

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

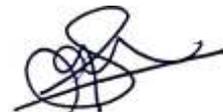
APPEAL No.:59 of 2024

Ignatious K.J. : Appellant/ 2<sup>nd</sup> Respondent

K.J. Joseph and another : Respondents/ Appellant and 1<sup>st</sup> Respondent

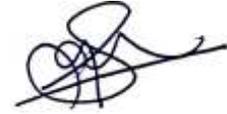
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Dated this the 20<sup>th</sup> day of March, 2025



Counsel for the 1<sup>st</sup> Respondent

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

APPEAL No.:59 of 2024

Ignatious K.J. : Appellant/ 2<sup>nd</sup> Respondent

K.J. Joseph and another : Respondents/ Appellant and 1<sup>st</sup> Respondent

**REPLY AFFIDAVIT FILED BY THE 1<sup>ST</sup> RESPONDENT**

I, K.J. Joseph, aged 51 years, son of Late K. M. Jacob, residing at Konnoth House, Mundamveli P.O., Kochi – 682507 do hereby solemnly affirm and state as follows:

1. All the averments and allegations in the memorandum of appeal are completely false and hence denied to the extent specifically admitted hereunder. The appeal is preferred merely on experimental basis, in order to coerce this Respondent. The appeal is neither maintainable on facts nor on law. The Appellant has preferred this Appeal with ulterior motives and is thus liable to be dismissed in *limine* with costs. It is pertinent to note that the Appellant has been engaged in this type of experimental litigation of which the 1<sup>st</sup> Respondent is aware are listed below:

Sl. No.:	Case Number	Case Name	Nature of disposal
1.	WP(C) No.:15231/ 2021	IGNATIUS K.J. vs. THE ENVIRONMENTAL ENGINEER AND OTHERS	Disposed
2.	W.P.(C).No.:18864/2021	IGNATIUS K.J. vs. KERALA STATE POLLUTION CONTROL BOARD AND OTHERS	Dismissed as not pressed



3.	O.S. No.:38 OF 2021	FANY PETER vs. JOSEPH K.J. AND OTHERS	Dismissed
4.	W.P.(C) No.:14928/2022	K.J. JOSEPH vs. THE ENVIRONMENTAL ENGINEER AND OTHERS	Disposed
5.	RP NO.:417 OF 2022	IGNATIOUS K J vs. K.J.JOSEPH AND OTHERS	Disposed
6.	CON. CASE(C) NO.: 2557 OF 2022	IGNATIOUS K J vs. SREELAKSHMY P.B	Closed
7.	WP(C) NO.:40447/2022	IGNATIOUS K.J. vs. CORPORATION OF COCHIN AND OTHERS	Disposed
8.	CON.CASE(C) NO.: 1766 OF 2023	IGNATIOUS K.J. vs. SREELAKSHMY P.B.	Closed
9.	WP(C) NO.:7398/2023	K.J JOSEPH vs. IGNATIOUS K.J.	Disposed
10.	WP(C) NO.:27607/2023	K.J JOSEPH vs. IGNATIOUS K.J.	Dismissed as infructuous
11.	WP(C) NO.:35341/2023	IGNATIOUS K.J. vs. KERALA STATE POLLUTION CONTROL BOARD AND OTHERS	Dismissed
12.	W.A.No.2140/2023	IGNATIOUS K.J. vs. KERALA STATE POLLUTION CONTROL BOARD AND OTHERS	Allowed to withdraw WP(C) No.:35341 OF 2023

2. Averments in paragraph 1 is not completely true and hence denied to the extent specifically admitted hereunder. Averment that a Chimney and big over has been installed is not completely true and hence denied. The

Bakery unit has been functioning for the last two decades. The Bakery unit is a small unit which deals with manufacturing and sale of snacks which include confectionary and bakery products. The Bakery has been well known particularly for the products Halwa and fruit cake. The business for the fruit cake is particularly during the Christmas season that is from October to December. The Bakery Unit has the license issued by the FSSAI as well as from the Cochin Corporation which being the local body. The Bakery Unit, which being a small unit, falls within the Green Category and thus did not require Consent to Operate. The Appellant who is the near neighbor, in order to nurse his goose for reasons best known to him alone, preferred numerous litigations against this Respondent before various forums. Accordingly, he preferred a complaint before the Pollution Control Board alleging bogus facts. It is then the 2<sup>nd</sup> Respondent Board required the Bakery Unit to apply for Consent to Operate. Accordingly, the 2<sup>nd</sup> Respondent directed the 1<sup>st</sup> Respondent to carry out material changes by replacing the existing machineries in the Bakery Unit to their satisfaction, which cost amounts to Rs.20 lakhs. One such replacement has caused the installation of the said Chimney and its accessories.

3. Averments in paragraphs 2 and 3 are not completely true and hence denied to the extent specifically admitted hereunder. Allegation that the first respondent operates a bakery in their nearby residence, creating smoke and unpleasant odors that disturb residents, including appellant is completely false and hence denied in toto. There is no smoke generated in any manner as alleged and is thus a baseless allegation stated with ulterior motive. The further averment that unpleasant odors are generated is completely false as the odor from the chimney is not exhausted to the open air instead passes through a water scrubbing system which was installed as per the direction of the 2<sup>nd</sup> Respondent Board to their specification and satisfaction. Thus,



the allegation to the extent is completely false and hence denied in toto. There has never been caused any disturbance to any person in vicinity and hence no complaint has been preferred by anyone except this Appellant till date. The further averment that the 2<sup>nd</sup> Respondent required the 1<sup>st</sup> Respondent is not completely true and hence denied. Upon receipt of the complaint made by the Appellant, the 2<sup>nd</sup> Respondent Board required the 1<sup>st</sup> Respondent to carry out the material alterations and to commence the same in tune with its directives. The 2<sup>nd</sup> Respondent upon being satisfied as to the compliance of its directives issued Annexure A2 and thereafter further issued Annexure A3.

4. Averments in paragraph 4 are not completely true and hence denied to the extent specifically admitted. Allegation that the baking operations generated smoke and foul smell is completely false and hence denied in toto. There is no matter as to cause generation of smoke or foul smell as alleged. The machineries installed in the Bakery Unit is in tune with the directives issued by the 2<sup>nd</sup> Respondent. The basis for this allegation can either be from the kitchen of the Appellant or from other residents in the vicinity as they have not installed any machineries which are in tune with the directives of the 2<sup>nd</sup> Respondent. Allegation that the 2<sup>nd</sup> Respondent found that the smell generated from the unit causes discomfort to the nearby residents is absolutely false and hence denied. There has never been a restrain as to the baking of bread and other items as alleged till date. Allegation to that effect is absolutely false and hence denied in toto. The further allegation as to the effect that the production of the products generated excessive smoke and odors causing sever air pollution is a bogus fact and is denied in toto. The 2<sup>nd</sup> Respondent has never reported any such issue as to, that the 1<sup>st</sup> Respondent caused air pollution. The allegation is absolutely baseless for the sole reason that the machineries installed to



mitigate the odor that may produce during the production has been done to the full satisfaction of the 2<sup>nd</sup> Respondent. It is pertinent to note that neither of the Respondents has as a matter of right to insist as to which product has to be produced, and which ought not to be produced as the products manufactured are legal and are not barred by any law. It is a fact that the smell generated mainly from frying or baking etc. is not declared as a toxic contaminant in any of the studies and nor does it have any standards. In addition, the FSSAI and the local body has issued license for the manufacturing of the same. The 2<sup>nd</sup> Respondent is vested only with the power to issue directives as to mitigate pollution if any and not to restrain any manufacturing activities which is not otherwise barred by any law. Upon receipt of Annexure A4, the 1<sup>st</sup> Respondent issued a reply letter stating all factual aspects. True copy of the reply letter issued by the 1<sup>st</sup> Respondent herein to the 2<sup>nd</sup> Respondent herein dated 24.02.2022 is produced herewith and marked as **Annexure R1(a)**.

5. Averment in paragraph 5 is not completely true and hence denied. The Appellant who preferred numerous litigations must have caused a sense of duress on the 2<sup>nd</sup> Respondent so as to issue Annexure A4.
6. Averment in paragraph 6 is not completely true and hence denied. Allegation that there was continued non-compliance is completely false and hence denied. Annexure A5 was issued solely for the reason stated in paragraph 5 of this Affidavit and is not repeated for the sake of brevity.
7. Averment in paragraph 6 is completely false and hence denied. Annexure A6 does not state anything as to cancellation of Annexures A1 or A2 and thus the averment to that effect is absolutely false and hence denied.
8. Averment in paragraphs 7 and 8 are not completely true and hence denied. The 2<sup>nd</sup> Respondent acted mechanically while issuing Annexure A7 for the reasons stated in paragraph 5 of this Affidavit. It is true that this



Respondent challenged Annexure A7, whereby the Air Appellate Authority was pleased to allow the Appeal. The Appellant herein/ 2<sup>nd</sup> Respondent therein had submitted before the Air Appellate Authority that he has no objection in manufacturing the prescribed number of snacks with the prescribed quantity of raw materials allowed as per the consent to operate. If the appellant therein (1<sup>st</sup> Respondent herein) is able to manufacture cake with the prescribed raw materials, the 2<sup>nd</sup> Respondent therein (Appellant herein) has no objection in manufacturing cake if the Appellant therein is able to manufacture cake and other snacks with the available raw materials allowed in the consent to operate. This would cut the arguments of the Appellant herein at the threshold as they expressed their consent in baking cakes by this Respondent. Hence, there can be no doubt as to if there is the presence of any smoke or odor as alleged.

9. The Appellant has preferred a series of litigation as enlisted in paragraph 1 of this Counter Affidavit. The Appellant herein had preferred a Writ Petition before the Hon'ble High Court seeking directions to close down the Bakery Unit. True copy of the Judgment in W.P.(C) No.:15231 of 2021 on the files of the Hon'ble High Court of Kerala dated 10.08.2022 is produced herewith and marked as **Annexure R1(b)**. Thereafter the Appellant herein preferred another writ petition seeking similar relief, and thus the same was not pressed. True copy of the Judgment in W.P.(C) No.: 18864 of 2021 on the files of the Hon'ble High Court of Kerala dated 10.12.2021 is produced herewith and marked as **Annexure R1(c)**. The Appellant herein along with others preferred a suit for injunction before the Munsiff's Court, Kochi. True copy of the Judgment in O.S. No.:38 of 2021 on the files of the Munsiff's Court, Kochi dated 16.12.2023 is produced herewith and marked as **Annexure R1(d)**. When the 2<sup>nd</sup> Respondent issued Order of withdrawal of consent dated 25.04.2022, this Respondent



preferred writ petition challenging the same. True copy of the Judgment in W.P.(C) No.:14928 of 2022 on the files of the Hon'ble High Court of Kerala dated 29.04.2022 is produced herewith and marked as **Annexure R1(e)**. The Appellant herein preferred a review petition against Annexure R1(e) judgment. True copy of the Order in R.P. No.:417 of 2022 on the files of the Hon'ble High Court of Kerala dated 13.06.2022 is produced herewith and marked as **Annexure R1(f)**. In light of Annexure R1(f), the Appellant herein preferred application for initiating contempt proceedings. True copy of the Judgment in Con. Case(C) No.: 2557 of 2022 on the files of the Hon'ble High Court of Kerala dated 15.02.2023 is produced herewith and marked as **Annexure R1(g)**. Thereafter the Appellant herein preferred writ petition before the Hon'ble High Court seeking directions against the Cochin Corporation. True copy of the Judgment in W.P.(C) NO.:40447 of 2022 on the files of the Hon'ble High Court of Kerala dated 14.12.2022 is produced herewith and marked as **Annexure R1(h)**. As Annexure R1(h) did not bring in the desired result, the Appellant herein preferred contempt proceedings again in R.P. No.:417 of 2022, which was numbered as Con. Case(C) No.: 1766 of 2023. True copy of the Judgment in Con. Case(C) No.: 1766 of 2023 on the files of the Hon'ble High Court of Kerala dated 02.11.2023 is produced herewith and marked as **Annexure R1(i)** When this Respondent preferred Appeal No.:11 of 2022 before the Air Appellate Authority, Thiruvananthapuram, an application to stay the Order of the Pollution Control Board was also preferred. Upon admission, the learned Appellate Authority was pleased to grant an Interim Relief as prayed for. Thereafter the said Order was vacated by virtue of the Order of the Air Appellate Authority dated 04.08.2023. The impugned Order was challenged before the Hon'ble High Court of Kerala by preferring W.P.(C) No.:7398 of 2023. When the matter came for admission on 03.03.2023, the



Hon'ble Court was pleased to grant an interim relief as prayed for. True copy of the Order in W.P.(C) NO.:7398 of 2023 on the files of the Hon'ble High Court of Kerala dated 03.03.2023 is produced herewith and marked as **Annexure R1(j)**. True copy of the Judgment in W.P.(C) NO.:7398 of 2023 on the files of the Hon'ble High Court of Kerala dated 21.06.2023 is produced herewith and marked as **Annexure R1(k)**. On 04.08.2023, the Pollution Control Board passed an Order. As there was no sitting before the learned Air Appellate Authority, Thiruvananthapuram, the impugned Order dated 04.08.2023 was challenged before the Hon'ble High Court of Kerala by preferring W.P.(C) 27607 of 2023. When the matter came up for admission, the Hon'ble Court was pleased to grant interim relief. True copy of the Order in W.P.(C) No.:27607 of 2023 dated 18.08.2023 on the files of the Hon'ble High Court of Kerala is produced herewith and marked as **Annexure R1(l)**. Meanwhile, when the regular sitting commenced before the learned Air Appellate Authority, Thiruvananthapuram, the said Writ Petition was not pressed. True copy of the Judgment in W.P.(C) No.:27607 of 2023 dated 23.11.2023 on the files of the Hon'ble High Court of Kerala is produced herewith and marked as **Annexure R1(m)**. As this Respondent was in dire need of Order so as to bake cakes during the Christmas season in the year 2023, this Respondent prayed for an interim Order. The learned Air Appellate Authority, Thiruvananthapuram, was pleased to grant an Interim Order in I.A. No.:39 of 2022 in Appeal No.:11 of 2022 dated 21.09.2023. True copy of the Order in I.A. No.:39 of 2022 in Appeal No.:11 of 2022 dated 21.09.2023 is produced herewith and marked as **Annexure R1(n)**. The Appellant herein thereafter preferred W.P.(C) No.: 35341 of 2023 before the Hon'ble High Court of Kerala challenging Annexure R1(n). True copy of the Judgment in W.P.(C) No.: 35341 of 2023 on the files of the Hon'ble High Court of Kerala dated



23.11.2023 is produced herewith and marked as **Annexure R1(o)**. Upon dismissal of W.P.(C) No.: 35341 of 2023, the Appellant herein preferred a Writ Appeal before the Hon'ble High Court of Kerala. When the matter came up for admission, the Appellant therein sought permission to withdraw W.P.(C) No.: 35341 of 2023. True copy of the Judgment in W.A.No.2140 of 2023 on the files of the Hon'ble High Court of Kerala dated 14.12.2023 is produced herewith and marked as **Annexure R1(p)**.

10. Averments in Grounds A to E are absolutely false, baseless and without merit and are hence denied in toto. Annexure A8 unfolds all the blatant allegations of the Appellant herein. Allegation that the conduct of the 1<sup>st</sup> Respondent will show that he is not in the habit of following the conditions is absolutely baseless and hence denied in toto. This Respondent has invested an amount of Rs.20 lakhs in complying with all the conditions and made all material alterations to the satisfaction of the 2<sup>nd</sup> Respondent Board. All these have been done by this Respondent to make their livelihood. Averment in Ground D that the unit is working without any industrial license has cleverly been ignored. This Respondent is unaware whether it was ignored by the Air Appellate Authority, but it is pertinent to note that the Appellant herein had never raised such a contention before any forum till date despite having preferred a series of litigations before preferring this impugned Appeal. This Respondent has procured all necessary licenses or permissions or consent so as to conduct the business. The further averment in Ground E is absolutely false and hence denied. The Air Appellate Authority specifically had taken note of the point that the Appellant herein (2<sup>nd</sup> Respondent therein) has no objection in manufacturing cake if it is done in tune with the Consent granted by the Respondent Board. The further averment that no such concession was given is absolutely false and hence denied in toto. *Assume without*



*admitting*, had the Appellant herein not consented as stated in Annexure A8, the Appellant herein would have initiated appropriate proceedings before the Air Appellate Authority. The reluctance on the part of the Appellant herein so as to prefer appropriate application before the learned Air Appellate Authority acts as *Res ipsa loquitur*. The attempt of the Appellant is to prefer litigations after litigations for the sole reason so as to nurse his goose. The maintainability of this impugned Appeal is doubtful when the Appellant herein expressed his consent before the Air Appellate Authority.

11. This Respondent has always been ready and willing to abide by the provisions of law. This Respondent solely depends upon the income generated from the conduct of business in this business unit. The special products for which this Bakery Unit is well known are Halwa and fruit Cake. The Fruit Cake is particularly manufacture during the Christmas season, which is one of the major source of income. The entire wait for a year is to bake cakes during the Christmas season and generate income so as to repay the amount availed by way of credit facility for the conduct of this business. If the same is denied, it not only affects the sole source of income, but in addition puts in peril the re-payment of the credit facility availed. The Appellant herein is not entitled to any of the prayers as prayed for before this Hon'ble Tribunal. The Appeal does not contain any substance forming basis of a substantial question of law to be answered by this Hon'ble Tribunal. It is evident from Annexure A8 and from the Memorandum of Appeal, that the Appellant's attempt is to approbate and reprobate in accordance with his whims and fancies. Thus, this Respondent humbly prays that if the prayer of the Appellant herein is allowed, this Respondent will be put to untold prejudice and hardship directly affecting the sole source of income.



12. Hence, in the interest of justice, it is just and fair that the Appeal be dismissed with costs to this Respondent.

All facts stated above are true and correct.

Dated this the 20<sup>th</sup> day of March, 2025



Deponent

Solemnly affirmed and signed before me by the deponent, who is personally known to me on this the 20<sup>th</sup> day of March, 2025 at my office.



Sajen Thampan, Advocate, K/175/2017, Ernakulam

From

K.J. Joseph,  
Proprietor, M/s St. Mary's Bakery,  
Konnoth House,  
Mundamveli. P.O.,  
Kochi – 682 507.

To

The Environmental Engineer,  
Kerala State Pollution Control Board,  
District Office – I, Ernakulam,  
Gandhi Nagar, Kochi – 682 020.

SIR,

Sub: - M/s ST. Mary's Bakery, Mundamveli – regarding

Ref: - (1) Consent No. G2OERRGT070172 issued by the KSPCB  
(2) Your Office Letter No PCB/EKM/DO-1/OA-32/2021 dated 28.01.2022  
(3) Show Cause Notice No. PCB/EKM/DO-1/OA-39/21 dated 18.02.2022

The notice under Ref.No.3 was received by me on 23.02.2022. As per the aforesaid notice I am required to show cause for not withdrawing the consent issued in favour of the subject Bakery Unit for the alleged violation of Clause 5.3 of the Consent Order. In this regard it may kindly be noted that the Bakery Unit since the issuance of the Consent by the Board during March,2021 till date is functioning in compliance with the directions issued by the Board from time to time and the terms and conditions of the consent to operate issued by the Board.

The Bakery Unit started to function in the year 2010. The Bakery Unit is functioning on the strength of the licence issued by the Kochi Corporation, FSSAI licence issued by the Food Safety and Standards Authority and also the Consent to Operate granted by the Board. The Bakery Unit comes under the Green Category which does not require the consent to operate from the Board. However pursuant to the complaint regarding alleged pollution due to the functioning of the Bakery Unit, as required by the Board an application for consent to operate was applied for which was initially granted for a period of 3 months from 30.03.2021. The Bakery Unit implemented all the directions issued by the Board for controlling the alleged pollution problems. It is on being satisfied about the compliance with the directions issued by the Board the validity of consent issued in favour of the Bakery Unit was further extended on condition that the Bakery Unit must install the Scrubbing System, the additional control measure suggested by the Board for controlling the smell and air pollution issues, if any, generated on account of the functioning of the Bakery Unit. The same was also installed and the system is fully functional. Presently the consent is valid up

to 31.03.2025. The Bakery Unit has complied with the directions of the Board issued from time to time is clearly mentioned in the report dated 15.09.2021 filed before the Hon'ble High Court in WPC No. 15231 of 2021.

On the basis of the direction issued by the Hon'ble High Court in WPC No.15231 of 2021 inspection was conducted in the Bakery Unit on 15.12.2021 and 18.12.2021. Thereafter letter No.PCB/EKM/DO-1/OA-32/2021 dated 03.01.2022 was issued requiring the Unit to stop production of the cake and bread in the unit; stoppage of functioning of the Bakery Unit during the night time; operation of the scrubber system throughout the functioning of the unit etc. The letter was replied by letter dated 10.01.2022 informing the Board that the functioning of the unit is in terms of the consent to operate issued by the Board; complying with the directions issued by the Board from time to time; production of cake is carried out in A/C room; production of bread is in electric oven; thus, being no chance of air pollution; scrubber system is fully functional during the working of the Bakery Unit etc. Thereafter I was issued with letter under Ref.No.2 requiring me to stop the production of cakes in the Bakery Unit.

Again on 10.02.2022 there was inspection conducted by the Board. The inspecting official was informed about the real facts on enquiry. However, it is based on the inspection conducted on 10.02.2022 the notice under Ref No.3 is issued. In this regard it is submitted that there is no regular production of cakes in the Bakery Unit. The production of cake is only seasonal and occasional. Since December 2021 there was no production of cake in the Bakery Unit. For the production of cakes A/C room is used which nullifies the chance of strong smell as alleged by the complainants. The scrubber system is also there which was installed as the additional measure suggested by the Board for making the chance of air pollution to zero level. The consent to operate issued in favour of the Bakery Unit does not prescribe any specific standard as the cut off of air pollutant. Further the smell generated from frying, baking etc, is not declared as toxic contaminants and does not have any specific standards also.

The Board may consider that the Bakery Unit is the only means of livelihood of my family consisting of my wife, two children and aged mother. I am suffering from Dilated Liver issues and is undergoing treatment since last three years. The above being the real facts it is requested that the show cause notice may kindly be withdrawn accepting this explanation and the Bakery Unit hereby undertakes that the functioning of the Bakery Unit will be strictly complying with the directions/instructions of the Board; which was scrupulously followed till date.

Dated this the 24<sup>th</sup> day of February, 2022.

This is the true copy of the document referred to and marked as Annexure R1(a)



Advocate

K.J. JOSEPH



**IN THE HIGH COURT OF KERALA AT ERNAKULAM****PRESENT****THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN****WEDNESDAY, THE 10<sup>TH</sup> DAY OF AUGUST 2022 / 19TH SRAVANA, 1944****WP(C) NO. 15231 OF 2021****PETITIONER:**

IGNATIOUS K.J.,  
AGED 58 YEARS,  
S/O. OF K.I. JOHN,  
KOLLAMPARAMBIL, MUNDAMVELI P.O., KOCHI-682507.

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR(K/782/1989)-14410

**RESPONDENTS:**

- 1 THE ENVIRONMENTAL ENGINEER,  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICER, GANDHI NAGAR, KOCHI-682020.
- 2 THE ASSISTANT HEALTH OFFICER,  
KOCHI MUNICIPAL CORPORATION, ZONAL OFFICE,  
MOULANA AZAD ROAD, STAR JUNCTION,  
MATTANCHERRY, KOCHI-682002.KOCHI-
- 3 THE COMMISSIONER OF POLICE,  
COMMISSIONERATE KOCHI, PARK VIEW, MARINE DRIVE,  
ERNAKULAM-682011.
- 4 THE STATION HOUSE OFFICER,  
MATTANCHERRY POLICE STATION, BAZAR ROAD,  
NEAR GOVERNMENT W AND C HOSPITAL,  
MATTANCHERRY, KOCHI-682002.
- 5 K.J. JOSEPH,  
S/O. K.M. JACOB, 22/214,  
KANNOTH HOUSE, MUNDAMVELI-682507.

BY ADVS.  
SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,  
P.Y.SHEHEERA  
N.SATHEESH  
C.G.PREETHA  
DR.ABHILASH O.U.(K/000125/2019)  
N.N.SUGUNAPALAN (SR.)



WP(C) NO. 15231 OF 2021 -2-

SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 10.08.2022, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



WP(C) NO. 15231 OF 2021 -3-

### **JUDGMENT**

Above writ petition is filed with the following prayers:

- "i. To issue a writ, direction or order in the nature of mandamus or such other appropriate writ, direction or order directing the respondents 3 and 4 to take immediate steps to seal by locking the industrial unit restraining the working of the unit of the 5<sup>th</sup> respondent in implementation of Exhibits P1 to P3 orders, forthwith;
- ii. such other relief's which this Hon'ble Court deems fit and necessary in the circumstances of the case and the costs of this case."

2. When this writ petition came up for consideration the Standing Counsel appearing for the second respondent submitted that the license under Section 447 of the Municipality Act is already issued to the fifth respondent.

3. Learned counsel for the petitioner submitted



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that there is no license issued under Section 448 of the Municipality Act. If there is any further grievance to the petitioner, the petitioner is free to submit a representation before the second respondent narrating his grievance and there can be a direction to the second respondent to consider the same after giving an opportunity of hearing to the petitioner and the fifth respondent.

Therefore, this writ petition is disposed of with the following directions:

- (i) The petitioner is free to submit a fresh representation before the second respondent narrating his grievance within two weeks from the date of receipt of a copy of the judgment.
- (ii) Once such a representation is received the second respondent will consider the same and pass appropriate orders in it after giving an opportunity of hearing to the petitioner and the fifth respondent as expeditiously as possible at



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any rate within one month from the date of receipt of the representation.

(iii) All the other contentions of the petitioner raised in this writ petition are left open.

Sd/ -

**P . V . KUNHIKRISHNAN**  
**JUDGE**

VV



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**APPENDIX OF WP(C) 15231/2021**

**PETITIONER EXHIBITS**

- Exhibit P1 TRUE PHOTOSTAT COPY OF THE STOP MEMO ISSUED BY THE 2ND RESPONDENT DATED 17/12/2020.
- Exhibit P2 TRUE PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT TO THE 5TH RESPONDENT DATED 22/07/2021.
- Exhibit P3 TRUE PHOTOSTAT COPY OF THE ORDER IN IA NO.3/2021 IN OS NO.38/2021 OF THE PRINCIPAL MUNSIFF, KOCHI, DATED 25/06/2021.
- Exhibit P4 TRUE PHOTOSTAT COPY OF THE REPRESENTATION MADE BY THE PETITIONER AND OTHERS TO THE 3RD RESPONDENT, DATED 20/07/2021.
- Exhibit P5 SOME PHOTOGRAPHS OF THE BUILDING CC.22/214 WHERE THE BORMA IS WORKING SHOWING CHIMNEY, DUMPING OF WASTE IN THE PUBLIC ROAD, AND CLOSENESS TO THE BUILDING.
- Exhibit P6 TRUE PHOTOGRAPH OF THE ST. MARY'S BAKERY, AT ILLICHUVADU JUNCTION.
- Exhibit P7 GOOGLE EARTH IMAGE OF THE SAID TWO BUILDINGS, ONE TO WHICH WHERE THE BORMA IS ESTABLISHED TO WHICH TRADE LICENSE AND THE OTHER TO WHICH CONSENT IS ISSUED AND NO LICENSE IS ISSUED TO THE 5TH RESPONDENT.

**RESPONDENT EXHIBITS**

- ANNEXURE R1(A) TRUE COPY OF THE LETTER NO.PCB/EKM/DO-1/GEN-13/17 DATED 19.01.2021 ISSUED BY



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THE BOARD

- ANNEXURE R1(B) TRUE COPY OF THE MINUTES OF THE HEARING CONDUCTED ON 12.02.2021
- ANNEXURE R1(C) TRUE COPY OF THE COMMUNICATION NO.PCB/EKM/DO-1/OA-32/2021 DATED 01.03.2021 ISSUED BY THE BOARD
- ANNEXURE R1(D) TRUE COPY OF THE CONSENT TO OPERATE DATED 30.03.2021 ISSUED BY THE BOARD
- ANNEXURE R1(E) TRUE COPY OF THE LETTER NO.PCB/EKM/DO-1/OA-32/2021 DATED 22.07.2021 ISSUED BY THE BOARD
- ANNEXURE R1(F) TRUE COPY OF THE CONSENT VARIATION ORDER ISSUED BY THE BOARD DATED 31.08.2021
- Exhibit R5(a) A TRUE COPY OF THE LICENSE ISSUED BY THE KOCHI MUNICIPAL CORPORATION FOR THE PERIOD 2021-2022
- Exhibit R5(b) A TRUE COPY OF THE LETTER DATED 15-07-2021 TO THE 1ST RESPONDENT ENVIRONMENT ENGINEER
- Exhibit R5(c) A TRUE COPY OF CONSENT NO.G20ERRCV0750172 ISSUED BY KSPCB ON 31.08.2021.
- Exhibit R5(d) A TRUE COPY OF THE REPLY SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 1ST RESPONDENT DATED 10.01.2022
- Exhibit R5(e) A TRUE COPY OF FOOD PRODUCTION LICENSE ISSUED IN RESPECT OF THE 5TH RESPONDENT BAKERY IN TERMS OF SECTION 31 OF THE FOOD SAFETY AND STANDARDS ACT, 2006 BY THE DESIGNATED OFFICER APPOINTED UNDER SECTION 36 OF THE FOOD



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SAFETY AND STANDARDS ACT, 2006

Exhibit R5(f) A TRUE COPY OF THE COMMUNICATION  
ISSUED BY THE 1ST RESPONDENT AND  
ADDRESSED TO THE 5TH RESPONDENT DATED  
28.01.2022

This is the true copy of the document referred  
to and marked as Annexure R1(b)

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

FRIDAY, THE 10<sup>TH</sup> DAY OF DECEMBER 2021 / 19TH AGRAHAYANA, 1943

WP(C) NO. 18864 OF 2021

**PETITIONER:**

IGNATIUS K.J.  
AGED 58 YEARS, SON OF K. JOHN,  
KOLLAMPARAMBIL, MUNDAMVELI P.O, KOCHI 682 507

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR

**RESPONDENTS:**

- 1 KERALA STATE POLLUTION CONTROL BOARD  
PATTOM P.O, THIRUVANANTHAPURAM 605 004,  
REPRESENTED BY ITS SECRETARY
- 2 THE ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE, X7FV+WV7,  
KADAVANTHARA, MIG AND HIG COLONY,  
GANDHI NAGAR, ERNAKULAM 682 020
- 3 K.J JOSEPH  
S/O. K.M JOSEPH, 22/214,  
KANNOTH HOUSE, MUNDAMVELI P.O,  
KOCHI 682 507

BY ADV PRIYA CAROL  
SRI.T.NAVEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
10.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP (C) NO. 18864 OF 2021

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**T.R. RAVI, J.**

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W. P. (C). No. 18864 of 2021  
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Dated this the 10<sup>th</sup> day of December, 2021

**JUDGMENT**

Learned counsel for the petitioner submits that the petitioner is not intending to prosecute the matter. Hence, the writ petition is dismissed as not pressed.

Sd/-

**T.R.RAVI**  
**JUDGE**

Pn

This is the true copy of the document referred to and marked as Annexure R1(c)

A handwritten signature in black ink, appearing to be the name of the Advocate.

Advocate

**IN THE COURT OF THE MUNSIFF, KOCHI****Present:****Smt. Vincy.T.V, Principal Munsiff**Saturday, the 16<sup>th</sup> day of December, 2023/ 25<sup>th</sup> Agrahayana, 1945.**O.S. No. 38/2021****Plaintiffs:-**

1. Fany Peter, aged 36 years, S/o. C.A Joseph, Chettivelikkakathu House, Athipozhi, Mundamveli S.O, Kochi – 682 507.
2. Antony Babu, aged 44 years, S/o. George C.A, Chettivelikkakathu, Mundamveli S.O, Kochi – 682 507.
3. Reena, aged 47 years, W/o. Benny, Kuttukadu House, Janakeeya Road, Mundamveli S.O, Kochi – 682 507.
4. Beena Peter, aged 54 years, C/o. K.S Peter, Kakariyil House, Illichoude Road, Mundamveli S.O, Kochi – 682 507.
5. Ignatious K.J, aged 56 years, S/o. K.L John, Kollamparambil, Mundamveli P.O, Kochi - 682507.
6. James C.X, aged 70 years, S/o. Xavier, Choothaparambil Hosue, Mundamveli S.O, Kochi - 682 507.
7. Paily Philomina, aged 56 years, W/o. Joseph Vincent, Veliparambil, Athipozhi, Mundamveli S.O, Kochi – 682 507.
8. Benny E.J, aged 52 years, S/o. Joseph, Eriyangalath, Athipozhi Road, Mundamveli S.O, Kochi – 682507.

By Adv. P.K George

**Defendants:-**

1. Joseph K.J @ Shalappan, S/o. K.M. Jacob, H.No. 22/214, (Proprietor of St. Mary's Bakery, Illichuvadu Junction), residing at Kannothe House, Mundamveli S.O, Kochi – 682 507.

2. Kochi Municipal Corporation, represented by its Secretary, Corporation Building, Near Ernakulam Boat Jetty, Kochi – 682 013.
3. Assistant Executive Engineer, Kochi Municipal Corporation, Fort Kochi Zonal Office, Fort Kochi, Kochi - 682 001,
4. Assistant Health Officer, Mattanchery Zonal Office, Kochi Municipal Corporation, Health Section, Mattanchery, Kochi – 682 002.
5. Kerala State Pollution Control Board, represented by its Secretary, Pattom P.O, Thiruvananthapuram – 695 004.
6. Environmental Engineer, Kerala State Pollution Control Board, District Office, Gandhi Nagar, Ernakulam, Kochi – 682 020.
7. Chief Inspector, Office of the Inspector of Factories and Boilers, Civil Station, Kakkanad, Ernakulam – 682 031.

D1 By Adv. Mathew Alappatt

D5 and D6 By Adv. M.N Sanjith

D7 By Adv. K.A Saleem

D2 to D4 No Vakalath

This suit having been finally heard on 28.11.2023 and the court on 16.12.2023 passed the following:-

## **JUDGMENT**

The suit is filed for permanent prohibitory injunction.

2. The suit is instituted under Sec.91 of the Code of Civil Procedure alleging subject matter of the suit is of public nature apprehending the acts of the 1<sup>st</sup> defendant involved with public nuisance and other wrongful acts which are affecting the public. The plaintiffs are the residents of Ward No.22 of Kochi

Municipal Corporation, which is a thickly populated residential area situates on the northern side of Mundamveli, Kochi. The 1<sup>st</sup> defendant is the proprietor of St. Mary's Bakery, Illichuvadu Junction, Athipozhi, Mundamveli. Near to the bakery, the 1<sup>st</sup> defendant owns and possesses an extent of 5 cents comprised in Sy.No.279/2 of Rameswaram Village, Kochi Taluk with a residential building bearing No.CC 22/214, it is the plaint A schedule property and it has boundary walls on 4 sides. This was being used as the residence for the labourers of the North Indian workers of the 1<sup>st</sup> defendant. High power diesel generators and large Borma and other furnaces are installed in the plaint A schedule property. The 1<sup>st</sup> defendant covered the entire compound of plaint A schedule property without leaving an inch of open space around in order to block the visibility of the neighbours. Two gaint size square type exhaust system with a width of 45 cms approximately and a height of less than 10 mtrs are there at the rear side of the plaint A schedule property. Two other such smaller exhaust systems are set up inside the building of plaint A schedule. 1<sup>st</sup> defendant and his brother are having many numbers of bakeries in and around Kochi and the 1<sup>st</sup> defendant manufacturing and processing food products in this unit running in plaint A schedule. Hence considerable quantity of meat and other non-veg foods are being processed in the unit on daily basis apart from other food products. Plaintiffs are the immediate neighbours of plaint A schedule property. Plaintiffs

and other residents of the locality started to feel suffocation and fell ill because of heavy pollution caused by the said unit functioning in the plaint A schedule property especially due to large quantity of dark smoke emanated through the exhaust system and also due to the functioning of machineries run out of diesel. Heavy sound including high vibrations also intolerable which are causing serious health issues to the nearby residents. Even if the plaintiffs approached various authorities including the 2<sup>nd</sup> defendant Corporation, the Kerala State Pollution Control Board, and officers of Factories and Boilers, that was all in vein. The 1<sup>st</sup> defendant is running the unit without any valid licences from the competent authorities. Even after issuing a stop memo by the Pollution Control Board requiring the 1<sup>st</sup> defendant to stop the functioning of the said unit till the consent/permission is obtained from the Pollution Control Board, the 1<sup>st</sup> defendant is continuing to run the unit without any valid licences to run the same. The building in plaint A schedule property is not in accordance with plan and permit. Many improvisations and renovations of the residential building have been made by the 1<sup>st</sup> defendant apart from the plan and permit. The 1<sup>st</sup> defendant did not obtained licenses from the Kochi Municipal Corporation, no objection certificate from DMO Health Department, consent/permission from Pollution Control Board, licence from Fire and Safety, licence under Factories and Boilers, Commercial Building licences, commercialised electricity and

commercialised water supply, permit for labourers and necessary registrations from the Labour Department for its working. The wrongful acts of the 1<sup>st</sup> defendant affect the public in that locality. The people living around the plaint A schedule property which is situated in thickly populated residential area should not be deprived of their Right to peaceful and healthy life. The 16 year old daughter of the 2<sup>nd</sup> plaintiff is suffering from Sanfilippo Syndrome, a rare disease. The 4<sup>th</sup> plaintiff's husband is under treatment after kidney transplantation. 6<sup>th</sup> plaintiff is a heart patient and in treatment after angioplasty. All the plaintiffs' family members and other local residents are suffering from suffocation and irritation in the eyes due to smoke and chemicals emanating from the large furnaces, borma and other machineries inside the plaint A schedule property. Hence the suit is filed for getting a permanent prohibitory injunction restraining the 1<sup>st</sup> defendant, his men or agents from conducting any manufacturing unit especially the food processing and manufacturing unit or any other commercial/industrial activities in the plaint A schedule property, and also for a mandatory injunction directing the 1<sup>st</sup> defendant to close down the food processing/manufacturing unit running in the plaint A schedule property, for a mandatory injunction directing the 1<sup>st</sup> defendant to demolish or remove the unauthorised structures setup in the plaint A schedule property including the illegal furnaces, borma, high power machineries and generators working in

diesel and also to declare that the running of the food processing and manufacturing unit by the 1<sup>st</sup> defendant in plaint A schedule property without valid licences and necessary consent in a thickly populated residential area as illegal.

3. 1<sup>st</sup> defendant filed written statement contending as follows : The defendant is conducting bakery items manufacturing unit in plaint A schedule property for the last 10 years with valid licenses and complying with all statutory mandates. The first defendant has been conducting bakery items manufacturing unit with electric borma in the building No.1781-A (new No.22/214-A) for running the bakery in the name and style, St. Mary's Bakery in the plaint A schedule property. Plaint 'A' schedule is a commercial building, with commercial electric connection and commercial water connection and valid licences from Food Safety and Standards Authority of India. For conducting bakery items manufacturing unit in plaint A schedule property, the defendant is paying huge amount as licence fee, electric charges, water charges and building tax since it is a commercial building. The Kochi Corporation is also collecting fee for waste disposal regularly. The defendant is running bakery items manufacturing unit in the plaint A schedule property with all necessary licences and permission. So the suit is liable to be dismissed.

4. The 7<sup>th</sup> defendant filed written statement contending as follows :  
The suit is not maintainable either in law or on facts. The plaintiffs filed the suit by suppressing the material facts before the Court. The suit is filed without any bonafide and only to harass the defendant. No notice under Sec. 80 CPC is issued to the 7<sup>th</sup> defendant and State of Kerala before filing the suit. Moreover, the 7<sup>th</sup> defendant did not received any complaint from the plaintiffs and the address of this defendant shown in the suit is not correct.

5. On the basis of the pleadings, the following issues were framed :-

- i. Is the plaintiff entitled to get a decree of permanent prohibitory injunction against the 1<sup>st</sup> defendant as prayed for ?
- ii. Is the plaintiff entitled to get a decree of mandatory injunction against the 1<sup>st</sup> defendant directing him to close down the food processing unit running in plaint A schedule and to demolish the structure set up in plaint A schedule property ?
- iii. Is the plaintiff entitled to get a declaration decree as prayed for ?
- iv. Relief and cost ?

6. During the pendency of the suit, the 2<sup>nd</sup> plaintiff died and the suit in favour of the 2<sup>nd</sup> plaintiff stands abated. In order to substantiate the case of the plaintiffs, PW1 and PW2 were examined from the part of the plaintiffs and Exts.A1 to A7 were marked. DW1 was examined and Exts.B1 to B14 were

marked on the side of the defendants. Ext.C1 and C1 (a) were marked as Court exhibits. Ext.X1 was marked as 3<sup>rd</sup> party exhibit.

7. **Issues No.1 to IV:-** According to PW1, the 1<sup>st</sup> defendant is running bakery, food processing and manufacturing unit without having any licence from the Kochi Municipal Corporation, without any consent/permission from the Pollution Control Board, without no objection from the DMO Health, without any licence from Fire and Safety, without any licence from Factories and Boilers authorities, without any commercial building licences, without any commercialised electricity supply and water supply, without any permit for labourers and necessary registration from Labour Department. According to PW1, A schedule property situated in a thickly populated residential area without meeting the standareds prescribed by the authorities for its functioning. The residents therein are suffering from suffocation and irritation due to the smoke and other chemicals emanated from the furnaces and borma situated in plaint A schedule property. In order to show that the plaintiffs approached various authorities and filed complaints against 1<sup>st</sup> defendant, PW1 produced Ext. A1 to A7 documents.. According to PW1, even after issuing stop memo by the Assistant Health Officer, Corporation of Kochi dated 17.12.2020, the 1<sup>st</sup> defendant continue to run the business in the plaint A schedule property. Hence the plaintiffs submitted complaint regarding the violation of the stop memo as

seen from Ext.A3. Receipt dated 20.01.2021 obtained from the Pollution Control Board on submission of complaint regarding the violation of stop memo is produced as Ext.A4. Likewise copy of the complaint dated 19.01.2021 submitted before Deputy Secretary, Corporation of Kochi is marked as Ext.A5. And the receipt dated 20.01.2021 received from the Deputy Secretary is marked as Ext.A6 and the copy of the order dated 27.02.2023 of the Environmental Engineer, Pollution Control Board is marked as Ext.A7.

8. The 1<sup>st</sup> defendant was examined as DW1. According to DW1, plaintiff A schedule property is a commercial building with commercial electricity connection and water connection and he is conducting manufacturing unit in plaintiff A schedule property with valid licences issued from Food Safety and Standards Authority of India. He produced Ext.B3, consent issued with certain conditions under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act 1981 and the Environment (Protection) Act 1986 as per application No.14680311 dated 18.3.2021 in favour of M/s. St. Mary's bakery, Illichuvadu Junction, near Santhom Church, Athipozhi and the consent was issued on 30.03.2021 with consent No.G20ERRCTO 750172 valid upto 30.06.2021. Ext.B4 is the consent variation order issued on 31.08.2021 with consent No.G20ERRCTO 750172. Ext.B11 is a licence issued under FSS Act 2006 by Government of India, Food Safety and

Standards Authority dated 06.12.2013 by licence No.11313007004921 with address “St. Mary’s Bakery, 1781-A, Athipozhi, Mundamveli, Kochi – 682 007, Ernakulam”, in the name of K.J. Joseph, the 1<sup>st</sup> defendant herein. Ext.B12 is the licence issued in form ‘C’, by Government of Kerala, Commissionerate of Food Safety, Food Safety and Standards Authority of India under FSS Act 2006 for the kind of business “Manufacturer – General Manufacturing” in the name of 1<sup>st</sup> defendant’s “New St. Mary’s Bakery, 17/1781-A, (new No.22/214-A), Mundamveli.P.O., Kochi, Ernakulam” dated 29.01.2021 with validity up to 31.12.2021 with ‘production capacity - per day, Food category - bakery products, Sub Food category – Bread and ordinary bakery wares and mixes, Product – Bread, kind of business Manufacturer/General Manufacturing’ etc. Ext.B13 is the receipt issued by the Kochi Municipal Corporation in favour of the 1<sup>st</sup> defendant for the user fee for collection dated 16.01.2020. In Ext.B13, an amount of Rs.1,800/- is seen collected from the 1<sup>st</sup> defendant for the year 2020. Ext.B14 is an electrical Drawings for installation of 15 KVA DG SET for M/s. St. Mary’s Bakery at Ernakulam prepared by Rich Engineers Thuruthikkara. Ext.B14 reveals that the said plan was approved by Government of Kerala, Deputy Chief Electrical Inspector.

9. Environmental Engineer was examined as PW2. According to PW2, she visited the site and inspected the nearby houses to plaintiff A schedule.

Site plan of St. Mary's Bakery produced along with the application dated 18.3.2021, is marked as Ext.X1 (a). According to PW2, in Ext.X1 (a) all the houses situated within 100 meters are not specified. According to her, the units pertaining to green category, distance criteria is only 3 meters from the nearby houses that is the reason why PW2 visited the nearby houses situated within 3 meters alone. According to PW2, she has taken that area as a residential area. According to her, in order to categorise the industry into Green Category, classification is based on parameters such as air pollution, water pollution and other hazardous waste products coming out of the industry. She has also deposed that the permission to the manufacturing unit was given not according to the site plan. According to her, the consent was once withdrawn since the defendant violated the rule preventing baking of cakes in the unit. Even after the direction, the 1<sup>st</sup> defendant continued with the manufacturing of cake and that is the reason for withdrawal of the consent. During cross examination, she deposed that against the order prohibiting baking of cake, the 1<sup>st</sup> defendant approached the Hon'ble High Court by way of Writ. Ext.X1(o) is the order of withdrawal dated 25.04.2022 issued by PW2 and challenging the said order, the 1<sup>st</sup> defendant approached the Hon'ble High Court by filing W.P.(C) No.14928/2022 and order passed on 29.04.22 (Ext X1(p)). As per the order dated above, direction was given to the petitioner/1<sup>st</sup> defendant to file an appeal

against the 'Ext.P12' along with application for interim relief including staying of order in question within one week from the date of order, with a further direction to the appellate authority to pass order on the stay petition, after hearing the petitioner as seen from Ext.X1(p). Thereafter in IA 39/2021 in Appeal No.11/2022, the Appellate Authority, Trivandrum has passed an order on the application submitted by K.J. Joseph, the 1<sup>st</sup> defendant, by rejecting his claim stating that the consent order does not permit baking of cake in the unit. It is further directed that the Pollution Control Board has taken further steps as per Ext.X1 (o). The said order of the Appellate Authority, Trivandrum is Ext.X1 (q) dated 04.02.2023. In W.P.(C) No.7398/2023 filed by the 1<sup>st</sup> defendant against the said order, an order was passed on 03.03.2023 stating in paragraph 4 that "the learned senior counsel appearing for the petitioner submitted that the petitioner prepared to abide by the condition contained in the consent order. In that view of the matter, there was a stay of Ext.P11 order as per interim order dated 04.02.2023 in the aforesaid IA and appeal, for a period of 2 weeks on condition that the petitioner complies with the conditions contained in the consent to operate order", with a direction to Pollution Control Board to verify the same. The said order is marked as Ext.X1(r). After the said period of stay, Kerala State Pollution Control Board again issued direction to execute the order dated 04.08.2023 as seen from Ext.X1 (s). Against the said

order, the 1<sup>st</sup> defendant approached the Hon'ble High Court and the Hon'ble High Court extended the stay by its order dated 21.06.2023, 18.8.2023 & 18.09.23 as seen from Ext.X1 (t) and Ext.X1(u) and Ext.X1 (v) .

10. Hence the evidence on record would show that the defendant No.1 is running manufacturing unit with valid licences except the question as to baking of cakes as per the consent provided by Kerala State Pollution Control Board. The question regarding the non-issuing of the consent by the Pollution Control Board is under consideration in the Writ Petition filed by the 1<sup>st</sup> defendant in W.P.(C) No.7398/2023. PW2 during cross examination categorically deposed that as there is a stay of the order preventing baking of cake, the manufacturing unit is being run with the necessary Certificate and Licence. As there is a stay, it is also evident that 1<sup>st</sup> defendant is running manufacturing unit with sufficient licences issued from various authorities as produced before this Court. The suit is filed only for an injunction restraining the 1<sup>st</sup> defendant from conducting manufacturing unit without valid licenses from the competent authorities, for mandatory injunction to close down the food processing unit running in the plaint A schedule property and also for mandatory injunction to demolish unauthorised structures set up in the plaint A schedule property. Here, the evidence on record would show that there is nothing to close down the food processing/manufacturing unit which is being

run by the 1<sup>st</sup> defendant in the plaint A schedule property as the 1<sup>st</sup> defendant has produced valid licenses from the competent authorities. Likewise the plaintiffs have to prove that there are unauthorised structures set up in plaint A schedule property. Nothing has been brought before this Court in order to show that the 1<sup>st</sup> defendant is processing and manufacturing food items in the plaint A schedule property against the valid licenses and necessary consent issued by the authorities concerned.

11. In the result, the suit is dismissed. Considering the facts and circumstances of the case, there is no order as to cost.

(Dictated to the Confidential Assistant transcribed by her, corrected and pronounced by me in the open court on this the 16<sup>th</sup> day of December, 2023).

Sd/-  
**Vincy.T.V**  
**Principal Munsiff**

**APPENDIX**

<b><u>Plaintiff's Exhibits:-</u></b>		
A1	05.06.2020	Original tax receipt
A2	07.12.2020	Copy of receipt received from corporation of Kochi
A3	18.01.2021	Copy of receipt received on submitting a complaint regarding violation of stop memo
A4	20.01.2023	Copy of the receipt received from the Pollution Control Board
A5	07.12.2020	Copy of the petition submitted by the plaintiff before

		the Pollution Control Board
A6	20.01.2021	Copy of the receipt received from the Corporation on submitting the complaint before the Deputy Secretary
A7	27.02.2023	Letter issued from Kerala State Pollution Control Board, Ernakulam.
<b><u>Defendants Exhibits:-</u></b>		
B1	18.08.2023	Certified copy of Stay Order in WP(c) No. 27607/23 before the Hon'ble High Court for staying the Order of the Pollution Control Board.
B2	21.09.2023	The certified copy of the Order in I.A 39/2022 in Appeal No. 11/22 of the Air Appellate Authority, Thiruvananthapuram.
B3	30.03.2021	The consent to operate order issued by the Kerala State Pollution Control Board.
B4	31.08.2021	The consent variation order issued by the Kerala State Pollution Control Board.
B5	05.02.2021	Property tax receipt issued from Kochi Municipal Corporation.
B6	05.02.2021	Property tax receipt issued from Kochi Municipal Corporation.
B7	06.07.2015	The license fee for Bakery items production paid receipt issued from Kochi Corporation.
B8	11.02.2021	The license fee for bakery items production paid receipt issued from Kochi Corporation.
B9	18.01.2018	The Water Bill demand notice issued from Kerala Water Authority.
B10	29.03.2017	The Electricity bill paid receipt
B11	06.12.2013	The food license under FSS Act for manufacturing Bakery issued Food Safety and Standard Authority of India.
B12	29.01.2021	The Food license under FSS Act for manufacturing Bakery issued from Food Safety and Standards

		Authority of India.
B13	16.01.2020	The user fee for waste collection fee paid receipt
B14	28.04.2018	The Approval of Generator by Electrical Inspector.
<b><u>Court Exhibits:-</u></b>		
C1	09.02.2021	Commission Report filed by Adv. Anjana M Vadhiyar
C1(a)	Nil	Rough Sketch
<b><u>Third Party Exhibits:-</u></b>		
X1(a)	18.03.2021	Site plan of St. Mary's Bakery produced along with the application
X1(b)	Nil	Proof Affidavit
X1(c)	Nil	Copy of Adhar Card (Id Proof)
X1(d)	22.01.2021	Land tax receipt
X1(e)	09.07.2015	Copy of Property Tax Receipt
X1(f)	Nil	Copy of Property Tax Receipt
X1(g)	05.02.2021	Copy of Property Tax Receipt
X1(h)	05.02.2021	Copy of Property Tax Receipt
X1(i)	Nil	Copy of Property Tax Receipt
X1(j)	Nil	Copy of Property Tax Receipt
X1(k)	Nil	Effluent Treatment Plant Project Report
X1(l)	03.02.2021	Certificate issued from Kochi Corporation.
X1(m)	30.12.2020	Minutes of Hearing of Kerala State Pollution Control Board.
X1(n)	01.03.2021	Letter issued from Kerala State Pollution Control Board.
X1(o)	25.04.2022	Consent revoke order issued from Kerala State Pollution Control Board.
X1(p)	13.06.2022	Order in WP(c) No. 14928/22 of Hon'ble High Court of Kerala.
X1(q)	04.02.2023	Order of Air Appellate Authority in Order in I.A 39/22

		in Appeal No. 11/22.
X1(r)	03.03.2023	Order in WP(c) No. 7398/23 of Hon'ble High Court of Kerala.
X1(s)	07.08.2023	Letter issued from Kerala State Pollution Control Board, Ernakulam.
X1(t)	21.06.2023	Order in WP(c) No. 7398/2023 of Hon'ble High Court of Kerala.
X1(u)	18.08.2023	Order in WP(c) No. 276067/23 of the Hon'ble High Court of Kerala.
X1(v)	18.09.2023	Order in WP(c) 27607/23 of the Hon'ble High Court of Kerala.
<b><u>Plaintiff's Witness:-</u></b>		
PW1	10.08.2023	Ignatious K.J
PW2	26.09.2023	Sreelakshmi P.B
<b><u>Defendants Witness:-</u></b>		
DW1	22.11.2023	Joseph K.J @ Shalappan
<b><u>Court Witness:-</u></b>		
		Nil

**Principal Munsiff**

**Judgment in  
OS 38/2021  
Dated 16.12.2023.**

This is the true copy of the document referred  
to and marked as Annexure R1(d)



Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 29<sup>TH</sup> DAY OF APRIL 2022 / 9TH VAISAKHA, 1944

W.P. (C) NO.14928 OF 2022

PETITIONER:

K.J. JOSEPH,  
AGED 50 YEARS, S/O. LATE K.M. JACOB,  
RESIDING AT KONNOTH HOUSE,  
MUNDAMVELI P.O., KOCHI-682 507.

BY ADV. C.G. PREETHA

RESPONDENTS:

1 THE ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD DISTRICT OFFICE-I,  
ERNAKULAM GANDHI NAGAR, KOCHI, PIN-682 020.

2 IGNATIOUS K.J.,  
AGED 58 YEARS, S/O. K.I. JOHN,  
KOLLAMPARAMBIL, MUNDAVELI P.O.,  
KOCHI , PIN-682 507.

BY ADV. SRI. T. NAVEEN STANDING COUNSEL,  
KERALA STATE POLLUTION CONTROL BOARD

SRI.N.N SUGUNAPALAN (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
29.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



W.P. (C) NO.14928 OF 2022

### **JUDGMENT**

The petitioner, the proprietor of a bakery, has filed this writ petition challenging Ext.P12 order passed by the 1<sup>st</sup> respondent withdrawing the consent to operate issued in favour of the petitioner.

2. On going through the averments in the writ petition and hearing the learned Standing Counsel for the 1<sup>st</sup> respondent, I deem it appropriate to direct the petitioner to file an appeal against Ext.P12 along with an application for interim relief including staying of the order in question within one week from today. The appellate authority shall pass orders on the stay petition if as expeditiously as possible, after hearing the petitioner. Till orders are passed and communicated to the petitioner, the operation of Ext.P12 will be kept in abeyance.

The writ petition is disposed of accordingly.

Sd/-  
**MOHAMMED NIAS C.P.**  
**JUDGE**

bpr



W.P. (C) NO.14928 OF 2022

APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT P1 THE DESIGNATED OFFICER APPOINTED UNDER SECTION 36 OF THE FOOD SAFETY AND STANDARDS ACT, 2006 DATED 18.01.2022.
- EXHIBIT P2 TRADE LICENSE ISSUED BY THE COCHIN CORPORATION IN FAVOUR OF THE DEPONENT FOR RUNNING THE BAKERY UNIT FOR THE PERIOD 2021-2022.
- EXHIBIT P3 RECEIPT EVIDENCING PAYMENT OF REQUIRED FEE FOR THE RENEWAL OF THE TRADE LICENCE FOR THE PERIOD 2022-2023 DATED 23.02.2022.
- EXHIBIT P4 THE CONSENT TO OPERATE IS PRESENTLY VALID UPTO 30.11.2025.
- EXHIBIT P5 THE COMMUNICATION ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT DATED 03.01.2022.
- EXHIBIT P6 REPLY SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 10.01.2022.
- EXHIBIT P7 COMMUNICATION ISSUED BY THE 1ST RESPONDENT AND ADDRESSED TO THE PETITIONER DATED 28.01.2022.
- EXHIBIT P8 SHOW CAUSE NOTICE ISSUED TO THE PETITIONER BY THE POLLUTION CONTROL BOARD DATED 18.02.2022.
- EXHIBIT P9 REPLY LETTER SENT BY THE PETITIONER AND ADDRESSED TO THE POLLUTION CONTROL BOARD DATED 24.02.2022.
- EXHIBIT P10 REPORT WITH DOCUMENTS DATED 15.09.2021 FILED BY THE 1ST RESPONDENT IN WP(C) NO. 15231 OF 2021 ON THE FILE OF THIS HON'BLE COURT.
- EXHIBIT P11 COMMUNICATION ISSUED BY THE 1ST RESPONDENT AND ADDRESSED TO THE PETITIONER DATED 04.04.2022.
- EXHIBIT P12 THE TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT AND ADDRESSED TO THE PETITIONER DATED 25.04.2022.

This is the true copy of the document referred to and marked as Annexure R1(e)

  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 13<sup>TH</sup> DAY OF JUNE 2022 / 23RD JYAISHTA, 1944

RP NO. 417 OF 2022

AGAINST THE ORDER/JUDGMENT IN WP(C) 14928/2022 OF HIGH  
COURT OF KERALA

**REVIEW PETITIONER/S:**

IGNATIUS K J, AGED 58 YEARS  
AGED 58 YEARS, S/O. K.I. JOHN, KOLLAMPARAMBIL,  
MUNDAVELI P.O., KOCHI, PIN-682 507  
BY ADVS.  
SR. ADVOCATE SRI. P.B.SAHASRANAMAN,  
& ADV. T.S.HARIKUMAR

**RESPONDENT/S:**

- 1 K.J.JOSEPH  
AGED 50 YEARS  
AGED 50 YEARS, S/O.LATE K.M. JACOB, RESIDING AT  
KONNOTH HOUSE, MUNDAMVELI P.O., KOCHI-682 507.,  
PIN - 682507
- 2 THE ENVIRONMENTAL ENGINEER  
, KERALA STATE POLLUTION  
CONTROL BOARD DISTRICT OFFICE 1, ERNAKULAM,  
GANDHI NAGAR, KOCHI-682 020., PIN - 682020  
BY ADVS.  
SR. ADVOCATE SRI. N.N.SUGUNAPALAN FOR R1  
ADV. SMT. C.G.PREETHA  
SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL  
BOARD,

THIS REVIEW PETITION HAVING COME UP FOR  
ADMISSION ON 13.06.2022, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



RP NO. 417 OF 2022

-2-

**MOHAMMED NIAS. C.P.JJ**

.....

**Review Petition No. 417 of 2022**

.....

**Dated the day of 13<sup>th</sup> June, 2022****ORDER**

By Judgment dated 29<sup>th</sup> April, 2022 in a Writ Petition filed challenging Ext. P12 order, the petitioner was relegated to avail alternate remedy. It was directed that till orders are passed on the stay petition in the appeal to be filed, operation of Ext. P12 was kept in abeyance.

2. The 2<sup>nd</sup> respondent in the writ petition filed the review petition alleging that the petitioner under the guise of the judgment under review is carrying on activities not covered by the permission granted to him by the Pollution Control Board. He also submits that the appeal filed before the appellate authority is



RP NO. 417 OF 2022

-3-

defective and no steps have been taken to cure the defects.

2. Heard the learned Senior counsel for the writ petitioner, learned counsel for the review petitioner and the learned Standing Counsel for the Pollution Control Board.

3. After hearing the counsel for the parties, I make it clear that the order sought to be reviewed will enable the writ petitioner to continue his business only on the basis of the permission granted to them by the Pollution Control Board namely, Ext. P4 which is the current permission, till the appellate authority passes orders as directed in the order under review. The Review Petitioner will also be at liberty to point out any violation on the part of the writ petitioner to the Pollution Control Board and in that event, the Pollution Control Board will take appropriate action in accordance with law, after issuing notice to the writ petitioner as well.

4. Regarding the second apprehension raised by the review petitioner, the writ petitioner submits that the appeal submitted before the appellate is numbered as Appeal 11/2022 and that it will be shortly listed for consideration. This is recorded. The writ



RP NO. 417 OF 2022

-4-

petitioner is further directed to move the appellate authority for appropriate orders within a period of one month from today. The impugned order in the writ petition will stand stayed for a period of one month from today.

The Review Petition is disposed of as above.

**Sd/-MOHAMMED NIAS.C.P., JUDGE.**

Ani

/true copy/

This is the true copy of the document referred to and marked as Annexure R1(f)

  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE MOHAMMED NIAS C.P.

WEDNESDAY, THE 15<sup>TH</sup> DAY OF FEBRUARY 2023 / 26TH MAGHA, 1944

CON.CASE(C) NO. 2557 OF 2022

AGAINST THE ORDER IN RP 417/2022 OF HIGH COURT OF KERALA

**PETITIONER:**

IGNATIOUS K J, AGED 58 YEARS  
S/O. K.I. JOHN,  
KOLLAMPARAMBIL,  
MUNDAVELI P.O.,  
KOCHI, PIN-682 507., PIN - 682507

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR  
G.N.DEEPA

**RESPONDENT/2ND RESPONDENT IN R.P.:**

SREELAKSHMY P.B  
AGE AND FATHER NAME NOT KNOWN,  
THE ENVIRONMENTAL ENGINEER,  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE 1, ERNAKULAM,  
GANDHI NAGAR, KOCHI-682 020,  
PIN-682020

BY SRI. NAVEEN T, SC

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR  
ADMISSION ON 15.02.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



Cont. of Court Case (Civil) No.2557 of 2022

2

**MOHAMMED NIAS. C.P.,J**

-----  
Cont. of Court Case (Civil) No.2557 of 2022

-----  
Dated this the 15<sup>th</sup> day of February, 2023

**JUDGMENT**

The above contempt case is filed alleging violation of the order in RP No.417 of 2022 in WP(C)No.14928 of 2022 dated 13.6.2022. By the said order it was made clear that the writ petitioner can continue his business only on the basis of the permission granted to them by the Pollution Control Board.

2. An additional affidavit has been filed by the Pollution Control Board as directed by this Court on 3.2.2023 pointing out that in the inspection conducted by the Board on 16.11.2022 and 24.11.2022, it was found that the Unit was manufacturing bakery items including cakes. Finding the said activity to be in violation of the orders of this Court the Pollution Control Board had also issued order dated 9.2.2023, Annexure R1(h) directing the Unit to stop the manufacturing of cakes and that they can manufacture the items mentioned in the consent issued by the Board. In view of Annexure R1(h) nothing else survives for consideration in this contempt of court case and accordingly the



Cont. of Court Case (Civil) No.2557 of 2022

3

same is closed. The petitioner will be free to point out any violation/illegality if any committed by the Unit before the Pollution Control Board, in which event appropriate action in accordance with law will have to be taken by the Board.

Contempt of court case is closed accordingly.

**Sd- MOHAMMED NIAS C.P., JUDGE**

dlk/15.2.2023



Cont. of Court Case (Civil) No.2557 of 2022

4

**APPENDIX OF CON.CASE (C) 2557/2022****RESPONDENTS ANNEXURES**

- ANNEXURE R1 (A) TRUE COPY OF THE CONSENT TO OPERATE, FILE NO. PCB/DO-1/EKM/ICO/G20ERR750172/21, DATED 30-3-2021 ISSUED BY THE BOARD TO THE UNIT.
- ANNEXURE R1 (B) TRUE COPY OF THE CONSENT VARIATION ORDER, FILE NO. PCB/DO-1/EKM/ICO/G20ERR750172/21 DATED 31-8-2021 ISSUED BY THE BOARD.
- ANNEXURE R1 (C) TRUE COPY OF THE LETTER NO.PCB/EKM/DO-1/OA-32/2021 DATED 3-1-2022 ISSUED BY THE BOARD TO THE UNIT.
- ANNEXURE R1 (D) TRUE COPY OF THE CONSENT REVOKE ORDER NO. PCB/EKM/DO-1/OA-39/21 DATED 25-4-2022 ISSUED BY THE BOARD.
- ANNEXURE R1 (E) TRUE COPY OF THE JUDGMENT DATED 29-4-2022 IN WPC NO. 14928/2022 OF THIS HONOURABLE COURT.
- ANNEXURE R1 (F) TRUE COPY OF THE LETTER NO. PCB/EKM/DO-1/OA-32/21 DATED 8-8-2022 ISSUED BY THE BOARD TO THE UNIT.
- ANNEXURE R1 (G) TRUE COPY OF THE PROCEEDINGS DATED 22-10-2022 IN APPEAL NO. 11/2022 OF THE AIR APPELLATE AUTHORITY, CONSTITUTED UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981.
- ANNEXURE R1 (H) TRUE COPY OF THE ORDER NO. PCB/EKM/DO-1/OA-32/21 DATED 9-2-2023 ISSUED BY THE POLLUTION CONTROL BOARD.

This is the true copy of the document referred to and marked as Annexure R1(g)



Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 14<sup>TH</sup> DAY OF DECEMBER 2022 / 23RD AGRAHAYANA, 1944

WP(C) NO. 40447 OF 2022

PETITIONER

IGNATIUS K.J.,  
AGED 58 YEARS  
S/O. K.I.JOHN, KOLLAMPARAMBIL,  
MUNDAVELI P.O., KOCHI, PIN-682 507.

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR  
M.C.SANITHA

RESPONDENTS

- 1 CORPORATION OF COCHIN,  
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,  
PARK AVENUE, P.B.NO.1016, KOCHI682 011.
- 2 THE ASSISTANT HEALTH OFFICER  
KOCHI MUNICIPAL CORPORATION, ZONAL OFFICE,  
MOULANA AZAD ROAD, STAR JUNCTION,  
MATTANCHERRY, KOCHI-682 002.
- 3 K.J.JOSEPH,  
S/O.K.M.JACOB, 22/214 , KONNOTH HOUSE,  
MUNDAMVELI 682 507.

SMT.D.Y SHEHEER SC FOR R1 AND R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
14.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) No.40447 of 2022

2

## **J U D G M E N T**

Dated this the 14<sup>th</sup> day of December, 2022

The petitioner is aggrieved by the establishment of a Bakery Manufacturing Unit by the 3<sup>rd</sup> respondent in the neighbouring residential building.

2. The petitioner states that though the 3<sup>rd</sup> respondent has obtained Trade Licence, an Industrial Licence under Section 447 of the Kerala Municipality Act is required and the 3<sup>rd</sup> respondent is conducting the industry without obtaining the said licence. It is also stated that the industry creates pollution and it adversely affects the petitioner and his family members.

3. The petitioner states that even though the 3<sup>rd</sup> respondent has obtained a stay order as regards order passed by the Pollution Control Board, the said stay order is confined to snack manufacturing alone and does not apply to violation of Section 447 of the Kerala Municipality Act.

4. I have heard the learned counsel for the petitioner and the learned Standing Counsel for respondents 1 and 2. Notice to the 3<sup>rd</sup> respondent is dispensed with in view of the nature of the



WP(C) No.40447 of 2022

3

relief being granted in the writ petition.

5. From the pleadings in the writ petition, it is evident that the petitioner has raised a complaint regarding the industrial unit of the 3<sup>rd</sup> respondent without obtaining licence under Section 447. The petitioner has submitted Ext.P8 complaint before the Secretary to the Cochin Corporation.

6. In the facts of the case, I am of the view that the writ petition can be disposed of directing the Secretary to Cochin Corporation to consider Ext.P8 complaint filed by the petitioner in accordance with law, strictly adhering to the principles of natural justice.

The writ petition is therefore disposed of directing the Secretary to the 1<sup>st</sup> respondent to consider Ext.P8 complaint filed by the petitioner and take appropriate decision thereon, in accordance with law, after giving an opportunity of hearing to the petitioner and the 3<sup>rd</sup> respondent. Orders shall be passed within a period of two months.

Sd/-

**N. NAGARESH, JUDGE**

smm



WP(C) No.40447 of 2022

4

APPENDIX OF WP (C) 40447/2022

## PETITIONER EXHIBITS

- Exhibit P1 TRUE PHOTOSTAT COPY OF THE SAID STOP MEMO ISSUED BY THE 2ND RESPONDENT, DATED 17-12-2020.
- Exhibit P2 TRUE PHOTOSTAT COPY OF THE SAID CONSENT TO OPERATE ISSUED BY THE ASST. ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, DATED 30-03-2021.
- Exhibit P3 TRUE PHOTOSTAT COPY OF THE SAID TRADE LICENSE ISSUED UNDER SEC.447 OF THE KERALA MUNICIPALITIES ACT, 1994, DATED 23-06-2021.
- Exhibit P4 TRUE PHOTOSTAT COPY OF THE SAID ORDER OF THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD, DIVISIONAL OFFICE, ERNAKULAM, DATED 25-04-2022.
- Exhibit P5 TRUE PHOTOSTAT COPY OF THE SAID JUDGMENT IN W.P. (C)NO. 15231 OF 2021, DATED 10-08-2022 OF THIS HON'BLE HIGH COURT.
- Exhibit P6 TRUE PHOTOSTAT COPY OF THE REPRESENTATION MADE BY THIS PETITIONER TO PETITIONER TO THE 2ND RESPONDENT, DATED 16-08-2022.
- Exhibit P7 TRUE PHOTOSTAT COPY OF THE INFORMATION FURNISHED BY THE 2ND RESPONDENT, DATED 31-10-2022.
- Exhibit P8 TRUE OF THE PHOTOSTAT COPY THE REPRESENTATION FILED BY THE PETITIONER TO THE IST RESPONDENT DATED 08.11.2022.

This is the true copy of the document referred to and marked as Annexure R1(h)



Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 2<sup>ND</sup> DAY OF NOVEMBER 2023 / 11TH KARTHIKA, 1945

CON.CASE(C) NO. 1766 OF 2023

AGAINST THE JUDGMENT IN RP 417/2022 IN W.P.(C) NO.14928/2022 OF  
HIGH COURT OF KERALA

PETITIONER/PETITIONER IN W.P.:

IGNATIOUS.K.J  
AGED 58 YEARS, S/O. K.I. JOHN, KOLLAMPARAMBIL,  
MUNDAVELI P.O., KOCHI., PIN - 682507

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR

RESPONDENT/RESPONDENT NO.2 IN W.P.:

SREELAKSHMY P B  
HE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION  
CONTROL BOARD, DISTRICT OFFICE 1, ERNAKULAM, GANDHI  
NAGAR, KOCHI, PIN - 682020

BY ADV SRI. T.NAVEEN, SC, KERALA STATE POLLUTION  
CONTROL BOARD

SMT. T.V. NEEMA, SR.PUBLIC PROSECUTOR

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR  
ADMISSION ON 02.11.2023, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



MOHAMMED NIAS C.P.J

.....  
Con.Case(C) No.1766 of 2023

.....  
Dated this the 2nd day of November, 2023

ORDER

Today when the matter is taken up, learned counsel for petitioner submits that nothing survives to be considered in this contempt case.

This is recorded. Contempt Case is closed accordingly.

*Sd/-*  
MOHAMMED NIAS C.P.  
JUDGE

APPENDIX OF CON.CASE(C) 1766/2023

## PETITIONER'S ANNEXURES

- Annexure.A.1 TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN CONT. OF COURT CASE (CIVIL) NO.2557 OF 2022, DATED 15-02-2023
- Annexure.A.2 TRUE COPY OF THE EMAILS 15-05-2023, 02-06-2023, 06-06-2023, 10-06-2023, 11-07-2023, 14-07-2023, 22-7-2023, ON THE OFFICIAL EMAIL ID OF THE RESPONDENT, PCBDO1@GMAIL.COM
- Annexure.A.3 TRUE COPY OF THE COMPLAINT FILED BY MS.MARY REENA C.G. TO THE RESPONDENT, DATED 12-07-2023

## RESPONDENT ANNEXURES

- Annexure R1 (c) True copy of the Letter No. PCB/EKM/DO-I/OA-32/2021 dated 3-1-2022 issued by the Pollution Control Board.
- Annexure R1 (a) True copy of the Consent to Operate, File No. PCB/DO-I/EKM/ICO/G20ERR750172/21 dated 30-3-2021 issued by the Pollution Control Board.
- Annexure R1 (b) True copy of the Consent Variation Order, File No. PCB/DO-I/EKM/ICO/G20ERR750172/21 dated 31-8-2021 issued by the Pollution Control Board.
- Annexure R1 (d) True copy of the Consent Revoke Order No. PCB/EKM/DO-I/OA-39/21 dated 25-4-2022 issued by the Pollution Control Board.
- Annexure R1 (e) True copy of the Judgment dated 29-4-2022 in WPC No. 14928/ 2022 of this Honourable Court.
- Annexure R1 (f) True copy of the Letter No.



4

- PCB/EKM/DO-I/OA-32/21 dated 8-8-2022 issued by the Pollution Control Board.
- Annexure R1 (g) True copy of the Proceedings in Appeal No. 11/2022 dated 22-10-2022 passed by the Air Appellate Authority.
- Annexure R1 (h) True copy of the Letter No. PCB/EKM/DO-I/OA-32/21 dated 9-2-2023 issued by the Pollution Control Board.
- Annexure R1 (i) True copy of the Order dated 4-2-2023 in Appeal No. 11/2022 passed by the Air Appellate Authority.
- Annexure R1 (j) True copy of the directions issued by the Pollution Control Board as per Letter No. PCB/EKM/DO-I/OA-32/21 dated 27-2-2023.
- Annexure R1 (k) True copy of the interim Order dated 3-3-2023 in WPC No. 7398/2023 of this Honourable Court.
- Annexure R1 (l) True copy of the interim Order dated 19-7-2023 in WPC No. 7398/2023 of this Honourable Court.
- Annexure R1 (m) True copy of the Judgment dated 21-6-2023 in WPC No. 7398/2023 of this Honourable Court.
- Annexure R1 (n) True copy of the Letter No. PCB/EKM/DO-I/OA-32/21 dated 4-8-2023 issued by the Pollution Control Board.
- Annexure R1 (o) True copy of the Order dated 14-8-2023 in I.A. No. 2/2023 in WPC No. 7398/2023 of this Honourable Court.
- Annexure R1 (p) True copy of the interim Order dated 18-8-2023 in WPC No. 27607/2023 of this Honourable Court.

This is the true copy of the document referred to and marked as Annexure R1(i)

Advocate

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Friday, the 3<sup>rd</sup> day of March 2023 / 12th Phalgun, 1944  
WP(C) NO. 7398 OF 2023 (Y)

**PETITIONER:**

K.J JOSEPH, S/O. LATE K.M JACOB, AGED 50 YEARS, KONNETH HOUSE,  
MUNDAMVELI P.O, KOCHI - 682507

**RESPONDENTS:**

1. IGNATIUS K.J AGED 58 YEARS S/O.K.I JOHN, KOLLAMPARAMBIL, MUNDAVELI P.O, KOCHI - 682507
2. THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD DISTRICT OFFICE 1, ERNAKULAM, GANDHI NAGAR, KOCHI - 682020
3. THE AIR APPELLATE AUTHORITY THIRUVANANTHAPURAM - 695001 REPRESENTED BY ITS SECRETARY

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay Ext.P11 order issued by the 3<sup>rd</sup> respondent, pending disposal of the writ petition in the interest of justice.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.N.N.SUGUNAPALAN(SENIOR ADVOCATE) along with M/S.S.SUJIN, B.BILWIN, KEERTHI M. & POOJA SURENDRAN, Advocates for the petitioner, STANDING COUNSEL for R2, the court passed the following:

W.P.(C).No.7398 of 2023

Annexure R1(j)/2

: 1 :

**SHAJI P. CHALY, J.****W.P.(C).No.7398 of 2023****Dated this the 3<sup>rd</sup> day of March, 2023****ORDER**

Learned Standing Counsel takes notice for the Kerala State Pollution Control Board. Issue notice to the 1<sup>st</sup> respondent by special messenger. Notice to the Air Appellate Authority is dispensed with for the time being.

2. The writ petition is filed challenging the interim order passed by the Air Appellate Authority, Thiruvananthapuram in I.A.No.39/2022 in Appeal No.11/2022 wherein the following directions are issued:

*"It is submitted by the counsel for the Pollution Control Board that the unit of the petitioner is engaged in baking of cake in violation the clauses in the consent order. Admittedly, there is functioning of baking unit. Since the consent order does not permit baking in the unit, the prayer in the petition is rejected. The Pollution Control Board can proceed with the steps as per order issued on 25.04.2022."*

3. Apparently, in the consent to operate order issued by the Pollution Control Board, a condition was incorporated that the petitioner shall not bake cake in the unit. Apparently, the complaint made against the petitioner is that the petitioner is baking cake; it was thereupon that the interim order is passed by the Air Appellate Authority.

4. Learned Senior Counsel appearing for the petitioner submitted that the petitioner is prepared to abide by the condition contained in the consent order. In that view of the matter, there will be a stay of Ext.P11

W.P.(C).No.7398 of 2023

Annexure R1(j)/3

: 2 :

interim order dated 04.02.2023 in the aforesaid I.A. and appeal for a period of two weeks on condition that the petitioner complies with the conditions contained in the consent to operate order. The Pollution Control Board is directed to verify the same.

Sd/-  
**SHAJI P. CHALY, JUDGE**

ak



**APPENDIX OF WP(C) 7398/2023**

**Exhibit P11**

**TRUE COPY OF THE ORDER DATED 04/02/2023 IN I.A  
NO.39/2022 IN APPEAL NO.11/2022 BY THE AIR APPELLATE  
AUTHORITY, THIRUVANANTHAPURAM**



This is the true copy of the document referred to and marked as Annexure R1(j)

  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 21<sup>ST</sup> DAY OF JUNE 2023 / 31ST JYAISHTA, 1945

WP (C) NO. 7398 OF 2023

**PETITIONER:**

K.J JOSEPH  
AGED 50 YEARS  
S/O. LATE K.M JACOB, KONNOTH HOUSE, MUNDAMVELI P.O,  
KOCHI, PIN - 682507  
BY ADVS.  
S.SUJIN  
B.BILWIN  
KEERTHI M.  
POOJA SURENDRAN

**RESPONDENTS:**

- 1      IGNATIOUS K.J  
          AGED 58 YEARS  
          S/O.K.I JOHN, KOLLAMPARAMBIL, MUNDAVELI P.O, KOCHI, PIN  
          - 682507
- 2      THE ENVIRONMENTAL ENGINEER  
          KERALA STATE POLLUTION CONTROL BOARD DISTRICT OFFICE 1,  
          ERNAKULAM, GANDHI NAGAR, KOCHI, PIN - 682020
- 3      THE AIR APPELLATE AUTHORITY  
          THIRUVANANTHAPURAM REPRESENTED BY ITS SECRETARY, PIN -  
          695001  
          BY ADVS.  
          SAHASRANAMAN PB  
          NAVEEN T  
          T.S.HARIKUMAR (K/782/1989)  
          G.N.DEEPA (K/001665/1999)

B.S SYMANTAK- GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
21.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP (C) NO.7398 OF 2023

2

**P.V.KUNHIKRISHNAN, J.****W.P.(C)No.7398 of 2023****Dated this the 21<sup>st</sup> day of June, 2023****JUDGMENT**

The above writ petition is filed with the following prayers:

*"(i) To issue a writ of certiorari or any other appropriate writ, order or direction, to quash Ext P11 order passed by the respondent Appellate Authority;*

*(ii) To issue a writ of mandamus or any other appropriate writ, order or direction, directing to taken up the Ext P9 appeal and the interim application along with appeal and consider the same in accordance with law;*

*(iii) To issue a writ of mandamus or any other appropriate writ, order or direction, directing to consider Ext P12 petition;*

*(iv) Dispense with the translation of vernacular documents;*

*(v) To issue such other further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."*[SIC]



WP (C) NO.7398 OF 2023

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When this writ petition came up for consideration on 03.03.2023, this Court passed the following order:

*"Learned Standing Counsel takes notice for the Kerala State Pollution Control Board. Issue notice to the 1<sup>st</sup> respondent by special messenger. Notice to the Air Appellate Authority is dispensed with for the time being.*

*2. The writ petition is filed challenging the interim order passed by the Air Appellate Authority, Thiruvananthapuram in I.A.No.39/2022 in Appeal No.11/2022 wherein the following directions are issued:*

*"It is submitted by the counsel for the Pollution Control Board that the unit of the petitioner is engaged in baking of cake in violation the clauses in the consent order. Admittedly, there is functioning of baking unit. Since the consent order does not permit baking in the unit, the prayer in the petition is rejected. The Pollution Control Board can proceed with the steps as per order issued on 25.04.2022."*

*3. Apparently, in the consent to operate order*



WP (C) NO.7398 OF 2023

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*issued by the Pollution Control Board, a condition was incorporated that the petitioner shall not bake cake in the unit. Apparently, the complaint made against the petitioner is that the petitioner is baking cake; it was thereupon that the interim order is passed by the Air Appellate Authority.*

*4. Learned Senior Counsel appearing for the petitioner submitted that the petitioner is prepared to abide by the condition contained in the consent order. In that view of the matter, there will be a stay of Ext.P11 interim order dated 04.02.2023 in the aforesaid I.A. and appeal for a period of two weeks on condition that the petitioner complies with the conditions contained in the consent to operate order. The Pollution Control Board is directed to verify the same."*

2. The writ petition is filed challenging Exhibit P11 order. Admittedly, that is an appealable order. Now, it is submitted by the learned counsel for the petitioner that an appeal is already filed and the stay petition is being considered by the Appellate Authority. It is further submitted that the petitioner is functioning



WP (C) NO.7398 OF 2023

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the bakery based on the interim order. To facilitate the petitioner to obtain necessary orders from the Appellate Authority, the interim order can be extended for a further period of two weeks.

Therefore, this writ petition is disposed of with a direction that the operation of Exhibit P11 shall be kept in abeyance for a period of 2 weeks from today.

**Sd/-**  
**P.V.KUNHIKRISHNAN**  
**JUDGE**

SSK/21/06



WP(C) NO.7398 OF 2023

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**APPENDIX**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE CONSENT  
VARIATION ORDER DATED 31/08/2021  
ISSUED BY THE 2ND RESPONDENT
- Exhibit P2 TRUE COPY OF THE COMMUNICATION  
DATED 03/01/2022 ISSUED TO THE  
PETITIONER BY THE BOARD
- Exhibit P3 TRUE COPY OF THE REPLY DATED  
10/01/2022 SUBMITTED BY THE  
PETITIONER TO THE 2ND RESPONDENT
- Exhibit P4 TRUE COPY OF THE COMMUNICATION  
DATED 28/01/2022 ISSUED BY THE  
2ND RESPONDENT TO THE PETITIONER.
- Exhibit P5 TRUE COPY OF THE REPORT DATED  
15/09/2021 FILED BY THE 2ND  
RESPONDENT IN WP(C) NO. 15231 OF  
2021.
- Exhibit P6 TRUE COPY OF THE COMMUNICATION  
DATED 04/04/2022 ISSUED BY THE  
2ND RESPONDENT AND ADDRESSED TO  
THE PETITIONER
- Exhibit P7 TRUE COPY OF THE ORDER DATED  
25/04/2022 PASSED BY THE 2ND  
RESPONDENT AND ADDRESSED TO THE  
PETITIONER
- Exhibit P8 TRUE COPY OF THE JUDGMENT DATED  
29/04/2022 IN W.P.(C)  
NO.14928/2022



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WP(C) NO.7398 OF 2023

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- Exhibit P9 TRUE COPY OF THE I.A NO.40/2022  
DATED 06/10/2022 IN APPEAL  
NO.11/2022 FILED BY THE  
PETITIONER.
- Exhibit P10 TRUE COPY OF THE ORDER DATED  
13/06/2022 IN RP NO.417/2022.
- Exhibit P11 TRUE COPY OF THE ORDER DATED  
04/02/2023 IN I.A NO.39/2022 IN  
APPEAL NO.11/2022 BY THE AIR  
APPELLATE AUTHORITY,  
THIRUVANANTHAPURAM
- Exhibit P12 TRUE COPY OF THE PETITION ALONG  
WITH AFFIDAVIT DATED 25/02/2023  
TO RECALL ORDER IN I.A NO.39/2022  
IN APPEAL NO.11/2022
- Exhibit.R.1 (a) True copy of the Consent to  
Operate No. PCB/DO-  
1/EKM/ICO/G20ERR750172/21, dated  
30-03-2021
- Exhibit.R.1 (c) True copy of the Trade License  
issued by the Cochin Corporation  
License No. C7/15/2021-22, dated  
23-06-2021 for the year 2021-22
- Exhibit.R.1 (d) True copy of the proceedings of  
the Air Appellate Authority,  
dated 22-10-2022
- Exhibit.R.1 (e) True copy of the order of the 2nd  
respondent, dated 09-02-2023
- Exhibit.R.1 (f) True copy of the stop memo issued  
by the 2nd respondent, dated 19-  
01-2021



WP(C) NO.7398 OF 2023

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Exhibit.R.1 (b) True photostat copy of the Stop  
Memo issued by the Cochin  
Corporation, dated 17-12-2020  
(with legible print out)

RESPONDENT ANNEXURES

Annexure R2(a) True copy of the direction issued  
by the Pollution Control Board to  
the Unit as per communication No.  
PCB/EKM/DO-1/OA-32/21 dated 27-2-  
2023.

//TRUE COPY//

PA TO JUDGE

This is the true copy of the document referred to and marked as Annexure R1(k)

  
Advocate

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR.JUSTICE N.NAGARESH

Friday, the 18<sup>th</sup> day of August 2023 / 27th Sravana, 1945  
WP(C) NO. 27607 OF 2023

**PETITIONER:**

K.J JOSEPH, AGED 50 YEARS, S/O. LATE K.M JACOB, KONNOTH HOUSE,  
MUNDAMVELI P.O, KOCHI, PIN - 682507

**RESPONDENTS:**

1. IGNATIUS K.J, AGED 58 YEARS, S/O.K.I JOHN, KOLLAMPARAMBIL,  
MUNDAVELI P.O, KOCHI, PIN - 682507
2. THE ENVIRONMENTAL ENGINEER, KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE 1, ERNAKULAM, GANDHI NAGAR, KOCHI, PIN - 682020
3. THE AIR APPELLATE AUTHORITY, THIRUVANANTHAPURAM, REPRESENTED BY ITS  
SECRETARY, PIN-695001

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all further proceedings pursuant to ext p15 order issued by the 2nd respondent, pending disposal of the writ petition in the interest of justice.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. S.SUJIN, NITA.N.S., T.N.GIRIJA, T.A.ASHA, N.BHARAT, NAVANEETH D.PAI, B.BILWIN, KEERTHI M., POOJA SURENDRAN, Advocates for the petitioner, the court passed the following:

**N.NAGARESH, J.**

-----  
**W.P.(C) No.27607 of 2023**  
-----

**Dated this the 18<sup>th</sup> day of August, 2023**

**ORDER**

Counsel for the petitioner submits that this Court had granted two weeks' time to the petitioner to obtain necessary orders from the appellate authority. Now the appellate authority is not functioning due to non-availability of Member.

2. Admit.

3. Standing Counsel takes notice for the 2<sup>nd</sup> respondent.

Issue urgent notice by speed post to respondents 1 and 3.

There will be an interim order staying the operation of Ext.P15, for a period of one month.

Sd/-

**N.NAGARESH  
JUDGE**

hmh

**APPENDIX OF WP(C) 27607/2023**

**Exhibit P15**

**TRUE COPY OF THE ORDER DATED 04/08/2023 ISSUED BY THE  
KERALA STATE POLLUTION CONTROL BOARD**

This is the true copy of the document referred to and marked as Annexure R1(I)

  
Advocate





IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 23<sup>RD</sup> DAY OF NOVEMBER 2023 / 2ND AGRAHAYANA, 1945

WP(C) NO. 27607 OF 2023

PETITIONER :

K.J JOSEPH,  
AGED 50 YEARS, S/O. LATE K.M JACOB,  
KONNOTH HOUSE, MUNDAMVELI P.O,  
KOCHI, PIN - 682 507

BY SRI.N.N.SUGUNAPALAN (SR.)

BY ADVS.  
S.SUJIN  
NITA.N.S.  
T.N.GIRIJA  
T.A.ASHA  
N.BHARAT  
NAVANEETH D.PAI  
B.BILWIN  
KEERTHI M.  
POOJA SURENDRAN

RESPONDENTS :

- 1      IGNATIOUS K.J.,  
        AGED 58 YEARS,  
        S/O.K.I JOHN, KOLLAMPARAMBIL,  
        MUNDAVELI P.O, KOCHI, PIN - 682 507
  
- 2      THE ENVIRONMENTAL ENGINEER,  
        KERALA STATE POLLUTION CONTROL BOARD,  
        DISTRICT OFFICE 1, ERNAKULAM,  
        GANDHI NAGAR, KOCHI, PIN - 682 020
  
- 3      THE AIR APPELLATE AUTHORITY,  
        THIRUVANANTHAPURAM,  
        REPRESENTED BY ITS SECRETARY,  
        PIN - 695001



WP(C) NO. 27607 OF 2023

2

BY ADVS.  
SAHASRANAMAN PB  
T.S.HARIKUMAR(K/782/1989)  
G.N.DEEPA(K/001665/1999)

BY SRI.T.NAVEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 23.11.2023, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



WP(C) NO. 27607 OF 2023

3

**BECHU KURIAN THOMAS, J.**

=====

**W.P.(C) No.27607 of 2023**

=====

**Dated this the 23<sup>rd</sup> day of November, 2023**

**JUDGMENT**

The learned Senior Counsel instructed to appear on behalf of the petitioner submitted that the matter has become infructuous.

In view of the above, this writ petition is dismissed as infructuous.

Sd/-

**BECHU KURIAN THOMAS, JUDGE**

RKM

This is the true copy of the document referred to and marked as Annexure R1(m)

  
Advocate



**IN THE AIR APPELLATE AUTHORITY  
THIRUVANANTHAPURAM**

Annexure R1(n)/1

Present: 1) Shri.Sanal Kumar K.G - Chairman  
2) Shri.Suneel Pamidi IFS - Administrative Member

Thursday, the 21<sup>st</sup> September, 2023

30<sup>th</sup> Bhadra, 1945

I.A.No.39/2022 IN APPEAL NO.11/2022

**Appellant:**

K.J. Joseph, S/o Late K.M. Jacob,  
Residing at konnoth House, Mundamveli P.O.,  
Kochi 682 507

By Adv.C.G.Preetha

**Respondents:**

1. The Environmental Engineer, Kerala State Pollution Control Board, District Office-I, Ernakulam - 682020
2. Ignatious K.J, S/o K.I.John, Kollamparambil, Mundamveli P.O., Kochi 682 507

By Adv. Sankarlal.B.S. for R1  
Adv. Prabhu Vijayakumar & Aravind J.S for R2

This Petition having been heard on 21.09.2023 and on the same day, the authority delivered the following

**ORDER**

Heard both sides and considered the materials available It is submitted by the counsel for the petitioner that the Hon'ble High Court has allowed to conduct the unit as per the consent till today. The learned counsel for 2<sup>nd</sup> respondent vehemently opposed the petition and objected the allowing of the same in any manner regarding baking. The 2<sup>nd</sup> respondent has no objection in manufacturing snacks except baking. The learned counsel for petitioner requested for permitting to bake cakes during the ensuing Christmas season so as to carry on the working of the baking which is the lively hood of the petitioner. Hence in the interest of justice so as to sustain the business of the petitioner only for Christmas season, over and above the confectioners, petitioner is allowed to bake cake from 15.11.2023 till 31.12.2023 between 6 am till 6 pm and also the items should not exceed 300 numbers as stipulated in the consent. The concerned Engineer PCB is directed to ensure the strict compliance of the time limit. It is further directed that the petitioner shall not violate any of the conditions in the consent of the PCB. PCB shall file report regarding the compliance of this Order on 06.01.2024.

Pronounced on this the 21<sup>st</sup> day of September, 2023

Chairman : (Sd/-)

WATER APPELLATE AUTHORITY  
MUMBAI

Administrative Member : (Sd/-)

Year & No. of Appeal : APL- 11/2022

Name of applicant : Adv. Sajen Chavan

Technical Member : (absent)

No. & date of : 262/2022 - 18.12.22

Date of call : 18.10.23

Date of order : 19.10.23

Date when copy : 19.10.23

Date notified for : 6.1.24

Date when copy was : 1



*[Signature]*  
SECRETARY

This is the true copy of the document referred to and marked as Annexure R1(n)

*[Signature]*  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 23<sup>RD</sup> DAY OF NOVEMBER 2023 / 2ND AGRAHAYANA, 1945

WP (C) NO. 35341 OF 2023

PETITIONER :

IGNATIUS K.J. ,  
AGED 58 YEARS, S/O. K.I. JOHN,  
KOLLAMPARAMBIL, MUNDAVELI P.O. ,  
KOCHI, PIN - 682 507

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR  
SANAND RAMAKRISHNAN

RESPONDENTS :

- 1 KERALA STATE POLLUTION CONTROL BOARD,  
TC 12/96(4,5) PLAMOODU, PATTOM P.O. ,  
THIRUVANANTHAPURAM, PIN - 695 004
- 2 THE ENVIRONMENTAL ENGINEER,  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE 1, ERNAKULAM,  
GANDHI NAGAR, KOCHI,  
PIN - 682 020
- 3 K.J. JOSEPH,  
AGED 50 YEARS, S/O.LATE K.M.JACOB,  
RESIDING AT KONNOTH HOUSE,  
MUNDAMVELI P.O. , KOCHI,  
PIN - 682 507

BY SRI.N.N.SUGUNAPALAN (SR.)  
BY SRI.T.NAVEEN, SC  
BY ADV.Sujin S  
BY ADV.NITA.N.S. (K/353/2003)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
23.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) NO. 35341 OF 2023

2

**BECHU KURIAN THOMAS, J.**

=====

**W.P.(C) No.35341 of 2023**

=====

**Dated this the 23<sup>rd</sup> day of November, 2023****JUDGMENT**

Petitioner challenges the interim order of the Air/ Water Appellate Authority dated 21.09.2023 in I.A.No.39 of 2022 in Appeal No.11 of 2022.

The impugned order reads as follows :-

*"Heard both sides and considered the materials available. It is submitted by the counsel for the petitioner that the Hon'ble High Court has allowed to conduct the unit as per the consent till today. The learned counsel for 2<sup>nd</sup> respondent vehemently opposed the petition and objected the allowing of the same in any manner regarding baking. The 2<sup>nd</sup> respondent has no objection in manufacturing snacks except baking. The learned counsel for petitioner requested for permitting to bake cakes during the ensuing Christmas season so as to carry on the working of the baking which is the livelihood of the petitioner. Hence in the interest of justice so as to sustain the business of the petitioner only for Christmas season, over and above the confectioners, petitioner is allowed to bake cake from 15.11.2023 till 31.12.2023 between 6.00 am till 6.00 pm and also the items should not exceed 300 numbers as stipulated in the consent. The concerned Engineer PCB is directed to ensure the strict compliance of the time limit. It is further directed that the petitioner shall not violate any of the conditions in the consent of the PCB. PCB shall file report regarding the compliance of this Order on 06.01.2014".*



WP(C) NO. 35341 OF 2023

3

2. A reading of the above impugned order reveals that the 3<sup>rd</sup> respondent who has preferred Appeal No.11/2022 before the Appellate Authority has been permitted to bake cakes for this coming Christmas season for the period from 15.11.2023 till 31.12.2023 between 6.00 a.m. to 6.00 p.m. with a restrictive number of 300.

3. According to the writ petitioner, the impugned order goes beyond the scope of the appeal and therefore it is perverse and is liable to be set aside. In support of the above, it was pointed out by Sri.Sahasranaman P.B., the learned counsel for the petitioner that the consent granted by the Pollution Control Board was only for making 300 snacks. When the said consent was revoked by the Pollution Control Board, the appeal was preferred and it was in that appeal, permission has been granted by the Appellate Authority to bake cakes which was not even part of the original consent.

4. Sri.N.N.Sugunapalan, the learned Senior Counsel on behalf of the 3<sup>rd</sup> respondent, on the other hand, submitted that originally, he had consent for baking cakes, but subsequently when it was renewed, consent was restricted only to snacks. When the said consent for making snacks was revoked, he approached the Appellate Authority wherein an application was filed for permission to bake cakes only for the limited period during Christmas season. Taking note of the peculiar



WP(C) NO. 35341 OF 2023

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circumstances, the Appellate Authority granted permission which, according to the learned Senior Counsel, is not a matter which should be interfered with under Article 226 of the Constitution of India.

5. Sri.T.Naveen, the learned Standing Counsel for the Pollution Control Board submitted that the permission granted by the Board was only for making snacks while the impugned order goes beyond the scope of the appeal.

6. A perusal of the impugned order reveals that permission has been granted to the petitioner to bake cakes for the Christmas season of 2023, that too for the period from 15.11.2023 till 31.12.2023 between 6.00 a.m. to 6.00 p.m. with limited quantity of 300 numbers. Considering the peculiar circumstances and the nature of power exercised by the Appellate Authority under the Air and Water (Prevention and Control of Pollution) Act, 1981, I am of the view that the jurisdiction under Article 226 of the Constitution of India to interfere in an interim order passed by an Appellate Authority is limited.

7. The nature of complaint alleged against the baking of cakes is the smell that emanates. It is seen in the report filed by the Environmental Engineer in W.P.(C) No.15231 of 2021 that the smell generated mainly from frying or baking etc. is not declared as a toxic contaminant in any of the studies and nor does it have any standards. It is further stated that after stringent action was taken against the unit, it had implemented pollution control measures which reduced the pollution



WP(C) NO. 35341 OF 2023

5

problems and further that additional control measures to control the smell and air pollution issues generated while manufacturing bakery products which included scrubbing systems for controlling existing smell and air pollution problems have already been implemented.

8. In view of the aforesaid measures adopted conducted by the unit of the 3<sup>rd</sup> respondent and considering the limited period of time for which the interim order will operate, this Court is of the view that this is not a fit case where the jurisdiction under Article 226 of the Constitution of India ought to be invoked to interfere with the impugned order.

Accordingly, I find no merit in this writ petition and it is dismissed.

Sd/-

**BECHU KURIAN THOMAS, JUDGE**

RKM



WP(C) NO. 35341 OF 2023

6

APPENDIX OF WP(C) 35341/2023PETITIONER'S EXHIBITS :

- EXHIBIT.P.1 TRUE COPY OF THE SAID TO OPERATE  
ISSUED BY THE 2ND RESPONDENT NO. PCB/DO-  
1/EKM/ICO/G20ERR750172/21, DATED 30-03-  
2021
- EXHIBIT.P.2 TRUE COPY OF THE CONSENT VARIATION ORDER  
ISSUED BY THE 2ND RESPONDENT TO THE 3RD  
RESPONDENT, DATED 31-08-2021
- EXHIBIT.P.3 TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED  
BY THE 2ND RESPONDENT TO THE 3RD  
RESPONDENT DATED 18-02-2022 I
- EXHIBIT.P.4 TRUE COPY OF THE SAID MEMO ISSUED BY THE  
2ND RESPONDENT TO THE 3RD RESPONDENT TO  
STOP THE MANUFACTURING OF CAKES, DATED  
03-01-2022
- EXHIBIT.P.5 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND  
RESPONDENT TO THE 3RD RESPONDENT DATED  
04-04-2022
- EXHIBIT.P.6 TRUE COPY OF THE ORDER OF 2ND RESPONDENT  
DATED 25-04-2022 CANCELLING THE CONSENT  
GRANTED FOR THE MAKING OF 300 SNACKS
- EXHIBIT.P.7. TRUE COPY OF THE ORDER IN R.P.NO. 417 OF  
2022 IN W.P.(C)NO. 14928 OF 2022, DATED  
13-06-2022 OF THIS HON'BLE HIGH COURT
- EXHIBIT.P.8 TRUE COPY OF THE ORDER IN I.A.NO. 39 OF  
2022 IN APPEAL NO.11/2022, DATED  
04-02-2023 OF THE AIR APPELLATE AUTHORITY,  
THIRUVANANTHAPURAM
- EXHIBIT.P.9. TRUE COPY OF THE JUDGMENT IN W.P.  
(C)NO.7398 OF 2023, DATED 21-06-2023 OF  
THIS HON'BLE HIGH COURT



WP(C) NO. 35341 OF 2023

7

EXHIBIT.P.10 TRUE COPY OF THE INTERIM ORDER OF THIS HON'BLE HIGH COURT IN W.P.(C)NO. 27607 OF 2023, DATED 18-08-2023

EXHIBIT.P.11 TRUE COPY OF THE ORDER IN I.A.NO. 39 OF 2022 IN APPEAL NO. 11/2022 OF THE AIR APPELLATE AUTHORITY, THIRUVANANTHAPURAM, DATED 21-09-2023

RESPONDENTS' EXHIBITS :

EXHIBIT R3(A) TRUE COPY OF RELEVANT EXTRACT OF THE CIRCULAR DATED 31/08/2016 SHOWING THE LIST OF CATEGORIES OF INDUSTRIAL SECTORS INCLUDED IN THE GREEN CATEGORY.

EXHIBIT R3(B) TRUE COPY OF THE PHOTOGRAPH OF THE SCRUBBER FACILITY INSTALLED IN THE BAKERY UNIT.

EXHIBIT R3(C) TRUE COPY OF THE DEPOSITION OF THE ENVIRONMENTAL ENGINEER IN O.S NO.38/2021 ON THE FILES OF MUNSIF COURT, KOCHI

EXHIBIT R3(D) TRUE COPY OF THE REPORT DATED 15/09/2021 FILED BY THE 2ND RESPONDENT IN WP(C) NO. 15231 OF 2021 WITHOUT ANNEXURES

This is the true copy of the document referred to and marked as Annexure R1(o)

  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

THURSDAY, THE 14<sup>TH</sup> DAY OF DECEMBER 2023 / 23RD AGRAHAYANA,  
1945

WA NO. 2140 OF 2023

AGAINST THE JUDGMENT IN WP(C) 35341/2023 OF HIGH COURT OF  
KERALA

APPELLANT/PETITIONER:

IGNATIUS K.J.  
AGED 58 YEARS, KOLLAMPARAMBIL HOUSE, 22/216,  
ATHIPOZHI, MUNDAVELI P.O., KOCHI, PIN - 682 507.

BY ADVS.  
P.B.SAHASRANAMAN  
T.S.HARIKUMAR

RESPONDENTS/RESPONDENTS:

- 1 KERALA STATE POLLUTION CONTROL BOARD,  
TC 12/96(4,5), PLAMOODU, PATTOM.P.O.  
THIRUVANANTHAPURAM, PIN - 695 004.
- 2 THE ENVIRONMENTAL OFFICER,  
KERALA STATE POLLUTION CONTROL BOARD,  
DISTRICT OFFICE-1, ERNAKULAM, GANDHINAGAR,  
KOCHI, PIN - 682 020.
- 3 K.J. JOSEPH  
AGED 50 YEARS, S/O.LATE K.M. JACOB,  
RESIDING AT KONNOTH HOUSE, MUNDAMVELI P.O.,  
KOCHI, PIN - 682 507.

SC FOR PCB T. NAVEEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14.12.2023,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



W.A.No.2140 of 2023

2

**JUDGMENT**

Dated this the 14<sup>th</sup> day of December 2023

**A.J. Desai, C.J.**

Today, when the matter is called out, learned counsel for the appellant seeks permission to withdraw the writ petition with the liberty to proceed before the Air Appellate Authority.

2. Permission is granted.

In view of the withdrawal of the writ petition, the impugned order would not survive. The appeal is accordingly disposed of.

Pending interlocutory applications, if any, shall stand closed.

Sd/-

**A.J. Desai  
Chief Justice**

Sd/-

**V.G. Arun  
Judge**

vpv



W.A.No.2140 of 2023

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APPENDIX OF WA 2140/2023

PETITIONER EXHIBITS

Exhibit P.3  
(English  
translation)

ENGLISH TRANSLATION OF EXHIBIT.P.3  
PRODUCED ALONG WITH WRIT PETITION

Exhibit.P.4.  
(English  
translation)

ENGLISH TRANSLATION OF EXHIBIT.P.4  
PRODUCED ALONG WITH WRIT PETITION

Exhibit.P.5.  
(English  
translation)

ENGLISH TRANSLATION OF EXHIBIT.P.5  
PRODUCED ALONG WITH WRIT PETITION

Exhibit.P.6.  
(English  
translation)

ENGLISH TRANSLATION OF EXHIBIT.P.6  
PRODUCED ALONG WITH WRIT PETITION

This is the true copy of the document referred to and marked as Annexure R1(p)

  
Advocate