

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 26062 of 2015 (G)

PETITIONER :

**C.VIJAYAN,S/O.NARAYANAN, AGED 64 YEARS,
MANAGING PARTNER, M/S.GRAND RESIDENCY,
KOZHIKODE ROAD, VALANCHERRY.P.O.,
MALAPPURAM DISTRICT-676 552**

**BY ADVS.SRI.T.G.RAJENDRAN
SRI.T.R.TARIN
SMT.ANN SUSAN GEORGE
SRI.V.A.VINOD**

RESPONDENT(S):

- 1. VALANCHERRY GRAMA PANCHAYATH,
REP BY ITS SECRETARY, VALANCHERRY.P.O.,
MALAPPURAM-676 552**
- 2. THE SECRETARY,
VALANCHERRY GRAMA PANCHAYATH,
OFFICE OF THE VALANCHERRY GRAMA PANCHAYATH,
VALANCHERRY.P.O., MALAPPURAM DISTRICT-676 552**
- 3. KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, 19/269 A, PERINTHALMANNA ROAD,
UP HILL.P.O., MALAPPURAM,
REP BY ENVIRONMENT ENGINEER-676 553.**

**R1 & R2 BY SRI.MILLU DANDAPANI
R3 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE LICENCE BEARING NO.A6-14/2014-15 DATED 01/4/2014 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.**
- P2 COPY OF THE LICENCE BEARING NO.A6-14/2014-15 DATED 01/4/2014 ISSUED TO THE PETITIONER.**
- P3 COPY OF THE CERTIFICATE ISSUED BY THE PANCHAYATH DATED 29/12/14**
- P4 COPY OF THE DD DATED 30/12/2014.**
- P5 COPY OF THE REPORT ISSUED BY THE KERALA WATER AUTHORITY DATED 27/9/2014**
- P6 COPY OF THE NOTICE DATED 28/2/15 ISSUED BY THE 2ND RESPONDENT**
- P7 COPY OF THE RECEIPT GIVEN BY THE 3RD RESPONDENT DATED 31/12/14**
- P8 COPY OF THE REPRESENTATION FILED BEFORE THE PANCHAYATH**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

A.V.RAMAKRISHNA PILLAI, J

WPC No.26062 of 2015

Dated this the 21st day of August, 2015

JUDGMENT

The petitioner is aggrieved by the delay in considering the petitioner's application for renewing the license.

2. The petitioner is the proprietor of a 3 star bar attached hotel and the same was functioning by a valid license issued by the respondent Panchayat. The petitioner alleges that earlier, the Panchayat issued a notice to the petitioner directing them to close down the hotel. The petitioner challenged the same before this Court in WPC No.21968/2014, which was disposed of, recording the submission made by the petitioner that the license in respect of the hotel was renewed by the Panchayat till 31.3.2015 by imposing some conditions. One of the conditions was that the petitioner should produce the No Objection

Certificate from the Pollution Control Board within 15 days. As the same was not issued to the petitioner from the Pollution Control Board, he could not produce the same within the stipulated time, as a result, the Panchayat issued an order cancelling the license without giving any notice.

3. The petitioner remitted the required fee of Rs.55,250/- before the Pollution Control Board for renewal of the No Objection, in 2014 itself much before the issue of the order of cancellation of license; it is alleged. The No objection certificate was given at the inception by the third respondent. As per the procedure, it has to be renewed for which an application has to be sent. The petitioner alleges that it is the usual practice of the third respondent to process the application and issue the No Objection Certificate only after two or three months from the date of receipt.

4. According to the petitioner, the order passed by the Panchayat without considering the normal

procedure in the matter of renewal of No Objection Certificate before the Pollution Control Board was challenged before this Court by filing WPC No.6844/2015. When the case came up for admission, this Court passed an order staying the above said order of the Panchayat cancelling the license of the petitioner and allowed the petitioner to run the hotel.

5. Thereafter when the petitioner contacted the Panchayat, they assured that license would be issued once WPC No.6844/2015 is withdrawn as they are not in a position to renew the license while the case is pending before this Court; it is alleged. Trusting the assurance given by the Panchayat the petitioner instructed his counsel to withdraw the writ petition in which a stay was in force and accordingly, the same was withdrawn on 21.4.2015.

6. According to the petitioner, he approached the Panchayat after withdrawing the case for getting the license renewed. However, they are not issuing the same, saying that No Objection certificate from

the Pollution Control Board is not produced. The delay in issuing the No Objection Certificate by the third respondent has caused severe hardship to the petitioner; it is alleged. The petitioner filed a detailed representation before the Panchayat requesting them to issue the license. However, the same has not been considered so far by the respondent Panchayat. The inaction on the part of the Panchayat after assuring the petitioner that the license would be issued once the case before this Court was withdrawn had caused undue hardship and huge loss to the petitioner. It is with this background, the petitioner has come up before this Court.

7. I have heard the learned counsel for the petitioner and the learned counsel for the third respondent.

As the learned counsel for the petitioner confined his argument to the limited prayer for a direction to the second respondent to consider Ext.P8 representation within a time frame, this writ petition

is disposed of directing the second respondent to consider and pass orders on Ext.P8, after affording the petitioner an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

P.S.TO JUDGE