

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 34616 of 2014 (B)

PETITIONER(S) :

1. MATHAI VARGHESE,
AGED 54 YEARS, S/O.VARGHESE,
NIRAVATHINAL HOUSE, PERUMBALLOOR P.O.,
MUVATTUPUZHA, PIN - 686 673.
2. VIJESH,
AGED 35 YEARS, S/O.MATHEW, KAZHIKKACHALIL HOUSE,
PERUMBALLOOR P.O.,
MUVATTUPUZHA, PIN - 686 673.
3. JOSHY VARKEY,
AGED 58 YEARS, S/O.VARKEY, MUNDAKKAL HOUSE,
PERUMBALLOOR P.O.,
MUVATTUPUZHA, PIN - 686 673.
4. SIBY MATHEW,
AGED 43 YEARS, S/O.MATHEW, THOOMULLIL HOUSE,
PERUMBALLOOR P.O.,
MUVATTUPUZHA, PIN - 686 673.
5. JAYIN JOLLY,
AGED 38 YEARS, S/O.JOLLY, PAZHAMPILLY HOUSE,
PERUMBALLOOR P.O.,
MUVATTUPUZHA, PIN - 686 673.

BY ADVS.SRI.C.P.SAJI
SMT.P.DEEPA MOHAN

RESPONDENT(S) :

1. THE SECRETARY,
ARAKKUZHA GRAMA PANCHAYAT,
ARAKKUZHA P.O., PIN - 686 672, MUVATTUPUZHA.
2. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
GANDHI NAGAR, ERNAKULAM, KOCHI-20.

3. DISTRICT MEDICAL OFFICER,
ERNAKULAM, KOCHI 682 011.
 4. STAR ENTERPRISES,
PERUMBALLOOR, ARAKKUZHA P.O.,
PIN - 686 672, MUVATTUPUZHA,
REPRESENTED BY ITS PROPRIETOR K.A. JOHNY.
 5. P.O. JOSE,
PARAPPALLY HOUSE, PERUMBALLOOR,
ARAKKUZHA P.O.,
PIN - 686 672, MUVATTUPUZHA.
- R1 BY ADV. SRI. REJI GEORGE,
R1 BY ADV. SRI. GOPAKUMAR G. (ALUVA),
R1 BY ADV. SRI. BINOY DAVIS,
R1 BY ADV. SRI. UMESH. N. PAI,
R4, R5 BY ADV. SRI. M. P. ASHOK KUMAR,
R4, R5 BY ADV. SMT. BINDU SREEDHAR,
R4, R5 BY ADV. SMT. R. S. MANJULA,
BY GOVERNMENT PLEADER SRI. SHYSON P. MANGUZHA &
BY SRI. M. AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 COPY OF THE LICENCE APPLICATION DATED 12/11/2014
SUBMITTED BY THE 4TH RESPONDENT BEFORE 1ST
RESPONDENT.

EXHIBIT P2 COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY THE
PETITIONERS AND OTHER RESIDENTS OF THE WARD NO.13 OF
THE ARAKKLUZHA GRAMA PANCHAYAT.

EXHIBIT P3 COPY OF THE POSTAL ACKNOWLEDGMENT CARD SIGNED BY THE
2ND RESPONDENT.

EXHIBIT P4 COPY OF THE POSTAL ACKNOWLEDGMENT CARD SIGNED BY THE
3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.34616 of 2014

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Dated this the 4th day of June, 2015

JUDGMENT

This writ petition is for a direction to respondents 1 to 3 to consider Ext.P2 representation and to take a decision on the same after affording the petitioners and affected parties an opportunity of being heard.

2. The grievance of the petitioners is that though they have filed Ext.P2 representation before the 4th respondent, due to the influence of respondents 1 and 3, no action has been taken.

3. The 4th respondent operates a cement go-down which according to the petitioners, is in violation of Sections 232, 233 and 233A of the Kerala Panchayat Raj Act and Rule 13 of the Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules 1996. the petitioners allege that the said go-down is in the property belonging to the 5th respondent which is adjacent to

the petitioners' residence.

4. The petitioner further alleges that the go-down is established without obtaining any licence and consent, either from respondents 1 to 3 or from the neighbouring property owners. Due to the emission of cement dust from the go-down, the life of the petitioners and other residents has become miserable as it creates pollution; it is alleged. Though the petitioners filed Ext.P2 representation against the operation of the cement go-down, the respondents 1 and 3 are not taking any action on the representation.

5. I have heard the learned counsel for the respondent panchayat, the learned Government Pleader, and the learned standing counsel for the pollution control board also in the matter.

6. When the matter came up for hearing, the learned counsel for the petitioners confined his argument to the limited prayer for a direction to the respondents to consider and pass appropriate orders on Ext.P2 within a time frame.

Considering the nature of the relief sought for and the submissions made, the writ petition is disposed of directing the second respondent to consider and pass appropriate orders on Ext.P2 within two weeks from the date of receipt of a copy of this judgment after affording the petitioner as well as affected parties, if any.

To facilitate early action, it shall be open to the petitioners to produce a copy of the writ petitioner and a copy of this judgment along with Ext.P2 representation before the respondent concerned at the earliest.

sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj

The 2nd paragraph of the judgment dated 04/06/2015 in W.P(C) No.34616/2014 is corrected as “The grievance of the petitioners is that though they have filed Ext.P2 representation before respondents 1 to 3, due to the influence of the fourth respondent, no action has been taken.” and the decreetal portion on page 3 is corrected as “considering the nature of the relief sought for and the submissions

made, the writ petition is disposed of directing respondents 1 to 3 to consider and pass appropriate orders on Ext.P2 within two weeks from the date of receipt of a copy of this judgment after affording the petitioner as well as affected parties, if any, an opportunity of being heard.” as per order dated 16/07/2015 in I.A No.9819/2015 in W.P(C) No.34616/2014.

Sd/-
Registrar (Judicial)