

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 30404 of 2015 (A)

PETITIONER(S):

**M/S.SECURE SANDS AND GRAVELS,
OLAVATTOOR PO, KONDOTTY VIA, MALAPPURAM DISTRICT,
REPRESENTED BY ITS PARTNER, MR.MOHAMMED FAROOK.**

BY ADV. SRI.K.ANAND

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HOME,
THIRUVANANTHAPURAM-695 001.**
- 2. THE CIRCLE INSPECTOR,
KONDOTTY POLICE STATION, KONDOTTY,
MALAPPURAM DISTRICT-673 601.**
- 3. SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, KONDOTTY,
MALAPPURAM DISTRICT-673 601.**
- 4. ABOOBACKER,
S/O.BEERAN, PATTAYIL KOTTAYI HOUSE, AROOR,
OLAVATTOOR PO, KONDOTTY (VIA)-673 638.**
- 5. SATHEESH V.,
S/O.LATE VELAYUDHAN, MANDUTHUMMAL, VELLAKKOLIL,
OLAVATTOOR PO, AROOR, KONDOTTY VIA-673 638.**
- 6. BASHEER T.
S/O.LATE ABDUL SALAM, THAMBARA HOUSE, AROOR,
OLAVATTOOR PO, KONDOTTY (VIA)-673 638.**
- 7. NISHAR T.K.
S/O.KUTIRAYIN, KARIKKATKUZHI HOUSE, AROOR,
OLAVATTOOR PO, KONDOTTY (VIA)-673 638.**

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8. MUHAMMED KUTTY M.T.,
S/O.VEERAN MUSLIYAR, KOLAKKATTIL HOUSE, AROOR,
OLAVATTOOR PO, KONDOTTY (VIA)-673 638.

9. KUNJUMOHAMMED,
S/O.MUHAMMED, NADEKUYAN HOUSE, OLAVATTOOR PO,
VIA KONDOTTY-673 638, MALAPPURAM DISTRICT.

R1-R3 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAM KUMAR
R4-R5,R7-R9 BY ADVS. SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH
R6 BY ADV. SRI.R.LAIJU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** TRUE COPY OF THE PERMISSION TO INSTALL THE CRUSHER UNIT ISSUED BY THE PULICKAL GRAMA PANCHAYAT DT 31-7-2015 WITH ENGLISH TRANSLATION.
- P2 :** TRUE COPY OF THE CONSENT TO ESTABLISH ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD FILE NO.PCB/RO/MLPM/IC/111/2014 DT 27-5-2014
- P3 :** TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE ASST. DIVISIONAL OFFICER, FIRE AND RESCUE SERVICE, MALAPPURAM NO.D/638/2014 DT 30-1-2014 WITH ENGLISH TRANSLATION.
- P4 :** TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE OFFICE OF THE INSPECTOR OF FACTORIES AND BOILERS GR-I, MALAPPURAM NO.A-12/2014 DT 17-1-2014.
- P5 :** TRUE COPY OF THE FIR NO.1204/2015 DT 29-9-2015 OF KONDOTTY POLICE STATION, MALAPPURAM WITH ENGLISH TRANSLATION.
- P6:** TRUE COPY OF THE SAID CERTIFICATE DATED 6/2/14 AND THE ENGLISH TRANSLATION
- P7:** TRUE COPY OF THE OFFICE ORDER ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD NO.PCB/TAC/ST.CR.COM/65/2005 DATED 17/10/2007
- P8:** TRUE COPY OF THE REPORT OF THE SECRETARY PULICKAL GRAMA PANCHAYATH AND ENGLISH TRANSLATION
- P9:** TRUE COPY OF THE JUDGMENT IN WA.304/2015 DATED 3/10/15 BEFORE THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS

- R4(A):** TRUE COPY OF THE INFORMATION OBTAINED UNDER THE RIGHT TO INFORMATION ACT DATED 6/7/15

/ TRUE COPY /

P.S. TO JUDGE

PJ

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

W.P.(C)No.30404 of 2015

Dated this the 3rd day of November, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioner has approached this Court seeking police protection. It is inter alia alleged that they have obtained necessary permission from the panchayat as well as from the other statutory authorities including the Pollution Control Board to establish a Metal crusher Unit. However, when the petitioner attempted to level the property having an extent of 1.329 hectares of land in Survey No.32/2 of Pulickal village, Kondotty Taluk of Malappuram District, obstruction was created by respondents 4 to 9 and their men. It is stated that they had disrupted the operation of excavator machine, which was brought to the site for levelling the site, and also manhandled its driver. As a result of the aforesaid wanton act, the petitioner sought for help from the police authorities

and requested necessary police protection. Since no action was taken by the police authorities in that regard, this writ petition is filed seeking adequate police protection for bringing machineries, materials, vehicles etc. to the site where the crusher Unit has to be installed and to the property and life of the partners of the petitioner firm and the workers, from respondents 4 to 8 and their men.

2. Counter affidavit has been filed by respondents 4, 5, 7 and 9 in the writ petition inter alia indicating that though objections were raised by about 340 persons, who are said to be affected by the functioning of the Unit, with regard to the setting up of the metal crusher unit in the said area alleging pollution, the Panchayat while granting permission had not conducted the enquiry properly and notice was issued only to a few persons. It is also submitted by the learned counsel that the license/permission was obtained by the petitioner, in clear violation of law and therefore the respondents intent to challenge the same in appropriate

proceedings.

3. The learned Government Pleader on instruction would submit that on the basis of the complaint given by the petitioner, a crime had been registered with reference to the incident by which the driver of the excavator was attacked by certain miscreants.

4. Having regard to the above factual situation, we are of the view that, as matters stand now, the petitioner has got all permission/license to establish the Unit. The Unit will function only after setting it up and thereafter the petitioner may have to obtain such other license as well, including the consent to operate, from the Pollution Control Board .

5. If respondents 4 to 9 have any grievance, they cannot take law into their own hands and physically obstruct the construction of the Unit, whereas the right is only to challenge the license/permission before the competent authorities. If any untoward incident happens in between, it is for the police to maintain law and order situation and also

to see that no obstruction is caused to the construction of the Unit by the petitioner. Under such circumstances, this writ petition is disposed of as follows :

Respondents 2 and 3 shall ensure maintenance of law and order situation with reference to the establishment of the Unit by the petitioner and ensure that no obstruction is being caused by respondents 4 to 9 or their men.

This order however will be subject to any further orders that may be passed in any proceedings initiated by respondents 4 to 9 challenging the permission/license before the competent authorities.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge