

(2009) 06 KL CK 0085

In the High Court Of Kerala

Case No : W.P (C) No. 36612 of 2008 (H)

M/s. Parayil Granular Industries

APPELLANT

Vs

Kumaranalloor Grama Panchayath and Others

RESPONDENT

Date of Decision : 02-06-2009

Acts Referred:

Kerala Industrial Single Window Clearance Boards And Industrial Township Area Development Act, 1999 — Section 10, 11, 2(e)

Citation : (2009) 2 KLJ 481 : (2009) 2 KLT 1012

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : Babu Joseph Kuruvathazha, for the Appellant; T.A. Shaji and M.K. Chandramohan Das (S.C.), for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The petitioner, which obtained Ext.P2 decision from the District Board constituted under the provisions of the Kerala Industrial Single Window clearance Boards and Industrial Township Area Development Act, 1999 (Act 5/2000), hereinafter, for short, the "Act", complains that the first respondent Grama Panchayat is not issuing licence acting on that decision. The Grama Panchayat has filed counter affidavit essentially taking the stand that the panchayat has not granted the licence on account of objections by 300 and odd persons in the locality.

2. It is not in dispute that the District Board has granted the order in favour of the petitioner. By virtue of Section 10 of the Act, notwithstanding anything contained in any other law for the time being in force, the authority concerned shall, on receipt of the recommendation of the state Board, District Board or Industrial Area Board, issue the clearances, licences or certificates applied for in accordance with the recommendations. It also provides that in the absence of such clearance being issued within ten working days, that would amount to a deemed licence. The Grama Panchayat, unless the context otherwise requires, is an authority for the purposes of the Act, going by the definition in Section 2(e).

The context in hand is as to whether an authority is bound by the recommendations of the District Board. There is no room for any contextual exclusion of the Panchayat, for that purpose, from the scope of the definition of "authority" under the Act.

3. The very purpose of constitution of the District Board, which is a single window clearance Board, is to resolve all matters relatable to the grant of licence for industrial purposes. The concept of single window clearance is brought in, to ensure that there is a comprehensive consideration of all relevant objections and also to see that a person who applies for a licence need not have to scout different executive or quasi-judicial jurisdictions under different legislations for the purpose of ultimately reaching at his goal, namely, the obtaining of due licence, once the settled procedures governed by the constitution and the laws provide for such a measure which lays down the administrative modality, that would, ultimately, result in the grant or refusal of recommendations, coupled with the obligations of the authorities to act in terms of those recommendations, it would be a situation of an unruly horse behaviour, if subsequent complaints are to be recognised merely because they are mass complaints. All lawful objections should be treated to have been heard and decided and concluded by the Single Window Clearance Board. This is all the more so because, an appellate jurisdiction lies with the state Board in terms of Section 11. No person who has obtained a clearance under the Act should be left high and dry, to run pillar to post for reliefs on the basis of such clearance. For the aforesaid reasons, the objections of the panchayat do not stand on the face of the recommendations of the Board.

In the result, this writ petition is allowed quashing Ext.P24 and directing the panchayat to immediately issue necessary licence, consent or orders following and acting upon the decision Ext.P22 issued by the Board.