

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE S.V.BHATTI
&
THE HONOURABLE MR.JUSTICE BASANT BALAJI

Tuesday, the 7th day of March 2023 / 16th Phalguna, 1944
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682 011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD, ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES, HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O., THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.

ADDL. R7 IS SUO MOTU IMPEADED AS PER ORDER

DATED 07/03/2023 IN WPC

This Suo Motu writ petition again coming on for admission upon perusing the petition, and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL for R1 & R4 to R6 and of SRI.UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for Addl. R7, the court passed the following:

P.T.O.

**S.V.BHATTI
& BASANT BALAJI, JJ.**

W.P.(C) No.7844 of 2023

ORDER

(Dated this the 7th day of March 2023)

S V Bhatti J.,

Read order of even date passed at 11 am.

2. We take note of the appearance of the Secretary, Municipal Corporation of Cochin and also the Chairman of Kerala State Pollution Control Board. The officers, who are present assisting the court have not in any manner shied away from the stark reality, the residents of Kochi and neighbourhood are experiencing from the smoke/fumes emanating from the Brahmapuram Solid Waste Management Plant. The Chairman of Pollution Control Board and the Secretary of Corporation have informed the court the

amelioration, steps taken at the time the incident has happened till the time both of them are representing in the court. The Secretary, referring to the inputs received from the field staff at the site makes a statement that fire is completely brought under control and would be put out by 100%. He desires to place before the court a status report and being the Secretary of the Municipal Corporation, is willing to participate in the ongoing proceedings for proper implementation of Solid Waste Management and Handling Rules 2016. We place on record his effort and statement.

3. The Chairman of the Pollution Control Board, we are given to understand, is an expert in this domain, which is a perpetual nuisance for the comfortable existence of human beings. The directives issued by the Pollution Control Board are brought to our notice including the delegation of power now accorded to one of the officers of

the Pollution Control Board to initiate prosecution against the persons violating the law. We take note of it. Adverting to the prosecution for present, we make it clear that we do not want parties to get into a parallel litigation without actually addressing the proper issue which is the very essence of the suo motu case. If any person has committed a breach of law, that can be taken care of at the appropriate stage of these proceedings. However, this observation will not stop the Pollution Control Board from completing the formalities viz., issue of notice, required to be undertaken before initiating the prosecution.

4. After looking at the stage and manner of implementation of Solid Waste Management and Handling Rules, we have posed a question to the learned Advocate General on the necessity to have a holistic implementation of these Rules in the State of Kerala. The State of Kerala

claims to be a Number :1 in literacy in the Centre. This Bench would like to know whether the State of Kerala would like to be Number 1 in protecting the environment and implementing Solid Waste Management Handling Rules. This cannot be accomplished by a parcel of accomplishment either in a Corporation or a Municipality or a Grama Panchayath. There are enough number of water bodies in the State of Kerala and no one is listening to their plight. All water bodies are getting converted as dump sites. This possibility can be prevented when all the local authorities concerned with protecting the water bodies are issued proper directions.

5. We have seen the array of parties in the suo motu case. For convenience and comprehensive implementation of our directions, we are of the view that the Additional Chief Secretary, Local Self Government Department,

Government of Kerala is a necessary and proper party and impleaded as an additional 7th respondent. The idea in impleading the Local Self Government Department is to consider issuing directions to the said authority, so that the said authority in the exercise of its power can not only issue directions to the local bodies, but also ensure due and proper implementation in establishing the facilities required under the Rules. The personnel who are looking after the implementation of these Rules by our subsequent orders will be enabled, to on a case to case basis, impose penalty on erring establishments, individuals and also common facilities.

6. We would like to continue to have the assistance of the Chairman of the Kerala State Pollution Control Board, the Secretary and the District Collector, Ernakulam, hence we desire their presence. The case will be called at 1.45 pm

tomorrow.

7. The Secretary is given liberty, to file a status report and inform the court the immediate steps the Corporation will take for implementation of these Rules, like wise medium and long term measures proposed and implemented by the Corporation. These measures are supervised by the Court and Pollution Control Board.

The Special Government Pleader Mr. Unnikrishan is instructed to inform the newly added respondent to be present online tomorrow.

Hand over copy to all the parties.

Sd/-

S.V.BHATTI, JUDGE

Sd/-

BASANT BALAJI, JUDGE

dl/wpc7844/scbj