

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 31728 of 2014 (M)

PETITIONER:

MR.ABDUL ZIYAD, AGED 44 YEARS
S/O.LATE A.K.M.HUSSAIN, MANAGING DIRECTOR
M/S.AQUA SEA FOOD (INDIA) PVT.LTD.
DOING BUSINESS AT BLD.NO.22/1177, N.H.47
EDAKOCHI VILLAGE, KOCHI TALUK, ERNAKULAM DISTRICT
PIN-682006.

BY ADVS.SRI.R.O.MUHAMED SHEMEEM
SMT.NASEEHA BEEGUM P.S.

RESPONDENTS:

1. THE INSPECTOR
OFFICE OF FACTORIES AND BOILERS, KUMBALANGHI VAZHI
PALLURUTHY, ERNAKULAM DISTRICT, PIN-682006.
2. THE JOINT DIRECTOR,
FACTORIES AND BOILERS, CIVIL STATION ROAD, KAKKANAD
ERNAKULAM, PIN-682030.
3. THE DIRECTOR
FACTORIES AND BOILERS, VANCHIYOOR, THIRUVANANTHAPURAM-695035.
4. AKTHAR SAIT.A., AGED 63 YEARS
S/O.LATE ABDUL KHADER SAIT
NOW RESIDING AT BHOOMI HEIGHT, FLAT NO.1205/13
PLOT NO.5 & 6, SECTOR 8, KHARGER
NAVI MUMBAI, PIN-410210.
5. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE
LABOUR AND REHABILITATION DEPARTMENT
THIRUVANANTHAPURAM-695001.

R4 BY ADV. SRI.A.A.ZIYAD RAHMAN
R4 BY ADV. SRI.LAL K.JOSEPH
R4 BY ADV. SRI.V.S.SHIRAZ BAVA
R4 BY ADV. SRI.JOSEPH KURIAN VALLAMATTAM
R4 BY ADV. SRI.P.M.MOHAMMED SHIRAZ
R BY GOVERNMENT PLEADER SRI.RAFEEL V.K.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31728 of 2014 (M)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: COPY OF THE LICENSE DATED 26.12.2013 ISSUED BY THE 2ND
RESPONDENT.

P2: COPY OF THE APPLICATION DATED 30.10.2014 FOR RENEWING OF THE
LICENSE SUBMITTED TO THE 1ST RESPONDENT BY PETITIONER.

P3: COPY OF THE CHALAN DATED 30.10.2014 PAID AS LICENSE FEE FOR
RS.15,000/- IN FAVOUR 1ST RESPONDENT.

P4: COPY OF THE CHALAN DATED 31.10.2014 PAID AS LICENSE FEE FOR
RS.3,000/- IN FAVOUR 1ST RESPONDENT.

P5: COPY OF THE INJUNCTION ORDER DATED 9.4.2014 IN IA 968/2014 IN OS
NO.181/2014 PENDING BEFORE THE MUNSIF COURT, KOCHI.

P6: COPY OF JUDGMENT DATED 27.10.2014 IN WPC.NO.19028/2014.

RESPONDENT'S EXHIBITS:

R4(A): TRUE COPY OF THE NOTICE DATED 15.1.2014.

TRUE COPY

PA TO JUDGE

Scl.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 31728 of 2014

Dated this the 31st day of March, 2015.

JUDGMENT

Aggrieved by the non-consideration of Ext.P2 application submitted by the petitioner for renewal of the licence before respondents 1 to 3, the petitioner has come up before this Court.

2. The petitioner is the Managing Director of M/s. Aqua Sea Food (India) Pvt. Ltd, which is a company constituted to carry on all kinds of marine product business, its exports, imports and allied business. The petitioner is carrying on his business in leased factory. Respondents 1 to 3 are the competent authorities to grant licence under the provisions of Factories Act and Rules. They also issued licence according to law to the petitioner to run the factory as per Ext.P1. The present licence is valid up to 31.12.2014. However, the respondent published an information through newspaper that all application for renewal of licence should be submitted before the 1st respondent on or before 31.10.2014. Accordingly, the petitioner submitted Ext.P2 application for renewing the licence. But the same was rejected on the ground

that the petitioner has not produced renewed lease agreement. The petitioner alleged that such a decision taken by respondents 1 to 3 based on an illegal interference by the property owner of the factory. According to the petitioner, he being a tenant based on the lease agreement, on its expiry, will become statutory tenant, who is entitled to get all benefits as a tenant. It is alleged that the abrupt stoppage of business will destroy the petitioner and his establishment forever. The petitioner further points out that the property owner disgracefully started to harass and humiliate the petitioner with his muscle and money power in order to forcibly and illegally dispossess the petitioner from factory, which ended in filing O.S.No.181 of 2014 before the Munsiff Court, Kochi. The court below granted an interim prohibitory injunction against property owner from forcible and illegal dispossession and disruption of peaceful functioning of business.

3. The petitioner filed W.P.(C) No.19028 of 2014 before this Court. The petitioner produced the judgment in the above writ petition before the first respondent to entertain Ext.P2 application. But the same was not considered by the respondents. It is with this background, the petitioner has come up before this Court.

4. Today, when the matter came up for hearing, the learned counsel for the petitioner confined his argument to the limited prayer for a direction to respondents 1 to 3 to consider and pass appropriate orders on Ext.P2 application.

In the light of the above submission, the writ petition is disposed of directing respondents 1 to 3 to consider Ext.P2 application for renewal of licence submitted by the petitioner and pass appropriate orders, after affording the petitioner and the fourth respondent, an opportunity of being heard. This exercise shall be completed within a period of two months from the date of receipt of a copy of this judgment.

The existing stay shall continue till the final order is passed on Ext.P2 application.

**Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE**

Scl.