

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 35131 of 2014 (N)

PETITIONER(S):

**HASSAN PULIKKAL
S/O.MOIEEN HAJEE, PULIKKAL HOUSE, KAVITHIKALAM
P.O.KOTTAKKAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.SIRAJ KAROLY
SRI.R.PARAMESWARA IYER**

RESPONDENT(S)/RESPONDENTS:-:

- 1. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, MALAPPURAM - 676 505.**
- 2. THE SECRETARY,
OTHUKKUNGAL GRAMA PANCHAYATH, OTHUKKUNGAL P.O.
TIRURANGADI TALUK, MALAPPURAM DISTRICT - 676 501.**
- 3. OTHUKKUNGAL GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, PANCHAYATH BUILDING
OTHUKKUNGAL P.O., TIRURANGADI TALUK
MALAPPURAM DISTRICT - 676 001.**
- 4. THE DISTRICT COLLECTOR,
COLLECTORATE, MALAPPURAM - 676 001.**

**ADDL.R5. RASHEED VADAKKETHIL,
S/O. HYDROSE,
UDARANI, PUTHUR P.O., 676 503,
OTHUKKUNGAL VILLAGE, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.**

**ADDL.R6. ACHUTTY VADAKKETHIL,
W/O. KUNJI RAYIN, PUTHUR,
UDARANI - 676 503,
OTHUKKUNGAL VILLAGE, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.**

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ADDL.R7. KHADEEA VADAKKETHIL,
W/O. UNNEENKUTTY, PUTHUR
UDARANI - 676 503,
OTHUKKUNGAL VILLAGE, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.

ADDL.R8. BIRIYAMU,
W/O. HYDROSE,
CHAPPANGADIL HOUSE,
UDARANI - 676 503,
PUTHUR, OTHUKKUNGAL VILLAGE, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.

(ADDL. R5 TO R8 ARE IMPEADED AS PER ORDER DATED 23.07.2015 IN I.A.
6949/2015)

R2 & R3 BY ADV. SRI.K.RAMACHANDRAN

R2 & R3 BY ADV. SMT.M.C.BINDUMOL

ADDL R5 TO R8 BY ADV. SRI.P.M.RAFIQ

R1 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD
BY GOVERNMENT PLEADER SRI. MANOJ P. KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE LAND TAX RECEIPT DATED 05.04.2013.
- EXHIBIT P2. TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 19.11.2013.
- EXHIBIT P3. TRUE COPY OF THE CERTIFICATE ISSUED FROM THE SMALL SCALE INDUSTRIES DEPARTMENT DATED 30.06.2014.
- EXHIBIT P4. TRUE COPY OF THE CONSENT TO OPERATE DATED 27.03.2014 AND CONSENT VARIATION ORDER DATED 31.05.2014 ISSUED BY THE POLLUTION CONTROL BOARD.
- EXHIBIT P5. TRUE COPY OF THE CERTIFICATE/LICENSE ISSUED FROM THE FOREST DEPARTMENT DATED 26.03.2014.
- EXHIBIT P6. TRUE COPY OF THE LICENSE ISSUED BY THE PANCHAYATH DATED 01.09.2014.
- EXHIBIT P7. TRUE COPY OF THE LETTER OF KOTTAKKAL CO-OPERATIVE URBAN BANK DATED 20.05.2013.
- EXHIBIT P8. TRUE COPY OF THE GOLD LOAN PLEDGE RECEIPTS.
- EXHIBIT P9. TRUE COPY OF THE CONSENT WITHDRAWAL ORDER OF THE 1ST RESPONDENT DATED 12.11.2014.

RESPONDENT(S)' EXHIBITS:

- EXT.R2(a): COPY OF THE ORDER RENDERED BY THE 2ND RESPONDENT NO.A4-3207/2014 DATED 5.12.2014.
- EXT.R2(b): COPY OF THE COMMUNICATION FROM THE CONVENOR/GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE DATED 18.07.2014 TO THE 2ND RESPONDENT.
- EXT.R5(a): COPY OF THE REPRESENTATION BY THE RESIDENTS OF THE LOCALITY TO THE SECRETARY OF OTHUKKUNGAL PANCHAYATH DATED 06.03.2013.
- EXT.R5(b): COPY OF THE REPRESENTATION DATED 04.06.2014 BY THE RESIDENTS OF THE LOCALITY RESIDING NEAR TO THE UNIT OF PETITIONER SUBMITTED BEFORE THE REPRESENTATIVE OF LEGISLATIVE ASSEMBLY.
- EXT.R5(c): COPY OF THE MASS PETITION DATED 21.08.2014 SUBMITTED BY THE RESIDENTS ADJACENT TO THE UNIT RUN BY PETITIONER BEFORE THE PRESIDENT AND SECRETARY OF OTHUKKUNGAL GRAMA PANCHAYATH.

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ANNEXURE R1(A): COPY OF CIRCULAR NO. PCB/T4/115/97 DATED 15.10.2007.

**ANNEXURE R1(B): COPY OF INTEGRATED CONSENT TO OPERATE DATED
27.03.2014.**

ANNEXURE R1(C): COPY OF LETTER DATED 16.04.2014.

ANNEXURE R1(D): COPY CONSENT VARIATION ORDER DATED 31.05.2014.

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) No. 35131 of 2014 (N)

Dated this the 23rd day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the 'Consent Withdrawal Order' issued by the 1st respondent.

2. The petitioner is said to be carrying on a wood based furniture unit in Survey No.323/1 of Kottakkal Village in Ward No.14 of Othukkungal Panchayath. The petitioner had applied for consent for carrying on the industry before the 1st respondent, which was granted by Ext.P4 'Consent to Operate'. The petitioner had also taken a license from the authorised officer of the Kerala Forest and Wild Life Department and necessary license from the Local Self Government Institution. The petitioner contends that the 'Consent Withdrawal Order' was issued without notice to him, on the basis of an inspection, in which it is stated that machineries were established without prior intimation to the Board. The petitioner contends that any machinery

found in the premises, which is not there in the 'Consent to Operate', will be removed. The petitioner seeks that Ext.P9 be set aside.

3. I have heard the learned counsel for the petitioner, the learned counsel for the Local Self Government Institution, the learned counsel for the additional respondents as also the learned Standing Counsel appearing for the Kerala State Pollution Control Board.

4. The learned counsel for the Panchayath submits that, in fact, the Panchayath had initially rejected the application for license, but however, had granted the same only by reason of a direction issued by the District Industries Centre. However, on the consent being withdrawn by the Pollution Control Board, the Panchayath has also withdrawn the license by Ext.R2(a).

5. The learned counsel for the additional respondents submits that the petitioner has been using chemicals to cure the wood and the said chemicals are collected in pits dug in the property and drained out through the drainage. This, according to the additional respondents, creates pollution and even the drinking water in the area is contaminated. The learned counsel would specifically contend that the petitioner had made a false declaration before the Pollution Control Board that there are no residents in the locality and that is contrary to the facts. The learned counsel for the petitioner refutes such a declaration having been made.

6. In any event, looking at the overall circumstances, it is only proper that the Pollution Control Board be directed to consider the matter afresh, as a fresh application for consent. The petitioner, the additional respondents herein as also the representatives of the Panchayath shall be heard

before a 'Consent to Operate' is granted. The 1st respondent shall also conduct a personal inspection of the premises, with notice to the aforementioned persons. The 1st respondent shall also examine whether any contamination of the neighbouring wells has been occasioned, by sampling the well water, for analysis by a competent/approved laboratory. It is made clear that no further application need be filed by the petitioner and the Pollution Control Board can initiate the proceedings immediately on receipt of the certified copy of this judgment and shall finalise the same within three months from the date of receipt of a copy of the judgment. No fresh machineries other than that available in the initial consent also shall be permitted, if eventually the Board decides to grant consent. It is made clear that the petitioner shall not operate until the consent is received from the Pollution Control Board.

Writ petition is disposed of with the above directions.
Parties to suffer their respective costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE