

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,
THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,
Hon'ble Chairperson**

Dated this the 4th March, 2010

H.R.M.P.No.306 of 2008

Petitioner : M.P. Baburaj, Secretary,
Janakeeya Samarasamithi,
Mulakulm. P.O., Kottayam.

Respondent :

ORDER

The complaint of the petitioner is that there is illegal mining of earth for manufacturing bricks and the manufacturers are using JCB, Drudger with 150 HP etc. and thereby cause health and environmental problem and children are also engaged as employers.

The Environmental Engineer, Kerala State Pollution Control Board, has filed a report by stating that directions were issued to all the units for taking pollution control measures and that consent was issued to the units to operate bricks kilns with emission control system comprised with hood and exhaust pipe of minimum 15m height above the ground level and presently no brick kilns are in operation on account of monsoon and that the pollution can be controlled if the directions issued by the Pollution Control Board are complied with.

The Secretary, Mulakulam Grama Panchayat, in his report, has stated that bricks are manufactured with valid licence issued by the Panchayat, Mining &

Geology Departments etc. and the mining is done only to a depth of 3.4 feet. According to the report, earth is brought from outside for manufacturing bricks. No child is employed in any of the manufacturing units and that the owners of the units have agreed to stop the manufacturing of bricks in a gradual manner.

The District Labour Officer, Kottayam, has filed his report stating that most of the workers in the units are from Tamil Nadu and no child was seen engaged as a labourer.

The Geologist, Mining & Geology Department has filed his report by stating that after the order of the High Court in WPC 1694 of 2004 permits are being given for mining earth where environmental problem will be less and as per the decision of the Division Bench of the High Court in WPC 29713 of 2006 the use of motor for mining can be granted by the Geologist as it is his sole discretion. According to the report 20 pumps used illegally for mining purpose were seized during 2005-06 and similarly 15 pumps in the year 2006-07. According to the report permission was granted to two units within the area of Mulakulam Grama Panchayat for manufacturing bricks and consent was given to other two persons for collecting mud for manufacturing bricks and steps are being taken to fill up the pits caused on account of the mining and that Revenue Recovery proceedings were initiated against 33 persons by the District Collector.

The Sub Inspector of Police, Velloor, in his report has stated that there are 13 brickyards and six earth mining units in the area and that children are not engaged for work and the Panchayat did not give any licence for manufacturing bricks for the next year.

The petitioner and the Secretary, Mulakulam Grama Panchayat, are present. It could be seen from the report that the Pollution Control Board satisfied itself by simply issuing directions and by filing a report to this Commission by stating that the problems of pollution can be solved if the units followed the direction issued by the Pollution Control Board. In the said report the Environmental Engineer, Pollution Control Board did not even say as to whether any inspections were conducted by the officials of the Pollution Control Board to find out whether the directions issued by the Pollution Control Board are complied with or not. The report is thoroughly unsatisfactory and it is evasive in nature. It looks that the Pollution Control Board is trying to wash of its hands by filing such an indifferent report.

The Panchayat in the report has admitted that the bricks are being manufactured by the units which are bringing earth from outside. The Secretary of the Panchayat who is present before me informs that the stocks of earth are kept and maintained by the unit owners and are brought to the brick kilns for manufacturing bricks. In the report, the Geologist, Mining & Geology Department refers two orders of the High Court but the orders of the High Court were not annexed with the report. He has only stated that in terms of the judgment of the High Court directions were issued to the units for manufacturing bricks at places where environmental problem will be less and the District Geologist is the sole authority for allowing the use of motor for mining in the area for the purpose of excavation of mud for manufacturing bricks.

In this background, at look at the judgment in O.P. No.34220 of 2000 (W) will show that a Division Bench of the High Court gave five directions after finding that indiscriminate digging up of paddy lands is taking place in the State and it is necessary to issue a direction to the concerned authorities not to issue any licence for manufacture or production of bricks or other articles out of mud, clay or earth unless the person who applies for licence specifies in the application the source from which he proposes to obtain clay, earth or mud. The High Court further directed that only on such disclosure, the Panchayat will verify the lands specified and only thereafter grant licences or permissions under the Panchayat Raj Act for starting or running any industry or manufacturing or process based on clay, earth or mud.

Admittedly the Panchayat has not followed the directions since even according to the Secretary he has not asked the details from the unit owners as to the source from which they are obtaining clay, earth or mud for starting or running any industry to manufacture or processing bricks.

In view of the above facts admitted by the Secretary, Mulakulam Grama Panchayat, it is necessary to direct the Panchayat to follow the directions issued by the High Court in letter and spirit and take decisions in terms of the judgment according to law.

The petition is closed with the above direction.

Justice N.Dhinakar,
Chairperson

