

Rejeev P.K., vs Kerala State Pollution Control Board,

Rejeev P.K., vs Kerala State Pollution Control Board,

SooperKanoon Citation : sooperkanoon.com/1443998

Court : Kerala

Decided On : Feb-02-2022

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/2894/2022

Appellant : Rejeev P.K.,

Respondent : Kerala State Pollution Control Board,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
WEDNESDAY, THE 2ND DAY OF FEBRUARY 2022 / 13TH MAGHA,
1943 PETITIONERS :- 1 REJEEV P.K., AGED 43 YEARS
S/O.KRISHNANKUTTY, MANAGING PARTNER, M/S.UNITY
CONSTRUCTION, METHALA P.O., 2 NISHAD.E.M., AGED 42 YEARS
S/O.E.K.MUHAMMED ALI, MANAGING PARTNER, M/S.UNIVERSAL
INDUSTRIES, CHUNDAMALA WEST, VENGOLA P.O.,
PERUMBAVOOR VIA, ERNAKULAM DISTRICT. 3 P.A.SAJEEV, AGED
65 YEARS S/O.AYYAPPAN KUTTY, PARAMBIL HOUSE, ALLAPRA, BY
ADVS. BABU JOSEPH KURUVATHAZHA K.S.ARCHANA
M.G.SREEJITH MOHAMMED SHAFI.K RESPONDENTS :- 1 KERALA

STATE POLLUTION CONTROL BOARD, PLAMOOD, PATTOM P.O., THIRUVANANTHAPURAM-695 004, REPRESENTED BY ITS MEMBER SECRETARY. 2 CHIEF ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, GANDHI NAGAR, KADAVANTHRA, ERNAKULAM, KOCHI-682 020. 3 ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, DISTRICT OFFICE, PMC 20/733, GOVERNMENT HOSPITAL- KSRTC ROAD, NEAR KALLUMKAL AUDITORIUM, PERUMBAVOOR, ERNAKULAM DISTRICT, PIN-683 542. SRI.T.NAVEEN, SC, PCB THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -: 2 :-

JUDGMENT

Dated this the 2nd day of February, 2022 This writ petition is filed seeking the following reliefs :- (i) Issue a writ of mandamus or any other appropriate writ,

order or direction, commanding the 2nd respondent to

consider and dispose of Ext.P8 representation, forthwith, after affording an opportunity of being heard to the 3 rd respondent and petitioners.

(ii) Issue a writ of mandamus or any other appropriate writ,

order or direction, commanding the respondents to

permit the petitioners to operate their Hot Mix Plants during night hours, too, irrespective of as to whether the neighbouring Hot Mix Plant was operated or not.

(iii) Issue a writ of certiorari or any other appropriate writ,

order or direction, quashing the operation of Ext.P7, to

the extent restraining the petitioners from operating their plants during night hours and two nearly situated plants.

2. Heard the learned counsel for the petitioners and the learned Standing Counsel appearing for the respondents.

3. The learned counsel for the petitioners contend that the

conditions provided in Ext.P7 minutes to the effect that the hot mix plants should not be functioned during night hours and that the simultaneous functioning of more than one plant cannot be permitted is creating practical problems for the functioning of the plants which are intended for completing public works. The :- 3 :- petitioners submit that therefore Ext.P8 representation has been submitted by the petitioners before the 2 nd respondent, which is liable to be considered in accordance with law. Having heard the learned Standing Counsel also, there will be a direction to the 2nd respondent to take up, consider and pass orders on Ext.P8 representation submitted by the petitioners within a period of two weeks from the date of receipt of a copy of this judgment. This writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE Jvt/8.2.2022 :- 4 :- APPENDIX OF WP(C) 2894/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE CONSENT TO OPERATE DATED

17.01.2020 ISSUED BY THE 3RD RESPONDENT TO THE HOT MIX PLANT OF THE 1ST PETITIONER., VALID UPTO 29.09.2025. Exhibit P2 TRUE COPY OF THE CONSENT TO OPERATE DATED 06.08.2021 ISSUED BY THE 3RD RESPONDENT TO THE HOT MIX PLANT OF THE 2ND PETITIONER VALID UP TO 30.04.2022.

Exhibit P3 TRUE COPY OF THE CIRCULAR DATED 01.10.2015 ISSUED BY THE 1ST RESPONDENT. Exhibit P4 TRUE COPY OF THE LETTER DATED 14.01.2021 FORWARDED BY THE ASSISTANT ENGINEER PWD ROADS SECTION NORTH PARAVUR TO THE 3RD RESPONDENT. Exhibit P5 TRUE COPY OF THE GUIDELINES FOR HOT MIX PLANTS DATED 27.04.2021 ISSUED BY THE 1ST RESPONDENT. Exhibit P6 TRUE COPY OF THE PROCEEDING DATED 10.01.2022 OF THE 3RD RESPONDENT. Exhibit P7 TRUE COPY OF THE MINUTES INCORPORATED ALONG WITH EXT.P6. Exhibit P8 TRUE COPY OF THE REPRESENTATION DATED 12.01.2022 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.

