

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 29881 of 2013 (I)

PETITIONERS :

- 1. M/S M.S WIRE DRAWING AND WIRE NAIL PVT LTD.
MEKKONE, KOTTAMKARA, CHANDANATHOPPE PO
KOLLAM 14 REPRESENTED BY ITS MANAGING DIRECTOR M.ABDUL SALAM**
- 2. M/S.M.S.WIRE PRODUCTS
MEKKONE, KOTTAMKARA, CHANDANATHOPPE PO
KOLLAM 14 REPRESENTED BY ITS PROPRIETRIX S.SHAJIMA.**

BY ADV. SRI.K.G.ANIL BABU

RESPONDENTS :

- 1. THE KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS ENVIRONMENTAL ENGINEER
DISTRICT OFFICE, 'USHAS' BUILDING, BIG BAZAR
KOLLAM-691008**
 - 2. THE KOTTAMKARA GRAMA PANCHAYAT
T.K.M.C. P.O, KUTTICHIRA
KOLLAM-691005 REPRESENTED BY ITS SPECIAL GRADE SECRETARY.**
- R1 BY ADV. SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD
R2 BY ADV. SRI.PRATHEESH.P
BY ADV. SMT.CHITHRA.S.BABU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE LATEST CONSENT ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER.
- EXT.P2: TRUE COPY OF THE LATEST CONSENT ISSUED BY THE 1ST RESPONDENT TO THE 2ND PETITIONER.
- EXT.P3: TRUE COPY OF THE INTERIM ORDER IN WPC.NO.15394/08 DATED 25-6-2008.
- EXT.P4: TRUE COPY OF THE REPORT OF THE INSPECTION CONDUCTED BY THE ENVIRONMENTAL ENGINEER, K.S.P.C.B. DISTRICT OFFICE, KOLLAM.
- EXT.P5: TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER DATED 1-6-2012.
- EXT.P6: TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT TO THE 2ND PETITIONER DATED 1-6-2012.
- EXT.P7: TRUE COPY OF THE LETTER DATED 22-5-2013.
- EXT.P8: TRUE COPY OF THE LETTER DATED 22-5-2013.
- EXT.P9: TRUE COPY OF THE JUDGMENT DATED 25-7-2013 IN WPC.NO.13378/2013
- EXT.P10: TRUE COPY OF THE NOTICE TO THE 1ST PETITIONER BY THE 1ST RESPONDENT DATED 26-8-2013
- EXT.P11: TRUE COPY OF THE NOTICE TO THE 1ST PETITIONER BY THE 2ND RESPONDENT DATED 26-8-2013
- EXT.P12: TRUE COPY OF THE REPLY SUBMITTED BY THE 1ST PETITIONER TO THE 1ST RESPONDENT.
- EXT.P13: TRUE COPY OF THE REPLY SUBMITTED BY THE 2ND PETITIONER TO THE 1ST RESPONDENT.
- EXT.P14: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 12-11-2013.
- EXT.P15: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 12-11-2013.
- EXT.P16: TRUE COPY OF THE REPLY SUBMITTED BY THE 1ST PETITIONER TO THE 2ND RESPONDENT.
- EXT.P17: COPY OF THE APPEAL FILED BY THE 1ST PETITIONER BEFORE THE R1 DT 17/3/2014.

WP(C).No. 29881 of 2013 (I)

EXT.P17: COPY OF THE APPEAL FILED BYT EH 2ND PETITIONE RBEFORE THE R1 DT 17/3/2015.

RESPONDENT(S)' EXHIBITS

- EXT.R1(1): COPY OF THE NOTICE OF INTENTION OF REFUSAL OF CONSENT GIVEN BY THE R1 TO THE PROPRIETRIX OF M/S. WIRE DRAWING & WIRE NAIL(P) LTD. DT 7/12/2012.**
- EXT.R1(2): COPY OF THE NOTICE OF INTENTION OF REFUSAL OF CONSENT GIVEN BY THE R1 TO THE PROPRIETRIX OF M/S. WIRE PRODUCTS DT 7/12/2012.**
- EXT.R1(3): COPY OF THE REPLY TO NOTICE OF INTENTION TO REFUSE THE CONSENT SUBMITTED BY THE PETITIONER DT 21/12/2012.**
- EXT.R1(4): COPY OF THE REPLY TO NOTICE OF INTENTION TO REFUSE THE CONSENT SUBMITTED BY THE PETITIONER DT 18/12/2012.**
- EXT.R1(5): COPY O THE NOTICE ISSUED BY KERALA STATE OLLUTION CONTROL BOARD DT 31/12/2012 TO K. THULASEEDHARAN PILLAI.**
- EXT.R1(6): COPY O THE NOTICE ISSUED BY KERALA STATE OLLUTION CONTROL BOARD DT 31/11/2012 TO SHAJIMA.**
- EXT.R1(7): COPY OF THE LETTER NO. PCB/KO/CTO/G/252/2006 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER DT 22/1/2013.**
- EXT.R1(8): COPY OF THE LETTER NO. PCB/KO/CTO/G/253/2006 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER DT 22/1/2013.**
- EXT.R1(9): COPY OF THE LETTER ISSUED TO ABDUL SALAM, PROPRIETOR, M/S. M.S. WIRE DRAWING AND WIRE NAIL PRIVATE LIMITED DT 26/8/2013.**
- EXT.R1(10): COPY OF THE LETTER ISSUED TO ABDUL SALAM, PROPRIETOR, M/S. WIRE PRODUCTS DT 26/8/2013.**
- EXT.R1(11): COPY OF THE LETTER ISSUED BY THE R1 TO THE PROPRIETRIX OF DT 3/10/2013.**
- EXT.R1(12): COPY OF THE LETTER ISSUED BY THE R1 TO THE PROPRIETRIX OF M.S. WIRE PRODUCTS DT 3/10/2013.**
- EXT.R1(13): COPY OF THE LETTER ISSUED BY M.S. WIRE DRAWING AND WIRE NAIL PVT. LTD TO THE R1 DT 16/10/2013.**
- EXT.R1(14): COPY OF THE LETTR ISSUED BY M.S. WIRE PRODUCTS TO THE R1 DT 16/10/2013.**
- EXT.R1(15): COPY OF THE LETTER ISSUED BY THE R1 TO THE MANAGING DIRECTOR OF M.S. WIRE DRAWING & WIRE NAILS PVT. LTD. DT 26/12/2013.**

WP(C).NO. 29881 OF 2013 (I)

- EXT.R1(16): COPY OF THE LETTER ISSUED BY THE R1 TO THE PROPRIETRIX OF M.S. WIRE PRODUCTS DT 3/10/2013.**
- EXT.R1(17): COPY OF THE NOTICE OF INTENTION OF REFUSAL OF CONSENT ISSUED BY THE R1 TO M/S. M.S. WIRE DRAWING & WIRE NAIL PVT. LIMITED DT 15/1/2014.**
- EXT.R1(18): COPY OF THE NOTICE OF INTENTION OF REFUSAL OF CONSENT ISSUED BY THE R1 TO M/S. M.S. WIRE PRODUCTS DT 15/1/2014.**
- EXT.R1(19): COPY OF THE ORDER OF REFUSAL OF CONSENT TO OPERATE ISSUED BY THE R1 TO M/S. M.S. WIRE DRAWING & WIRE NAIL PVT. LIMITED DT 14/2/2014.**
- EXT.R1(20): COPY OF THE ORDER OF REFUSAL OF CONSENT TO OPERATE ISSUED BY THE R1 TO M/S. M.S. WIRE PRODUCTS DT 14/2/2014.**

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

=====

W.P(C) No.29881 of 2013

=====

Dated this the 11th day of September, 2015

JUDGMENT

The petitioners are sister concerns conducting small scale industries for the manufacture and sale of Wire Nails, Bolts and Nuts. The 1st petitioner is a registered company and the 2nd petitioner is the proprietrix of an individual unit. The petitioners allege that the industries were started in the year 2001 after getting all the statutory licenses consents and certificates from the authorities concerned and the petitioners further allege that the investment is more than ₹1.20 crores. Both the units are in a property comprised in Sy. No.211/1212 of Kottamkara village.

2. The petitioners allege that they applied for renewal of Exts.P1 and P2 which were valid upto 30.6.2012. The petitioners allege that the respondent accepted the renewal applications along with the demand draft towards the renewal fee on the same day itself.

In this context, the petitioners point out that their unit are working after complying with all the directions of this Court in O.P No.15394 of 2008 relating to the dispute with regard to the consent of the Pollution Control Board. However, the 1st respondent directed to re-do and re-install all pollution control measures and the respondent panchayat directed to stop the unit. It is with this background, the petitioners have approached this Court.

3. The Assistant Environmental Engineer, District Office, Kerala State Pollution Control Board has filed a report wherein it was stated that the Pollution Control Board can take immediate action for issuing consent to operate only if the specific instructions given to the occupiers of the petitioners units for alleviating pollution control problems are complied with and if fresh applications for consent to operate are submitted.

4. The petitioners have filed a reply affidavit to the counter affidavit filed by the 1st respondent.

5. Arguments have been heard.

6. When the matter came up for hearing the learned counsel for the petitioners as well as the learned standing counsel for the Pollution Control Board submitted that the petitioners have approached the Chairman of the respondent board with Exts.P16 and P17 appeals. As the jurisdiction exercised by the Chairman is original jurisdiction, the Chairman of the Pollution Control Board can treat it as an original application and any order passed on the same can be subject to appeal before the Air Appellate Tribunal.

Therefore, the writ petition is disposed of directing the Chairman of the respondent board to consider Exts.P16 and P17 applications after affording the petitioners and affected parties an opportunity of being heard within two months from the date of receipt of a copy of this judgment. It is hereby made clear that if any of the parties is aggrieved by the order so passed, they can challenge the same before the Air Appellate Tribunal in proper appeal.

It shall be open to the petitioners to make an interim application before the Chairman of the respondent board challenging the order of refusal to consent to operate.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj