADV. SRI.ARJUN SREEDHAR
RADDL.8 BY ADV. SRI. M.AJAY, SC,
KERALA STATE POLLUTION CONTROL BOARD
R7 BY ADV. SRI.K.A.SALIL NARAYANAN
BY Sr.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE CERTIFICATE OF RENEWAL OF LICENSE TO MANUFACTURE FOR SALE OF DRUGS DATED 10.10.13 ISSUED BY THE DRUGS CONTROLLER AND LICENSING AUTHORITY.

EXHIBIT P2. TRUE COPY OF THE LICENSE ISSUED BY THE PERUVAYAL PANCHAYATH ALONG WITH THE RENEWAL RECEIPT FOR THE FINANCIAL YEAR 2014-15.

EXHIBIT P2(a). TRUE ENGLISH TRANSLATION OF EXT.P2.

EXHIBIT P3. TRUE COPY OF THE SANITARY CERTIFICATE DATED 28.04.09 ISSUED BY THE HEALTH INSPECTOR, MCH UNIT, CHERUPPA PERUVAYAL/ PERUMANNA SECTION.

EXHIBIT P4. TRUE COPY OF THE CONSENT TO OPERATE THE MANUFACTURING UNIT OF THE PETITIONER'S FACTORY ISSUED BY THE POLLUTION CONTROL BOARD.

EXHIBIT P5. TRUE COPY OF THE CERTIFICATE ISSUED BY THE GOVERNMENT ANALYST UNDER THE DRUGS AND COSMETICS ACT.

EXHIBIT P6. TRUE COPY OF THE TEST REPORT DATED 01.08.2014 ISSUED BY CWRDM.

EXHIBIT P7. TRUE COPY OF ANALYST REPORT DATED 08.07.2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD, REGIONAL LABORATORY WITH RESPECT TO THE WELL IN THE PROPERTY OF THE PETITIONER.

EXHIBIT P8. TRUE COPY OF ANALYST REPORT DATED 08.07.2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD, REGIONAL LABORATORY WITH RESPECT TO THE WELL IN THE PROPERTY OF THE 4TH RESPONDENT.

EXHIBIT P9. TRUE COPY OF ANALYST REPORT DATED 08.07.2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD, REGIONAL LABORATORY WITH RESPECT TO THE WELL IN THE PROPERTY OF ONE LATHEEF.

EXHIBIT P10. TRUE COPY OF ANALYST REPORT DATED 08.07.2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD, REGIONAL LABORATORY WITH RESPECT TO THE WELL IN THE PROPERTY OF THE 2ND RESPONDENT.

EXHIBIT P11. TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER DATED 25.08.2014 BEFORE THE 1ST RESPONDENT.

EXHIBIT P11(a). TRUE ENGLISH TRANSLATION EXT.P11.

EXT.P12 : TRUE COPY OF THE RECEIPTS DATED 22.6.2010 AND 30.6.2011 ISSUED BY THE PERUVAYAL PANCHAYATH AND ENGLISH TRANSLATION OF THE SAME.

Contd....

WP(C) .No. 23254 of 2014 (F)

EXT.P13 : TRUE COPY OF THE RECEIPTS DATED 26.2.13 ISSUED BY THE
PERUVAYAL PANCHAYATH.

EXT.P14 : TRUE COPY OF THE RECEIPTS DATED 21.2.14 ISSUED BY THE
PERUVAYAL PANCHAYATH.

EXT.P15 : TRUE COPY OF THE STOP MEMO DATED 24.9.14 ISSUED BY THE
PERUVAYAL PANCHAYATH AND ENGLISH TRANSLATION OF THE SAME.

RESPONDENT(S) ' EXHIBITS

EXT.R2(a) : TRUE COPY OF THE NOTICE DATED 7.8.2013 ISSUED BY
SECRETARY, PERUVAYAL GRAMA PANCHAYATH.

EXT.R2(b) : TRUE COPY OF THE ENQUIRY REPORT DATED 30.6.2014 SUBMITTED
BY THE TECHNICAL ASSISTANT GRADE-I.

EXT.R2(c) : TRUE COPY OF THE NOTICE NO.C/2/6639/2014(1) DATED
8.7.2014 ISSUED BY THE DISTRICT MEDICAL OFFICER TO THE WRIT
PETITIONER.

EXT.R2(d) : TRUE COPY OF THE NOTICE NO.C/2/6639/2014(1) DATED
8.7.2014 ISSUED BY THE DISTRICT MEDICAL OFFICER TO THE SECRETARY,
PERUVAYAL GRAMA PANCHAYATH.

EXT.R2(e) : TRUE COPY OF THE TEST REPORT DATED 11.7.2014 ISSUED BY
THE KERALA STATE POLLUTION CONTROL BOARD.

EXT.R2(f) : TRUE COPY OF THE TEST REPORT RECEIPT NO.318150 ISSUED BY
ASST. ENGINEER, KERALA WATER AUTHORITY.

EXT.R2(g) : TRUE COPY OF THE RELEVANT PAGES OF BIS 2012 STANDARDS.

EXT.R2(h) : TRUE COPY OF THE TEST REPORT DATED 24.6.2013 ISSUED TO
THE 2ND RESPONDENT.

//TRUE COPY//

P.A.TO JUDGE

ami/

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

W.P.(C)No.23254 of 2014

Dated this the 21st day of November, 2015.

J U D G M E N T

SHAFFIQUE, J.

This writ petition has been filed seeking police protection. It is alleged that the petitioner is the proprietor of a Pharmaceutical Company by name Foreman Pharma. The allegation is that respondents 2 to 6 are preventing the petitioner from functioning the Unit on the ground that the trade effluents are being discharged in the locality which causes pollution in the area. When there was obstruction from the side of the respondents, the petitioner preferred a complaint before the police for police protection and since no action has been taken by the police, this writ petition has been filed.

2. It is submitted by the learned counsel for the petitioner that the petitioner has all valid licences/ permission to conduct the Unit and no pollution is being

caused in the area.

3. The learned counsel appearing for the 7th respondent would submit that on account the functioning of the Unit, nuisance is being caused to the nearby locality.

4. Counter affidavit has also been filed by respondents 2 to 6 inter alia stating that the Unit is causing severe pollution in the locality.

5. Having regard to the above factual situation, we are of the view that, if any pollution is being caused on account of the functioning of the Unit, it is for the competent authorities to take proper action in that regard. It is open for the Panchayat as well as the Pollution Control Board to take such measures as envisaged under law. The private respondents cannot take law into their hands and physically obstruct the functioning of the unit.

6. The learned counsel for the petitioner submits that an interim order has already been passed by this Court on 2.9.2014 to maintain law and order situation and thereafter,

no untoward incident has been reported. Hence we close this writ petition, giving liberty to the petitioner to approach the police, if any further cause of action arises. However, it shall be open for respondents 6 or 7 as the case may be or the private respondents to take up the matter before the competent authorities, if pollution is being caused on account of the functioning of the Unit.

Sd/-

**ASHOK BHUSHAN,
CHIEF JUSTICE.**

Sd/-

**A.M.SHAFFIQUE,
JUDGE.**

ami/

//True copy//

P.A. to Judge