

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 27047 of 2014 (E)

PETITIONER:

V.R.BALAKRISHNAN AGED 62 YEARS
S/O.RAMAN EZHUTHASSAN, AKHILALAYAM, LENIN NAGAR
ISLAND NAGAR, ISLAND AVENUE, PUNKUNNAM
THRISSUR.

BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH

RESPONDENTS:

1. THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD
KERALA STATE POLLUTION CONTROL BOARD
DISTRICT OFFICE, THRISSUR-680001.
2. THE CHIEF ENVIRONMENTAL ENGINEER
POLLUTION CONTROL BOARD, REGIONAL OFFICE, ERNAKULAM
682020.
3. STATE OF KERALA
REP.BY SECRETARY TO GOVERNMENT, MINISTRY OF HEALTH
THIRUVANANTHAPURAM-695001.
4. THE MANAJING DIRECTOR
M/S.E.M.S. MEMORIAL PRINTING PRESS, DESHABHIMANI
GURUVAYOOR, PUNKUNNAM, THRISSUR-680002.

R1-R2 BY ADV. SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD
R3 BY SENIOR GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1: TRUE COPY OF NOTICE DATED 18/02/10 TO THE 4TH RESPONDENT.

EXHIBIT-P2: TRUE COPY OF THE NOTICE DATED 13/12/11 SENT BY THE 1ST RESPONDENT.

EXHIBIT-P3: TRUE COPY OF THE REPLY DATED 22/12/11 UNDER RIGHT TO INFORMATION ACT.

EXHIBIT-P4: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 4TH RESPONDENT IN W.P.(C) 7798/12.

EXHIBIT-P5: TRUE COPY OF THE LETTER DATED 17/10/12 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT.

EXHIBIT-P6: TRUE COPY OF THE INTERIM ORDER DATED 11/2/13 IN W.P.(C) 7798/12 OF THIS HON'BLE COURT.

EXHIBIT-P7: TRUE COPY OF THE CONSENT TO OPERATE ISSUED BY 1ST RESPONDENT.

EXHIBIT-P8: TRUE COPY OF THE AFFIDAVIT FILED BY THE 1ST RESPONDENT IN C.C.C.534/13.

EXHIBIT-P9: TRUE COPY OF THE APPLICATION FILED BY THE 4TH RESPONDENT BEFORE THE 1ST RESPONDENT.

EXHIBIT-P10: TRUE COPY OF THE REPORT FILED IN W.P.(C) 7798/12.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

SJ

P.A. TO JUDGE

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.27047 of 2014

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Dated this the 8th day of April, 2015

JUDGMENT

Petitioner has approached this Court with the following prayer:-

“Issue a writ of certiorari or appropriate writ, order or direction directing quashing Exhibit P7 consent to operate issued by the 1st respondent.”

2. The learned counsel for the petitioner points out that a report has been filed by the 1st respondent as to the factual affairs. The learned Standing Counsel for the Pollution Control Board submits that if the petitioner is aggrieved of the impugned proceedings, it is always open for the said petitioner to pursue the statutory remedy by way of appeal.

3. The learned counsel for the petitioner submits that he does not intend to challenge the proceedings any further and the prayer is only to implement the specific riders placed by the Pollution Control Board by the concerned respondent, particularly, as given under Clause 6.9 of Ext.P8 and the sound level that is to be maintained at the prescribed level as per

Ext.P10 proceedings dated 19.10.2013.

4. The learned counsel points out that as per the former clause the old printing machine kept idle in the unit has to be removed, which order was passed as early as on 18.05.2013 but it has still to be implemented. Similarly in the case of Ext.P10 as per the proceedings 17.03.2014, the sound level at the premise was required to be brought down to the level of 3.2dB (A)Leq. which has not been done so far.

5. The learned counsel appearing for the party respondent submits that they have already approached the Pollution Control Board for some extension of time for installing the Acoustic system for reducing the sound level to the requisite extent.

6. After hearing both the sides, this Court finds that the condition placed by the Pollution Control Board vide Ext.P8 was about two years ago, implementation of which is very protracted. The submission made by the learned counsel for the 4th respondent that the old printing machine is kept in the unit only as a 'stand by' unit, cannot be accepted, as the 'consent to operate' given was, subject to the condition that the old printing machine kept idle had to be removed from the unit. As such, it

has to be taken out by the 4th respondent forthwith. The 4th respondent is given one month's time to dismantle the old printing machine and to have it removed from the unit in terms of Clause 6.9 of Ext.P8.

7. With regard to the compliance to be reported as to Ext.P10, necessary arrangements shall be made by the 4th respondent and the position shall be informed to the authorities of the Pollution Control Board within a further period of two months. The Pollution Control Board shall conduct further inspection and if no satisfaction is recorded, appropriate action shall be taken in conformity with Ext.P10 within a further period of two weeks.

The writ petition stands disposed of accordingly.

**P.R.RAMACHANDRA MENON,
JUDGE**

sj