

(2013) 07 KL CK 0146

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 15344 of 2012 (S)

Thurayilkunnu Action Council

APPELLANT

Vs

Karunagappallymunicipality and Others

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Citation : (2013) 07 KL CK 0146

Hon'ble Judges : Manjula Chellur, C.J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : R. Anilkumar, Smt. A. Arsha and Sri. P. Bani, for the Appellant; M. Ajay for R2 by Standing Counsel, Smt. Girija Gopal for R3 and R5 by Special Government Pleader, Sri. A.N. Rajan Babu and Sri. P. Gopalakrishnan (MVA) for R4 Advs., for the Respondent

Judgement

K. Vinod Chandran, J.—The above writ petition has been filed against the shell roasting Kiln conducted by the 4th respondent in Puthenthara South (Dharmapuram). The petitioner in the writ petition is an "Action Council", espousing the grievance of the local people who are grossly affected by the pollution caused by the operation of the shell roasting kiln. The petitioner is before this Court, since the complaint filed by the residents of the locality before the Municipal Secretary evoked no response. The representation was also forwarded to the 2nd respondent, the Pollution Control Board, without any result. The petitioner seeks appropriate direction commanding the 1st and 2nd respondent not to issue the license to start the unit, since the same is a health hazard to the residents of the locality. A statement has been filed on behalf of the 2nd respondent, District Medical Officer of Kollam, contending that though a No Objection Certificate was initially issued, to start a Lime Production Unit, the same was inspected when complaints were received after the unit started functioning. On inspection it was found that the emission of fumes from the unit causes suffocation and there is every chance of respiratory problems for the people of the locality. The 4th respondent having violated the conditions stipulated in the No Objection Certificate, it is contended by the D.M.O. that a

letter was sent to the Secretary of the 1st respondent Municipality requesting to take steps to stop the functioning of the Lime Producing Unit with immediate effect.

2. The report filed by the Environmental Engineer, Kerala State Pollution Control Board, District Office, Kollam is also placed on record. It is revealed from the said report that the unit operated by the 4th respondent is manufacturing Calcium Oxide by the thermal treatment of mussel shells brought from fishing areas. As a pollution control measure, it is also seen that the 4th respondent has provided a chimney at the height of 16 meter from the ground level for emission from the open kiln and draught is induced with the help of 1 HP blower. The kiln area is also adequately covered to prevent fugitive emission. The report says that the concentration levels of the pollutant parameters monitored at different points around the unit indicate that there is considerable quantity of Carbon Monoxide and Sulphur Dioxide in the emission. The report also specifically notices the odour emanating from the kiln, even at a radial distance of 265 meter from the kiln, causing serious health hazards to the residents of the locality.

3. The Board specifies that there is no specific limit or regulation for odour emission in India. The odour emission from the kiln is said to be caused by the release of Volatile Organic Carbons (VOCs), since the shell, which is the raw material, brought from mussel processing centres contains minute organic matters. Though no odour emission limits have been prescribed, the Board specifically points out the environmental issue in the locality causing social conflict between the industry and the people of the surrounding area. In the circumstances, the Board has listed out the measures, rather the different methods by which the health hazard could be controlled; but has not specifically favoured any such single method. The Board has left it to the 4th respondent to get expert advise and select one of the methods considering the technical parameters, like volume of gas being emitted, its flow rate, chemical composition of the gas-vapour mixture which causes the odour, temperature and water content of the emission etc. In the meanwhile Environmental Engineer of the Board has directed the 4th respondent to stop the activities in the unit till such facility for odour emission control is established and made functional. Needless to say that any such facility established by the 4th respondent would have to be examined by the Board to ensure that the health hazard and odour nuisance to the residents of the locality is effaced. In the light of the prohibitory orders issued by the District Medical Officer as also the Pollution Control Board, this Court is of the opinion that the above writ petition has served its purpose and no further orders need be issued.

In the above circumstances, the writ petition is closed, however, leaving liberty to the parties to agitate their cause, if any subsequent disruption of peaceful life is caused by the industry. No costs.