

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF FEBRUARY 2018 / 26TH MAGHA, 1939

WP(C).No. 27680 of 2017  
-----

PETITIONER  
-----

UDAYAKUMAR P.K,  
AGED 42 YEARS, S/O.PRABHAKARAN, KURUVATH HOUSE,  
KUTTANELLOOR P.O., THRISSUR-680014.

BY ADVS.SRI.P.B.KRISHNAN  
SRI.P.M.NEELAKANDAN  
SRI.P.B.SUBRAMANYAN  
SRI.SABU GEORGE  
SRI.S.NITHIN (ANCHAL)

RESPONDENT(S) :  
-----

1. THE PUTHUR GRAMA PANCHAYAT,  
PUTHUR P.O., THRISSUR-680014,  
REPRESENTED BY ITS SECRETARY.
2. THE KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE, THRISSUR, BISHOP ALAPATT RD,  
EAST FORT, PILLAKAD, THRISSUR-680001.
3. ENVIRONMENTAL ENGINEER,  
THE KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE, THRISSUR, BISHOP ALAPATT RD,  
EAST FORT, PILLAKAD, THRISSUR-680001.
- \* ADDL R4 IMPLEADED
4. SADANANDAN P.K,AGED 52 YEARS,  
S/O KOCHUKRISHNAN P.M, POONATH HOUSE,  
PUZHAMBALAM DESOM, MARATHAKKARA VILLAGE,  
PUTHUR P.O, THRISSUR.
- \* ADDL R4 IMPLEADED AS PER ORDER DATED 15.02.2018 IN IA NO.15423/2017

R1 BY ADVS. SRI.SANTHOSH P.PODUVAL  
SMT SHEEJO CHACKO,SC,  
SMT.R.RAJITHA  
R2,R3 BY ADV. SRI. T.NAVEEN SC,  
R4 BY ADVS. SRI.RAJAN VISHNURAJ  
SRI.V.HARISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-02-2018,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.V.

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXHIBIT P1            A TRUE COPY OF THE LICENCE DATED 2-4-2016 ISSUED BY THE DEPARTMENT OF FACTORIES AND BOILERS FOR THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P2            A TRUE COPY OF THE LICENCE DATED 24-2-2016 ISSUED BY THE DEPARTMENT OF FACTORIES AND BOILERS FOR THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P3            A TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 3-1-2017 ISSUED BY THE FIRE AND RESCUE DEPARTMENT FOR THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P4            A TRUE COPY OF THE NO OBJECTION CERTIFICATE DATED 3-1-2017 ISSUED BY THE FIRE AND RESCUE DEPARTMENT FOR THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P5            A TRUE COPY OF THE CONSENT TO OPERATE NO.PCB/DO/TSR/F/ICO/2921/2013 DATED 4-4-2013 ISSUED BY THE POLLUTION CONTROL BOARD TO THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P6            A TRUE COPY OF THE RENEWED CONSENT TO OPERATE NO.PCB/DO/TSR/F/ICO/2921/2015 DATED 20-8-2015 ISSUED BY THE POLLUTION CONTROL BOARD TO THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P7            A TRUE COPY OF THE CONSENT TO OPERATE NO.PCB/TSR/IC/6183/15 DATED 28-8-2015 ISSUED BY THE POLLUTION CONTROL BOARD TO THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P8            A TRUE COPY OF THE D&O LICENCE DATED 2-4-2016 ISSUED BY RESPONDENT NO.1 TO THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P9            A TRUE COPY OF THE D&O LICENCE DATED 2-4-2016 ISSUED BY RESPONDENT NO.1 TO THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P10           A TRUE COPY OF THE CASH RECEIPT DATED 25-2-2017 ISSUED BY RESPONDENT NO.1 FOR THE LICENSE FEE REMITTED FOR THE YEAR 2017 AND 2018 OF THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P11           A TRUE COPY OF THE CASH RECEIPT DATED 25-2-2017 ISSUED BY RESPONDENT NO.1 FOR THE LICENSE FEE REMITTED FOR THE YEAR 2017 AND 2018 OF THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P12           A TRUE COPY OF THE CLOSURE ORDER NO.PCB/TSR/F/IC/2425/11 DATED 13-7-2017 ISSUED BY THE POLLUTION CONTROL BOARD TO THE UNIT SOUTHERN ELECTRO COLOURING.

- 
- EXHIBIT P13 A TRUE COPY OF THE CLOSURE ORDER NO.PCB/TSR/IC/6183/15 DATED 13-7-2017 ISSUED BY THE POLLUTION CONTROL BOARD TO THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P14 A TRUE COPY OF THE STOP MEMO NO.A2.5641/17 DATED 18-7-2017 ISSUED BY RESPONDENT NO.1 TO THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P15 A TRUE COPY OF THE STOP MEMO NO.A2.5641/17 DATED 18-7-2017 ISSUED BY RESPONDENT NO.1 TO THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P16 A TRUE COPY OF THE APPLICATION DATED 20-7-2017 SUBMITTED BY THE PETITIONER TO RESPONDENT NO.3 REGARDING THE UNIT SOUTHERN ELECTRO COLOURING.
- EXHIBIT P17 A TRUE COPY OF THE APPLICATION DATED 20-7-2017 SUBMITTED BY THE PETITIONER TO RESPONDENT NO.3 REGARDING THE UNIT ANUGRAHA COATINGS.
- EXHIBIT P18 A TRUE COPY OF THE ORDER NO.PCB/TSR/F/IC/2425/11 DATED 31-7-2017 ISSUED BY RESPONDENT NO.3.
- EXHIBIT P19 A TRUE COPY OF THE ORDER NO.PCB/TSR/IC/6183/15 DATED 31-7-2017 ISSUED BY RESPONDENT NO.3.
- EXHIBIT P20 A TRUE COPY OF THE REPRESENTATION DATED 5-8-2017 ALONG WITH THE ACKNOWLEDGMENT DATED 7-8-2017.
- EXHIBIT P21 A TRUE COPY OF THE LETTER NO 104/2017 DATED 14.9.2017 ALONG WITH THE ANNEXURES
- EXHIBIT P22 A TRUE COPY OF THE LETTER DATED 1.1.2018 SUBMITTED BEFORE RESPONDENT NO 1 ALONG WITH THE RECEIPT.
- EXHIBIT 23 A TRUE COPY OF THE LETTER DATED 1.1.2018 SUBMITTED BEFORE RESPONDENT NO 3.
- EXHIBIT P24 A TRUE COPY OF THE RECEIPT DATED 23.10.2017 SHOWINGTHE REMITTANCE OF THE APPLICATION FEE IN THE WEBSITE OF RESPONDENT NO 2.
- EXHIBIT P25 A TRUE COPY OF THE E-CHALAN DATED 21.10.2017.
- EXHIBIT P26 A TRUE COPY OF THE AFFIDAVIT DATED 8.2,2018 SUBMITTED BEFORE RESPONDENT NO 3.

RESPONDENTS ANNEXURES EXHIBITS:

- 
- R1 (A) TRUE COPY OF THE LETTER DATED 14.7.17 ISSUED BY MEDICAL OFFICER, PRIMARY HEALTH CENTRE, PUTHUR TO THE 1ST RESPONDENT.
- R1 (B) TRUE COPY OF REPORT SUBMITTED BY THE HEALTH INSPECTOR, PRIMARY HEALTH CENTRE, PUTHUR TO THE MEDICAL OFFICER, PRIMARY HEALTH CENTRE, PUTHUR.
- R2 (A) TRUE COPY OF THE CONSENTS TO OPERATE ISSUED BY THE PCB TO THE UNITS OF THE PETITIONER.

WP(C) .No. 27680 of 2017 (H)

-----

R2 (B) TRUE COPY OF THE ANALYSIS REPORT ISSUED BY THE PCB.

R2 (C) TRUE COPY OF THE CLOSURE ORDERS DATED 13.7.2017 ISSUED BY THE PCB TO THE PETITIONER'S UNITS.

R2 (D) TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER DATED 28.7.2017 ALONG WITH THE COVERING LETTER.

R2 (E) TRUE COPY OF THE ORDER DATED 31.7.2017 ISSUED BY THE PCB TO THE PETITIONER'S UNITS.

/TRUE COPY/

K.V.

P.S.TO JUDGE

**A.K.JAYASANKARAN NAMBIAR, J.**

\*\*\*\*\*

**W.P.(C) No.27680 of 2017 (H)**

\*\*\*\*\*

**Dated this the 15<sup>th</sup> day of February, 2018**

**J U D G M E N T**

The petitioner is stated to be running two units by name 'M/s.Anugraha Coatings and Southern Electro Colouring', engaged in the business of powder coating on Aluminium products and Anodizing and colouring of Aluminium products respectively. It is the case of the petitioner that, in respect of the two units, he had obtained the necessary license under the Factories Act (Exts.P1 and P2), the No Objection Certificate from the Fire and Safety Department (Exts.P3 and P4) and the necessary consent from the Kerala State Pollution Control Board (Exts.P5, P6 and P7) that were valid till 31.12.2017. He had also obtained the necessary Dangerous & Offensive licenses [D & O license] from the respondent Panchayat (Exts.P8 and P9) for the period up to 31.03.2017. It is stated that, when a renewal of the D & O license was sought for, the application was not considered essentially on account of Exts.P12 and P13 stop memos that had been issued in respect of the units by the Pollution Control Board, which noticed a breach of the parameters stipulated for the effluents discharged from the units. Acting on the basis of Exts.P12 and P13 stop

memos issued by the Pollution Control Board, the respondent Panchayat also issued Exts.P14 and P15 stop memos, temporarily suspending the license granted to the petitioner for running the units. It is the case of the petitioner that he subsequently complied with the conditions pointed out by the Pollution Control Board, in connection with the operation of the Effluent Treatment Plant, and on the Pollution Control Board being satisfied of the arrangements made by the petitioner to comply with the terms of the consent granted by the Pollution Control Board, the Board revoked Exts.P12 and 13 stop memos through Exts.P18 and P19 orders. Immediately thereafter, the petitioner submitted Ext.P20 request before the respondent Panchayat for revoking Exts.P14 and P15 stop memos. Apparently, the respondent Panchayat did not act upon Ext.P20 request, and it is under those circumstances that the petitioner had approached this Court through the present writ petition, impugning Exts.P14 and P15 stop memos issued by the respondent Panchayat.

2. When the matter came up for orders before this Court on 30.08.2017, this Court took note of Exts.P18 and P19 orders of the Pollution Control Board, revoking its earlier orders of

closure, and granted an interim stay of operation of Exts.P14 and P15 for a period of one month. The said order was extended subsequently, and continues to be in force even today.

3. A counter affidavit has been filed on behalf of the respondent Panchayat, wherein, the stand taken is that the stop memos were issued by the respondent Panchayat based not only on the stop memos issued by the Pollution Control Board but also on account of the complaint received from persons in the locality, who pointed out that there was an indiscriminate discharge of effluents by the petitioner's units, into an earthen pit, which was kept uncovered, and that the effluents overflowed into a nearby thodu during the rainy season. Reliance is placed on a report submitted by the Health Inspector, to indicate that there was no facility for treatment of waste water in the units of the petitioner. The stop memos issued by the Panchayat are sought to be justified on the said averments in the counter affidavit of the 1<sup>st</sup> respondent. In the reply affidavit filed by the petitioner to the counter affidavit of the 1<sup>st</sup> respondent, it is stated that the revocation by the Pollution Control Board of its earlier closure orders was after an inspection that was conducted by the Pollution Control Board, when it was found

that the petitioner's units had complied with the conditions insisted in the consent granted to them by the Board. It is stated that, in the light of the withdrawal of the stop memos by the Pollution Control Board, there was no justification for the Panchayat continuing to insist on a stoppage of the activities at the petitioner's units, pursuant to Exts.P14 and P15 orders.

4. Through I.A.No.2822/2018 that has since been filed by the petitioner, he has produced Exts.P22 to P26 as additional documents in the writ petition. Ext.P24 is the copy of the receipt showing remittance of necessary application fee for renewal of Ext.P7 consent issued by the Pollution Control Board in respect of the powder coating unit of the petitioner, which, according to the petitioner, is the only unit that he intends to continue with, the Anodizing unit having been closed down by the petitioner. Ext.P22 is the letter submitted by the petitioner before the 1<sup>st</sup> respondent indicating the said facts. The petitioner has also produced as Ext.P25, a copy of the challan showing remittance of the necessary fee for renewal of the Factories and Boilers license, which has since expired. As regards the renewal of a D & O license for the period from 01.04.2017 to 31.03.2018, the petitioner has already sought for



a renewal, as evidenced by Exts.P10 and P11 receipts in respect of the fee paid to the respondent Panchayat. The prayer of the petitioner, at this stage, is only for a direction to the respondent Panchayat to consider the application for renewal of the D & O license, and also a direction to the Pollution Control Board to consider Ext.P24 application for renewal of the consent, in the light of the developments that took place in the petitioner's unit after the issuance of the stop memos by the Pollution Control Board as well as the Panchayat.

5. I have heard the learned counsel for the petitioner, the learned Standing Counsel for the Pollution Control Board, the learned Standing Counsel for the respondent Panchayat and also the learned counsel for the additional 5<sup>th</sup> respondent.

6. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that Exts.P12 and P13 stop memos issued by the Pollution Control Board, which formed the basis of Exts.P14 and P15 stop memos issued by the respondent Panchayat, which in turn are impugned in this writ petition, have since been revoked by Exts.P18 and P19 orders of the Pollution Control Board. No

doubt, even despite the revocation of Exts.P12 and P13 orders, the respondent Panchayat can independently take action against the petitioner if the petitioner is found to be violating any of the conditions of the D & O license issued to the petitioner. Inasmuch as Exts.P14 and P15 stop memos issued by the respondent Panchayat, relies only on the stop memos issued by the Pollution Control Board which have since been revoked, I am of the view that the respondent Panchayat should examine the issue with regard to the activities carried out by the petitioner's units in question, afresh, at the time of considering his application for renewal for the period from 01.04.2017 to 31.03.2018, as also for the subsequent period from 01.04.2018 to 31.03.2019. While examining the application for renewal of license, as aforesaid, it would be incumbent upon the respondent Panchayat to consider the report to be drawn up by the Pollution Control Board after an inspection of the premises of the petitioner, so as to ascertain whether the activities proposed by the petitioner are such as would comply with the conditions imposed by the Pollution Control Board in the consent issued to the petitioner, if renewed pursuant to Ext.P24 application submitted by the petitioner. To enable the respondent Panchayat to consider the application for renewal of

D & O license, as above, I direct the Pollution Control Board to depute an Engineer to the premises of the petitioner's units, so as to ascertain whether the activities in the unit would comply with the parameters stipulated by the Pollution Control Board in the consent already granted to the petitioner. The inspection at the premises of the petitioner's unit shall be after notice to the petitioner, and on a day when the unit is functioning and there is a discharge of effluents. The inspection shall essentially be with a view to ascertain whether, the effluents generated by the petitioner's unit, on a day when the unit is working, comply with the standards laid down by the Pollution Control Board for the effluents. The Board shall also intimate the Secretary of the respondent Panchayat of the date of inspection so that the Secretary of the Panchayat can also be present at the time of inspection. As already stated, the Board shall consider the application for renewal of consent (Ext.P24) in the light of the reports drawn by them pursuant to the inspection directed above, and the respondent Panchayat shall take a decision on the application for renewal of D & O license of the petitioner in the light of the report of the Pollution Control Board, pursuant to the inspection directed above. Taking note of the report of the Pollution Control Board, that has been filed in this writ petition,

which indicates that prior to the taking of remedial measures by the petitioner at his units, there was a discharge of untreated effluents from the premises of the petitioner, the report of the Pollution Control Board shall also mention the steps to be taken by the petitioner for discharging the untreated effluents that is deposited in the premises of the petitioner. These steps shall be with a view to mitigate any future pollution that may arise from a leaving of the said effluents in the present form. The entire exercise commencing with the inspection by the Pollution Control Board, of the premises of the petitioner, and ending with a decision on the application submitted by the petitioner for renewal of consent/D & O license shall be completed by the respective respondents within an outer time limit of one month from the date of receipt of copy of this judgment.

The writ petition is disposed as above.

**Sd/-**  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**