

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL SOUTHERN ZONE, CHENNAI**

Appeal No.35 of 2024 (SZ)

Mr. : Kasim Alayan : Appellant

Versus

The Water / Air Appellate Authority
Rep.by its Chairman,
Thiruvananthapuram and others : Respondent(s)

**REPORT FIELD BY THE ENVIRONMENTAL ENGINEER AS PER ORDER OF
THE HON'BLE NATIONAL GREEN TRIBUNAL**

REMA SMRITHI VK

STANDING COUNSEL FOR THE 2nd RESPONDENT:



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**



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: Appellant

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: Respondent(s)

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Dated this the 28th day of September 2024**STANDING COUNSEL FOR THE 2nd RESPONDENT**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL CHENNAI**Appeal No.35 of 2024 (SZ)**

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: Appellant

VS.

The Water / Air Appellate Authority
 Rep.by its Chairman,
 Thiruvananthapuram and others

: Respondent(s)

**REPORT FILED BY THE ENVIRONMENTAL ENGINEER, KERALA
 STATE POLLUTION CONTROL BOARD, DISTRICT OFFICE,
 PALAKKAD.**

I, Sri. J. Aurther Xavier, aged 55 years, S/o. Joseph, Now working as Environmental Engineer, Kerala State Pollution Control Board, District Office, Palakkad, 2nd respondent in the above appeal.

- 1) The appellant had applied for Consent to Operate of a saw mill on 18.09.2015. The document from Industries Department dated 17.07.2015 attached with the application showed that the total power required in the unit was 21 HP. Being an old unit, siting criteria for new saw mills were not made applicable. The house of the complainant was shown at 34 m from the centre of the building. Hence Consent to Operate dated 01.11.2015 was issued to the appellant which was renewed on 17.12.2021 and is valid upto 31.08.2026. A copy of the Consent and its renewal are produced herewith marked as Exhibit – R2 (A).
- 2) A complaint against the saw mill of the appellant was forwarded by the Secretary, Alanallur Panchayth, Palakkad, dated 26.07.2022. Based on this complaint, Board Officials inspected the site on 11.08.2022. The complaint was against the noise and dust pollution from the saw mill. The complainant, who is the 4th respondent



J. AURTHER XAVIER
 ENVIRONMENTAL ENGINEER
 Kerala State Pollution Control Board
 District Office, Palakkad

here, alleged that the unit had expanded, constructed building nearer to his house, installed new machinery and all these caused increase of pollution. In the inspection it was found that the distances from the boundary and from the complainant's house shown in the site plan attached with the Consent application submitted for R2 (A) consent was different from the actual distance available. This showed that the building of the unit has expanded without prior permission of the Board. The enclosure was also not adequate. Hence letter dated 19.08.2022 was issued to the Appellant to give explanation for violation of conditions of Consent 5.4 and 5.17. A Copy of the letter is produced herewith marked as Exhibit – R2 (B).

3) The appellant submitted letter dated 05.09.2022 in reply to the instructions given by the Board. In the reply appellant stated that the unit was operating with 36 HP from 2000-2001 financial year onwards and that he has not made any expansion. But in the attachments of this letter, in a letter submitted to the Secretary, Alanallur Panchayath, the appellant had stated that the band saw was installed in 2017, which is after obtaining, the consent. A copy of the letter dated 05.09.2022 is produced herewith marked as Exhibit – R2 (C).

4) On verifying the forest license and acknowledgment (Part – II) of the industries department of the year 2015, it was clear that at the time of grant up Consent on 01.11.2015. The machineries were Re-saw – 16 HP, Planer – 5 HP, Total 21 HP only. Copy of forest license and acknowledgment (Part – II) are produced herewith marked as Exhibit – R2 (D) and Exhibit – R2 (E) respectively. Hence as it was clear that expansions of machinery happened without prior permission from the Board after obtaining Consent to Operate, Show Cause Notice dated 13.10.2022 was issued to the appellant directing to show cause why Consent shall not be withdrawn for the following reasons.

- The saw mill has installed 16 HP band saw without adhering to distance criteria of 25m to residences and 10 m set backs.
- The band saw has not been shifted as per Boards instructions dated 19.08.2022.



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Kerala State Pollution Control Board

A copy of the notice dated 13.09.2020 is marked as Exhibit – R2 (F).

- 5) The appellant submitted reply dated 21.10.2021 to the notice in which he again stated that he has not installed new machinery after obtaining Consent of the Board. A copy of the reply dated 21.10.2022 is marked as Exhibit – R2(G).
- 6) In between Board Officials conducted inspection dated 11.10.2022 at the appellant's saw mill. Notice of inspection in Form-II as per Air (Prevention & Control of Pollution) Rules, 1981 was given to the appellant and it was duly acknowledged. Copy of the notice marked as Exhibit – R2(H). It was found in the inspection that the Boards instructions to replace the saw mill has not been complied.
- 7) Order dated 31.10.2022 was issued to the appellant withdrawing the Consent to Operate as per provisions of the Air (Prevention and Control of Pollution) Act, 1981 as he had violated the Consent conditions and not complied with Board's instructions. A Copy of the order is produced herewith marked as Exhibit – R2 (J). Copies of the inspection-reports of Board Officials of inspections dated 11.08.2022 and 11.10.2022 is produced herewith marked as Exhibit – R2(K).
- 8) The Board official has inspected the unit on 26.09.2024. During inspection the unit was not working and bushes have grown all around the unit and also noticed that the Board's instructions to relocate the band saw was not complied.

All the above are true to the best of my knowledge, information and belief.

Dated this the 28th day of September 2024.



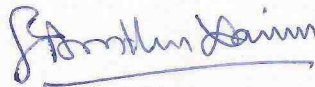
J. Aurther Xavier

DEPONENT

J. AURTHER XAVIER
 ENVIRONMENTAL ENGINEER
 Kerala State Pollution Control Board
 District Office, Palakkad

VERIFICATION

I, Sri. J. Aurther Xavier, aged 55 years, S/o. Joseph, now working as Environmental Engineer in the District Office - Palakkad of the Kerala State Pollution Control Board at Palakkad, duly authorized to file this reply on behalf of the Kerala State Pollution Control Board do hereby verify on this, the 28th day of September 2024, that all what is stated above is true and correct to the best of my knowledge, information and belief and is borne out from the records maintained in our office.



J. AURTHER XAVIER. Environmental Engineer,

District Office - Palakkad

Kerala State Pollution Control Board, Palakkad.



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ENVIRONMENTAL ENGINEER
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AFFIDAVIT

I, J. Aurther Xavier, aged 55 years, S/o. Joseph, residing at Annal Illam, Canal Pirivu, Pampam Pallam P.O, Palakkad, Kerala -678621, do hereby solemnly affirm and state as follows:

I am now working as the Environmental Engineer, District Office – Palakkad Kerala State Pollution Control Board at Palakkad. I am competent to and duly authorized to represent the 2nd respondent in the above case. I know the facts and circumstances of the case. The factual submissions made here underin paragraphs 1 to 8 of the reply are true and correct to the best of my knowledge, information and belief. The legal submissions made therein are made on advice received from Counsel. In these circumstances, it is just and necessary that this Hon'ble Tribunal may be pleased to accept the accompanying reply on file and it is so humbly prayed in the interests of justice in this case.

J. AURTHER XAVIER, DEPONENT

Solemnly affirmed and signed before me by the literate deponent personally known to meon this the 28th day of September 2024 at my office in Palakkad

STANDING COUNSEL FOR THE 2nd RESPONDENT

J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER
Kerala State Pollution Control Board
District Office, Palakkad

