

Ignatious K.J vs The Environmental Engineer on 10 August, 2022

Author: P.V.Kunhikrishnan

Bench: P.V.Kunhikrishnan

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 10TH DAY OF AUGUST 2022 / 19TH SRAVANA, 1944
WP(C) NO. 15231 OF 2021

PETITIONER:

IGNATIUS K.J.,
AGED 58 YEARS,
S/O. OF K.I. JOHN,
KOLLAMPARAMBIL, MUNDAMVELI P.O., KOCHI-682507.

BY ADVS.
P.B.SAHASRANAMAN
T.S.HARIKUMAR(K/782/1989) -14410

RESPONDENTS:

- 1 THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICER, GANDHI NAGAR, KOCHI-682020.
- 2 THE ASSISTANT HEALTH OFFICER,
KOCHI MUNICIPAL CORPORATION, ZONAL OFFICE,
MOULANA AZAD ROAD, STAR JUNCTION,
MATTANCHERRY, KOCHI-682002.KOCHI-
- 3 THE COMMISSIONER OF POLICE,
COMMISSIONERATE KOCHI, PARK VIEW, MARINE DRIVE,
ERNAKULAM-682011.
- 4 THE STATION HOUSE OFFICER,
MATTANCHERRY POLICE STATION, BAZAR ROAD,
NEAR GOVERNMENT W AND C HOSPITAL,
MATTANCHERRY, KOCHI-682002.
- 5 K.J. JOSEPH,
S/O. K.M. JACOB, 22/214,
KANNOTH HOUSE, MUNDAMVELI-682507.

BY ADVS.
SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,

P.Y.SHEHEERA
N.SATHEESH
C.G.PREETHA
DR.ABHILASH O.U.(K/000125/2019)
N.N.SUGUNAPALAN (SR.)

WP(C) NO. 15231 OF 2021 -2-

SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.08.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:
WP(C) NO. 15231 OF 2021 -3-

JUDGMENT

Above writ petition is filed with the following prayers:

"i. To issue a writ, direction or order in the nature of mandamus or such other appropriate writ, direction or order directing the respondents 3 and 4 to take immediate steps to seal by locking the industrial unit restraining the working of the unit of the 5 th respondent in implementation of Exhibits P1 to P3 orders, forthwith;

ii. such other relief's which this Hon'ble Court deems fit and necessary in the circumstances of the case and the costs of this case."

2. When this writ petition came up for consideration the Standing Counsel appearing for the second respondent submitted that the license under Section 447 of the Municipality Act is already issued to the fifth respondent.

3. Learned counsel for the petitioner submitted that there is no license issued under Section 448 of the Municipality Act. If there is any further grievance to the petitioner, the petitioner is free to submit a representation before the second respondent narrating his grievance and there can be a direction to the second respondent to consider the same after giving an opportunity of hearing to the petitioner and the fifth respondent.

Therefore, this writ petition is disposed of with the following directions:

(i) The petitioner is free to submit a fresh representation before the second respondent narrating his grievance within two weeks from the date of receipt of a copy of the judgment.

(ii) Once such a representation is received the second respondent will consider the same and pass appropriate orders in it after giving an opportunity of hearing to the petitioner and the fifth respondent as expeditiously as possible at any rate within one month from the date of receipt of the representation.

(iii) All the other contentions of the petitioner raised in this writ petition are left open.

Sd/-

P.V.KUNHIKRISHNAN JUDGE vv APPENDIX OF WP(C) 15231/2021 PETITIONER EXHIBITS Exhibit P1 TRUE PHOTOSTAT COPY OF THE STOP MEMO ISSUED BY THE 2ND RESPONDENT DATED 17/12/2020.

Exhibit P2 TRUE PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT TO THE 5TH RESPONDENT DATED 22/07/2021.

Exhibit P3 TRUE PHOTOSTAT COPY OF THE ORDER IN IA NO.3/2021 IN OS NO.38/2021 OF THE PRINCIPAL MUNSIFF, KOCHI, DATED 25/06/2021.

Exhibit P4 TRUE PHOTOSTAT COPY OF THE REPRESENTATION MADE BY THE PETITIONER AND OTHERS TO THE 3RD RESPONDENT, DATED 20/07/2021.

Exhibit P5 SOME PHOTOGRAPHS OF THE BUILDING CC.22/214 WHERE THE BORMA IS WORKING SHOWING CHIMNEY, DUMPING OF WASTE IN THE PUBLIC ROAD, AND CLOSENESS TO THE BUILDING.

Exhibit P6 TRUE PHOTOGRAPH OF THE ST. MARY'S BAKERY, AT ILLICHUVADU JUNCTION.

Exhibit P7 GOOGLE EARTH IMAGE OF THE SAID TWO BUILDINGS, ONE TO WHICH WHERE THE BORMA IS ESTABLISHED TO WHICH TRADE LICENSE AND THE OTHER TO WHICH CONSENT IS ISSUED AND NO LICENSE IS ISSUED TO THE 5TH RESPONDENT.

RESPONDENT EXHIBITS ANNEXURE R1(A) TRUE COPY OF THE LETTER NO.PCB/EKM/DO-

1/GEN-13/17 DATED 19.01.2021 ISSUED BY THE BOARD ANNEXURE R1(B) TRUE COPY OF THE MINUTES OF THE HEARING CONDUCTED ON 12.02.2021 ANNEXURE R1(C) TRUE COPY OF THE COMMUNICATION NO.PCB/EKM/DO-1/OA-32/2021 DATED 01.03.2021 ISSUED BY THE BOARD ANNEXURE R1(D) TRUE COPY OF THE CONSENT TO OPERATE DATED 30.03.2021 ISSUED BY THE BOARD ANNEXURE R1(E) TRUE COPY OF THE LETTER NO.PCB/EKM/DO-

1/OA-32/2021 DATED 22.07.2021 ISSUED BY THE BOARD ANNEXURE R1(F) TRUE COPY OF THE CONSENT VARIATION ORDER ISSUED BY THE BOARD DATED 31.08.2021 Exhibit R5(a) A

TRUE COPY OF THE LICENSE ISSUED BY THE KOCHI MUNICIPAL CORPORATION FOR THE PERIOD 2021-2022 Exhibit R5(b) A TRUE COPY OF THE LETTER DATED 15-07- 2021 TO THE 1ST RESPONDENT ENVIRONMENT ENGINEER Exhibit R5(c) A TRUE COPY OF CONSENT NO.G20ERRCVO750172 ISSUED BY KSPCB ON 31.08.2021.

Exhibit R5(d) A TRUE COPY OF THE REPLY SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 1ST RESPONDENT DATED 10.01.2022 Exhibit R5(e) A TRUE COPY OF FOOD PRODUCTION LICENSE ISSUED IN RESPECT OF THE 5TH RESPONDENT BAKERY IN TERMS OF SECTION 31 OF THE FOOD SAFETY AND STANDARDS ACT, 2006 BY THE DESIGNATED OFFICER APPOINTED UNDER SECTION 36 OF THE FOOD SAFETY AND STANDARDS ACT, 2006 Exhibit R5(f) A TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT AND ADDRESSED TO THE 5TH RESPONDENT DATED 28.01.2022