

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 35571 of 2015 (V)

PETITIONER :

M/S. BONE MEALS INDIANA PVT LTD.,
PAZHAMBALAKODE P.O., PALAKKAD-678 544
REPRESENTED BY ITS MANAGING DIRECTOR, P.P.BAIJU
AGED 46 YEARS, S/O.P.V.PAPPU, PAZHAMBALAKODE P.O.,
PALAKKAD-678 544.

BY ADVS.SRI.JAGAN ABRAHAM M.GEORGE
SRI.P.JAYABAL MENON
SMT.K.J.GISHA

RESPONDENTS :

1. SUB INSPECTOR OF POLICE
ALATHUR, PALAKKAD-678 541.
2. THE CIRCLE INSPECTOR OF POLICE
ALATHUR, PALAKKAD-678 541.
3. THE DEPUTY SUPERINTENDENT OF POLICE
ALATHUR, PALAKKAD-678 541.
4. THE MEMBER SECRETARY
KERALA STATE POLLUTION CONTROL BOARD
TRIVANDRUM-695 001.
5. SHAFEEK, AGED AROUND 33 YEARS
S/O.NOT KNOWN TO THE PETITIONER, PERIYANGADU HOUSE
THOTTUMPALLA, PAZHAMBALACODE, ALATHUR
PALAKKAD, PIN-678 544.
6. SHAMEER, AGED AROUND 31 YEARS
S/O.NOT KNOWN TO THE PETITIONER, PERIYANGADU HOUSE
THOTTUMPALLA, PAZHAMBALACODE, ALATHUR
PALAKKAD, PIN-678 544.

7. SHAJAHAN, AGED AROUND 31 YEARS
S/O.NOT KNOWN TO THE PETITIONER, THEKKEPEDIKA HOUSE,
THOTTUMPALLA, PAZHAMBALACODE, ALATHUR
PALAKKAD, PIN-678 544.

8. SUDHEER, AGED AROUND 31 YEARS
S/O.NOT KNOWN TO THE PETITIONER,
ASHARIPARAMBIL HOUSE, THOTTUMPALLA, PAZHAMBALACODE
ALATHUR, PALAKKAD, PIN-678 544.

R1 TO R3 BY SR. GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR
R4 BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD
R5 TO R8 BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35571 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE SMALL SCALE INDUSTRIES REGISTRATION
CERTIFICATE DATED 31/3/1986 ISSUED BY THE DISTRICT INDUSTRIES
CENTRE, PALAKKAD TO THE PETITIONER.

EXT.P2 : TRUE COPY OF THE LICENSE DATED 15/5/2014 ISSUED BY THE 2ND
RESPONDENT FOR THE YEAR 2014-15 FOR THE PERIOD UPTO 31/3/2015.

EXT.P3 : TRUE COPY OF THE ORDER NO.G2(K/DIS) 16396/84 DATED 22/9/1984
ISSUED BY THE DMO , HEALTH, PALKKAD, ISSUED TO THE petitioner.

EXT.P4 : TRUE COPY OF THE CONSENT TO OPERATE DATED 5/7/2012 ISSUED BY
THE KERALA STATE POLLUTION CONTROL BOARD, HAVING VALIDITY
UPTO 30/6/2015.

EXT.P5 : TRUE COPY OF THE LICENSE DATED 14/7/2011 ISSUED BY THE JOINT
DIRECTOR OF FACTORIES AND BOILERS ERNAKULAM, VALID UP TO
31/12/2015.

EXT.P6 : TRUE COPY OF THE JUDGMENT IN WPC NO.18543/2014 DATED 22/6/2015.

EXT.P7 : TRUE COPY OF THE PROCEEDINGS OF THE 4TH RESPONDENT BEARING
NO.PB/PLKD/IC/CO-469/2009 DATED 26/10/2015.

EXT.P8 : TRUE COPY OF THE COMPLAINT DATED 20/11/2015 SUBMITTED TO THE
RESPONDENTS 1 AND 2 WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS :

EXT.R5(A) : TRUE COPY OF THE COMMUNICATION DATED 15.06.2015 ISSUED BY
THE KERALA STATE POLLUTION CONTROL BOARD.

/TRUE COPY/

PA TO JUDGE

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

W.P.(C) No. 35571 OF 2015

Dated this the 7th day of December, 2015

JUDGMENT

Shaffique, J.

The petitioner company had approached this Court seeking police protection alleging that respondents 5 to 8 are obstructing the petitioner from conducting trial run for their unit, despite the direction issued by Pollution Control Board as per Ext.P7 order dated 26.10.2015.

2. The facts involved in the writ petition would disclose that the petitioner's establishment is running a Bone Meal Unit in about 1 Acre plot in the midst of rubber plantation within the Tharur Grama Panchayat in Palakkad District. According to the petitioner, the unit was started as a partnership firm and later it was converted to a Private Limited company. The unit is functioning without any pollution or any disturbance and with all statutory permissions and licenses. Certain complaints came to be filed before the Pollution Control Board and the Board after conducting necessary inspection issued Ext.P7 order.

3. Earlier, petitioner had approached this Court for carrying out necessary repair works and this Court by judgment dated 22.06.2015 in W.P.(C) No. 18543 of 2014 has granted police protection for carrying out the said activity. Petitioner submits that the respondents are still obstructing the trial run to be conducted in the unit.

4. Counter affidavit has been filed by the 5th respondent *inter alia* stating that the functioning of the unit has caused serious pollution in the neighbouring locality which matter is being investigated by the Pollution Control Board by conducting site inspection and according to 5th respondent, the Panchayat has taken a decision to stop the functioning of the unit on account of the complaint received from public at large. That apart, an appeal had been filed before the appellate authority against Ext.P7 order, but it is still pending. Certain persons have filed a suit as O.S. No.249 of 2015 seeking an injunction against the petitioner's factory and an Advocate Commissioner had already been deputed for preparing a report after conducting a site inspection in the matter.

5. Heard learned counsel for the petitioner, learned counsel appearing for respondent Nos. 5 to 8 and learned Government Pleader.

6. Having regard to the aforesaid facts and circumstances it is clear that when the Pollution Control Board had already permitted the petitioner to conduct the trial run, there cannot be any physical obstruction by respondents 5 to 8 or their men. If any competent authority like the Panchayat has issued stop memo, the petitioner will have to comply with such orders passed by the authority. As matters stand now, there is no restriction for the petitioner to conduct trial run as permitted by Ext.P7.

7. Hence we are of the view that this Writ Petition can be disposed of as under:

If any obstruction is caused by respondents 5 to 8 or their men in the matter relating to the trial run being conducted by the petitioner in terms of Ext.P7 order dated 26.10.2015, the 1st respondent shall ensure that no such obstruction is being caused and shall also ensure maintenance of law and order. This

order, however, will be subject to any further orders that may be passed by the Appellate Authority under the Air (Prevention & Control of Pollution) Act, 1981 or by the Panchayat in this regard.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**