

Nilambur Traders Vs. Kerala State Pollution Control Board

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Court : Kerala

Decided On : Jan-31-2013

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Nilambur Traders

Respondent : Kerala State Pollution Control Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH THURSDAY, THE 31ST DAY OF JANUARY 2013 11TH MAGHA 193 WP(C).No. 11393 of 2012 (Y)

----- PETITIONER(S): ----- NILAMBUR TRADERS
A REGISTERED PARTNERSHIP FIRM HAVING ITS OFFICE AT B-12 & 13,
INDUSTRIAL ESTATE WEST HILL,KOZHIKKODE 67 005 REPRESENTED BY
ITS MANAGING PARTNER K.A.RAUF. BY ADVS.SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON SRI.MAHESH V.MENON RESPONDENT(S):
----- 1. THE KERALA STATE POLLUTION CONTROL BOARD
PARYARAM BHAVAN,THIRUVANANTHAPURAM.

2. THE ENVIRONMENTAL ENGINEER KERALA STATE POLLUTION CONTROL
BOARD DISTRICT OFFICE,3RD FLOOR,ZAMORINS SQUARE LINK
ROAD,KOZHIKKODE

002. BY ADV. SRI.JOICE GEORGE BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BO THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-01-2013, ALONG WITH WPC. 12763/2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 11393/2012 APPENDIX PETITIONER(S) EXHIBITS EXHIBIT P1. TRUE COPY OF THE CONSENT TO OPERATE ISSUED TO THE PETITIONER. EXHIBIT P2. TRUE COPY OF THE CONSENT VARIATION ORDER ISSUED TO THE PETITIONER. EXHIBIT P3. TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE 2ND RESPONDENT. EXHIBIT P4. TRUE COPY OF THE LETTER ISSUED BY THE SENIOR ENVIRONMENT ENGINEER OF THE KERALA STATE POLLUTION CONTROL BOARD. EXHIBIT P5. TRUE COPY OF THE NOTICE ISSUED BY THE POLLUTION CONTROL BOARD. EXHIBIT P6. TRUE COPY OF THE REPLY ISSUED BY THE PETITIONER. EXHIBIT P7. TRUE COP OF THE REPLY ISSUED BY THE PETITIONER ALONG WITH THE FLOW CHART. EXHIBIT P8. TRUE COPY OF THE ORDER ISSUED BY THE POLLUTION CONTROL BOARD. EXHIBIT P9. TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER. EXHIBIT P10 TRUE COPY OF CIRCULAR NO. PCB/HO/KKD/GEN/3211/03/2009 DATED 11 04.2012 ISSUED BY THE POLLUTION CONTROL BOARD. RESPONDENTS' EXHIBITS EXHIBIT R2(a) : TRUE COPY OF THE CIRCULAR NO. PCB/HO/KKD/GEN/3211/03/2009 DATED 11 04.2012 EXHIBIT R2(b) : TRUE COPY OF THE LETTER NO. PCB/KKD/DO/201/2007 DATED 02 06.2012. /TRUE COPY/ P.A. TO JUDGE. V. CHITAMBARESH, J ----- WP(C) NOs. 11393 & 12763 OF 201.----- Dated this the 31st day of January, 2013 JUDGMENT M/s. Nilambur Traders (the petitioner in WP(C) No. 11393/2012) and M/s. Fathima Rubber and Industries (belonging to the petitioners in WP(C) No. 12763/2012) are two industrial units engaged in the production of skim crepe (rubber). Both the units possess special licence issued by the Rubber Board to deal in rubber in the State of Kerala. Ext.P1 in WP(C) No. 11393/2012 and Ext.P4 in WP(C) No. 12763/2012 are the consent to operate the industrial units issued by the Kerala State Pollution Control Board (the Board for short). The consent to operate issued under the provisions of The water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981 and

The Environment (Protection) Act, 1986 were admittedly valid till 30.06.2012. But the consent so granted was revoked by Ext.P8 order dated 28.04.2012 in WP (C) No. 11393/2012 and Ext.P19 order dated 04.05.2012 in WP (C) No. 12763/2012 by the Board. It is so done on the basis of a 2 WP(C) No. 11393 & 12763 of 2012 circular issued by the Board to revoke the consent already granted to agencies engaged in the procurement of serum from latex centrifuging units for processing. The units in question who were engaged in procuring serum from latex centrifuging units for processing were neither put on notice nor heard in the exercise. The units who were issued with the consent to operate by the Board were entitled to be heard before the consent was revoked unilaterally when it was valid and current. No reason is also stated in Ext.P10 circular in WP(C) No. 11393/2012 as to why the consent already granted to the units engaged for procuring serum should be revoked with immediate effect.

2. The action of the Board in unilaterally revoking the consent already granted on the basis of a circular issued behind the back of the units is in short violative of the principles of natural justice. The petitioners ought to have been heard before the consent to operate granted is revoked on the basis of any circular issued by the Board. The circular should also reflect the reasons as to why the agencies hitherto engaged in the production of skim crepe (rubber) should be abruptly shut down. 3 WP(C) No. 11393 & 12763 of 2012 I quash Ext.P8 order in WP(C) No. 11393/2012 and Ext.P19 order in WP(C) No. 12763/2012 and direct the Chairman of the Board to reconsider the issue of renewal of consent. Ext.P10 circular in WP(C) No. 11393/2012 (marked Ext.P21 in WP(C) No. 12763/2012 also) is also quashed for the reasons already stated. The Chairman of the Board or the appropriate authority shall issue a fresh circular governing the field after hearing the petitioners also. The needful shall be done within a period of one month from the date of receipt of a copy of this judgment.

3. The right to run the industrial units in question would be dependent on the orders to be passed afresh by the Chairman of the Board in compliance with the directions in this judgment. The Writ Petitions are disposed of. V. CHITAMBARESH JUDGE ncd