

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

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

Dated this the 11th March, 2009.

H.R.M.P.No.461/2008

Petitioner : T.K.Bhaskara Panickar,
President, FRAT,
Renfrew Cottage, USRA 72,
U S Road, Vellayambalam,
Thiruvananthapuram – 695 010.

Respondent :

ORDER

The complaint of the petitioner is about the construction of mult-storeyed buildings/flats/apartments in the Thiruvananthapuram City causing environmental pollution and health problems, some times leading to danger to the life of the residents in the area. According to the complaint, the builders have not taken any steps to prevent the pollution or health hazards to the people. His complaint before the authorities concerned had become futile.

Reports were called for from the District Collector, Thiruvananthapuram; Secretary, Thiruvananthapuram Corporation and the Environmental Engineer, Kerala State Pollution Control Board, Thiruvananthapuram.

In the report submitted by the Secretary, Thiruvananthapuram Corporation, it is stated that the Building Inspectors concerned are directed to see that there will not be any environmental pollution or threat or any danger to the people in the locality on account of the construction of multi storeyed buildings/flats.

In the report submitted by the Environmental Engineer, Kerala State Pollution Control Board, it is stated that taking into account the increasing number of multi storeyed buildings, including residential flats, the Board has brought these under Consent purview and the Board insist on Consent to Establish and Consent to Operate for multi- storied buildings above 4 storeys and the noise pollution, shock, vibration, slurry generated during piling, dust emission, construction debris, etc; are the expected nuisance during the construction phase. According to the report, Consent to Establish is issued considering the suitability of site with conditions to prevent pollution and the conditions aimed to control pollution during the construction phase include the following:

1. Water sprinklers shall be provided to suppress spreading of dust out side the premises in the construction phase. Suspended particulate matter at the boundary of the premises shall not exceed 200 microgram per cubic meter.
2. The sound level measured 1 m out side the boundary of the premises shall not exceed the ambient sound level standard applicable for the adjoining areas.
3. All operations likely to produce dust or noise shall be carried out within closed premises.
4. Suitable technology/equipment shall be provided during construction and operation to ensure keeping the ambient air quality within the permissible limit as specified in condition No.2 and 3.

5. Excavation and piling operation shall be done without causing damage to the nearby buildings and without causing nuisance to the neighbours.
6. Construction debris, mud discharges, etc, from the construction site shall be disposed safely and the details of the disposal of the same shall be intimated to the Board's office in advance.
7. Proper precautionary measures shall be provided during construction phase to minimize disturbances due to excavation, piling, transportation of materials, etc;
8. Sanitary facilities shall be provided to the workers.

The report concludes by stating that the compliance of these conditions are sufficient to mitigate pollution from such buildings and the safety aspects do not come under the purview of the Board.

Though the District Collector, Thiruvananthapuram was asked to submit his report and in spite of several reminders, the report is not received which shows that he has no remarks to offer in the matter.

The report of the Secretary, Thiruvananthapuram Corporation, shows that the Building Inspectors were directed to ensure that there would not be any problem of pollution or threat to life to anybody on account of the construction of multi - storied buildings in its limits. In the report the Pollution Control Board, has mentioned in detail about the conditions stipulated to the builders or the building owners at the time of issuing Consent to Establish for the construction of multi- storied buildings. I feel that simply mentioning certain conditions or giving some directions is not sufficient to prevent the pollution and health problems or

any possible threat to the life of people but the authorities concerned have the greater responsibility to ensure that adequate safety measures are taken and the conditions issued by the Pollution Control Board are complied with. In the above circumstances, I make the following recommendations to the Government:

RECOMMENDATIONS:

- 1. The Local bodies should be directed to ensure that the builders/ owners of the flats/multi-storied buildings complete all the legal requirements which are necessary for the construction before sanctioning the permission or license.**
- 2. The Secretary of the Corporations/Municipalities/Panchayats in the State shall be directed to conduct periodical inspections of the sites where multi- storeyed buildings/flats are under construction to ensure that all the precautionary measures are taken to avoid any kind of threat or tragedy to the people and their properties in the area and strict action shall be taken against the construction companies or building owners where safety measures are not taken.**
- 3. The Kerala State Pollution Control Board shall be directed to conduct inspections at the multi-storied building construction sites to see that the conditions stipulated in the Consent to Establish are complied with by the builders and to take immediate legal action if any violation is found.**

4. **The Government shall initiate strict action against the erring Government officials who are entrusted with the duty of controlling pollution, monitoring the health problems of the citizens and those who are entrusted to prevent danger to the public, if they are found irresponsible and indifferent in their duties.**

5. **The authorities concerned should see that in every sense the life and property of the people in the area are protected by all means at the time of construction of multi-storied buildings.**

**Justice N.Dhinakar,
Chairperson**