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V.M. Thankachan Vs. Bharanicavu Grama Panchayat and Ors.

NLS/ENVIS/07.07.2010/Environment/High Court of Kerala

GROUND WATER POLLUTION

V.M. Thankachan Vs. Bharanicavu Grama Panchayat and Ors.

NLS/ENVIS/07.07.2010/Environment/High Court of Kerala

(Hon'ble Judge: T.R. Ramachandran Nair, J.)

JUDGMENT

1. The main relief sought for in W.P.(C) No. 9919/2010 is for a direction to the respondents 1, 2, 3, 5 and 6 to take prompt and effective steps to ensure that 4th respondent or any others do not in any way contaminate or pollute the well of the petitioner or other drinking water sources in the area. The 4th respondent in the said writ petition was conducting a bakery and restaurant in the name and style 'JM Bakes and Restaurant'. The said building is situated on the immediate eastern side of the residential building of the petitioner. The petitioner and his family are drawing water from the well situated in their compound for drinking purpose.

2. This Court passed an interim order dated 24.03.2010 in W.P.(C) No. 9919/2010 directing the 3rd respondent to conduct a local inspection and submit a report before this Court with regard to the allegation of contamination of petitioner's well due to the waste coming out of the restaurant owned by the 4th respondent. A report has been filed already and the report confirms the allegations raised by the petitioner.

3. Thereafter, the Court passed an interim order on 14.06.2010 directing the respondents 1, 2, 3, 5 and 6 to see that the stop memo issued by the 1st respondent Panchayath is enforced against the 4th respondent and that the 4th respondent does not continue running his bakery and restaurant, forthwith.

4. The 4th respondent in W.P.(C) No. 9919/2010 is the petitioner in W.P.(C) No. 19594/2010 wherein he is seeking for a direction to renew the licence of the hotel and bakery. It appears that the disputes between the parties have been settled and the terms of compromise have been produced along with I.A. No. 8784/2010. Following are the terms and conditions of settlement:

1. All the existing tanks including septic tanks existing in the property where the 4th respondent is conducting business and septic tanks or other tanks near to the property which is being used by the 4th respondent, his associates, staff or others will be cleaned and thereafter completely closed on or before 29.07.2010.

2. New tanks with proper safeguards to prevent leakage or pollution that may result in contamination of the petitioner's well will be newly constructed by the 4th respondent at his cost.

3. At present the owner of the property where 4th respondent is conducting business - Johny Palavila - is dumping waste and allowing waste to flow into the tanks situated near the property of the petitioner which results in contamination of the petitioner's well, according to the fourth respondent. Adequate steps will be taken to prevent dumping waste or flow of waste to the tanks even if it is not caused by fourth respondent. Additional tanks will be constructed by fourth respondent for dumping of waste or

flow of polluted materials, at his cost, away from the petitioner's house.

4. *In addition to the above safeguards other necessary steps will be taken by the 4th respondent so as to ensure that petitioner's well is not polluted in any manner. He will further ensure that no foul smell emanates from any of the tanks or any activity conducted by the 4th respondent.*

5. After the 4th respondent fulfills the above conditions the petitioner will inform the Panchayat and other authorities that he has no objection in granting licence to the 4th respondent.

6. *The water from the petitioner's well will be tested once in 3 months in an approved laboratory and if on such examination it is found that the water is polluted proper safeguards will be taken by the 4th respondent to ensure that the pollution is removed. If such steps are not taken the petitioner will be free to approach the statutory or other authorities. Further, on filing of such petitions/applications fourth respondent will close down the business until the objections are cleared.*

5. It is submitted by the learned Counsel appearing for the parties that these writ petitions can be disposed of in terms of the above conditions. Learned Counsel for the 4th respondent in W.P.(C) No. 9919/2010 submitted that the 4th respondent will comply with all the conditions provided in the terms of compromise and thereafter only he will seek for renewal of licence. It is submitted by the learned Counsel for the petitioner that once the 4th respondent completes the work related to the avoidance of pollution, he will also inform the Panchayath of his no objection based on which the Panchayath may be directed to take appropriate action.

Therefore, after completing various works to be done by the 4th respondent, a compliance report will be filed before the Panchayath who will verify the same by conducting an inspection and both parties will then file separate or a joint petition on the basis of which the Panchayath will take appropriate action for renewal of licence. The 4th respondent will see that any complaint with regard to pollution in future will be attended to by him promptly.

These writ petitions are disposed of as above.

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