

Paulson Peter Vs. P.A. Pius

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Court : Kerala

Decided On : Jul-23-2010

Judge : J. Chelameswar, C.J. and; P.N. Ravindran, J.

Acts : [Contempt of Courts Act, 1971](#); ; Kerala Municipal Solid Waste (Management and Handling) Rules, 2000

Appeal No. : Con. Case (C) No. 707 of 2010 (S)

Appellant : Paulson Peter

Respondent : P.A. Pius

Advocate for Def. : Siby Mathew, Adv.

Advocate for Pet/Ap. : A.K. Haridas, Adv.

Judgement :

P.N. Ravindran. J.

1. The petitioner in W.P(C) No. 20842 of 2008 has filed this Contempt Case alleging that the respondent herein, who is the Secretary of Kottayam Municipality, has deliberately failed to comply with the undertaking given to this Court as recorded in Annexure A1 judgment.

2. The petitioner, who is a resident of Vadavathoor in Vijayapuram Grama Panchayat of Kottayam district, had filed W.P(C) No. 20842 of 2008 seeking a

direction to the Kottayam Municipality to shift the Municipal waste dumping yard from Vadavathoor to another appropriate place. He had also sought a direction to the Kottayam Municipality to strictly comply with the provisions of the Kerala Municipal Solid Waste (Management and Handling) Rules, 2000 and a direction to the District Collector, Kottayam to monitor the dumping and processing of waste by the Kottayam Municipality in the Municipal waste dumping yard at Vadavathoor. W.P(C) No. 20842 of 2008 was heard and disposed of along with a connected writ petition, W.P(C) No. 24243 of 2008.

3. The Kottayam Municipality filed a counter affidavit in W.P(C) No. 20842 of 2008 wherein it was stated that a parcel of land 3.5 acres in extent lying within the local limits of Viyajapuram Grama Panchayat is being used as dumping yard for solid waste for the past 70 to 75 years. It was stated that the Municipality has taken a decision to install a solid waste treatment plant and for the said purpose, 1.36 acres of land lying adjacent to the dumping yard was purchased and that after inviting tenders on an all India basis the work of constructing a solid waste treatment plant on Build, Operate and Transfer basis was awarded to M/s. Ramky Energy and Environment Ltd., Hyderabad. It was further stated that the plant has been constructed and commissioned and that it is functioning from July-August 2007. It was also stated that 1.30 acres of land was purchased for dumping the waste materials which cannot be converted into manure.

4. When W.P(C) No. 20842 of 2008 came up for hearing on 22.10.2008, the learned Counsel appearing for the Kottayam Municipality submitted that the additional land acquired (1.30 acres) for dumping waste materials which cannot be converted into manure, will be made available immediately and that the Municipality is confident of completing the erection/installation and commissioning of the second plant within six months. In the light of the said submission this Court disposed of W.P(C) No. 20842 of 2008 and W.P(C) No. 24243 of 2008 recording the submission of the Municipality that a waste disposal plant has already been erected and commissioned and that a second plant would be erected and commissioned within six months. The Municipality was also directed to adhere to and comply with all statutory mandates as provided under the Rules in the establishment of the plant and to ensure that the plants do work properly, without

causing any pollution in the area.

5. This Contempt Case is filed alleging that the Kottayam Municipality has deliberately failed to comply with the undertaking given to this Court that it will erect and commission a second plant within six months from 22.10.2008. It is stated that polluted water which oozes out from the treatment plant is kept in a storage tank which frequently overflows to nearby lands thereby polluting the adjacent lands. It is further alleged that no treatment plant has been erected for purification of the polluted water, that the landfilling by dumping inorganic waste is not properly done and that no effective steps have been taken to reduce the pollution.

6. The respondent has entered appearance and filed a counter affidavit. It is stated that the waste treatment plant installed by M/s. Ramky Energy and Environment Ltd. is working in full swing, that as the entire quantity of waste generated cannot be treated in the very same plant it is kept in the dumping yard and that inorganic waste is scientifically disposed of in the landfill site as per the Municipal Solid Waste (Management & Handling) Rules, 2000. As regards the overflowing of waste water from the treatment plant, it is stated that the Municipality is taking urgent steps to prevent the overflow and to provide a leachate treatment plant within six months, that the District Collector, Kottayam had convened a conference on 21.5.2010 and 3.6.2010, that certain remedial measures had been suggested in the said meeting and that the Municipality will be implementing the same in the right spirit. It is also stated that a crisis management cell was formed under the initiative and guidance of the District Collector, Kottayam and that remedial measures have been taken. The respondent has also stated that the leachate treatment plant could not be commissioned on account of the delay in obtaining sanction, paucity of funds and unwillingness of the residents of the locality to co-operate with the erection and commissioning of the leachate treatment plant. It is also stated that some of the residents of the locality have been frequently filing writ petitions and suits. The Secretary of the Municipality has further stated that immediate steps will be taken to prevent flow of waste water to the public roads and to install a leachate treatment plant.

7. We heard Sri. A.K. Haridas, learned Counsel appearing for the petitioner and Sri. Siby Mathew, learned Counsel appearing for the respondent. We have also gone through the pleadings and the materials on record. It is evident from the pleadings and the materials on record that the undertaking given to this Court on behalf of the Kottayam Municipality in W.P(C) No. 20842 of 2008 was that a leachate treatment plant would be erected and commissioned within six months from 22.10.2008. From the pleadings in W.P (C) No. 20842 of 2008 it is evident that the proposal was to erect and commission a solid waste treatment plant and to erect a leachate treatment plant to treat the effluents flowing out from the solid waste treatment plant. The pleadings also disclose that as undertaken to this Court, the Municipality has purchased 1.30 acres of land for use as a landfilling site. It is evident from the pleadings in the writ petition that the reference to a second plant was only to the leachate treatment plant and not to the solid waste treatment plant. From the counter affidavit filed in the Contempt Case it is also evident that on account of various litigations, such as institution of suits and writ petitions, the Municipality could not within the time limit of six months erect and commission the leachate treatment plant. From the pleadings and materials on record it cannot be stated that the respondent or the Kottayam Municipality have willfully failed to comply with the undertaking given to this Court.

In such circumstances we are of the considered opinion that no grounds have been made out warranting initiation of proceedings under the [Contempt of Courts Act, 1971](#) against the respondent. The Contempt Case is accordingly closed.