



"CR"

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 1ST DAY OF APRIL 2026 / 11TH CHAITHRA, 1948

WP (C) NO. 34275 OF 2025

PETITIONER/S:

- 1 SUDHEER.S
AGED 45 YEARS
S/O SAIFUDHEEN, SASI MANDIRAM, CHARUMKUZHI,
ADAYAMON.P.O, THIRUVANANTHAPURAM DISTRICT, PIN -
695614
- 2 THAJUDHEEN.A.,
AGED 64 YEARS
S/O ALIKANNU, THOPPIL HOUSE, ADAYAMON.P.O,
THIRUVANANTHAPURAM DISTRICT, PIN - 695614

BY ADVS.
SHRI.AJITH KRISHNAN
SRI.RENJITH THAMPAN (SR.)

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY, LOCAL SELF GOVERNMENT
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN -
695001
- 2 DIRECTOR OF PANCHAYATS



2026:KER:28842

DIRECTORATE OF PANCHAYATH, PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM, PIN - 695033

3 DEPUTY DIRECTOR OF PANCHAYATS,
DIRECTORATE OF PANCHAYATH, PUBLIC OFFICE BUILDING,
THIRUVANANTHAPURAM, PIN - 695033

4 NELLANAD GRAMAPANCHAYATH
REPRESENTED BY ITS SECRETARY, PANCHAYATHOFFICE,
VENJARAMOOD.P.O, THIRUVANANTHAPURAM, PIN - 695607

5 SECRETARY, NELLANAD GRAMAPANCHAYATH
PANCHAYATH OFFICE, VENJARAMOOD.P.O,
THIRUVANANTHAPURAM, PIN - 695607

6 ADDL.R6: RAHUL B.RAJ,
S/O.DHARMARAJAN, GREESHMA BHAVAN, CHERUKOTTUKONAM,
VINJARAMOODU, THIRUVANANTHAPURAM -695 607.

7 ADDL.R7: BIJU T.S.,
S/O.THANKAPPAN, PANDIYANCHIRA, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM-695 607.

8 ADDL.R8: VAISAKH S.,
S/O.SATHEESHAN, S.S.BHAVAN, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM -695 607.

9 ADDL.R9: DEEPAK B. S.,
S/O.BHUVENDRAN, DEEPAK BHAVAN, VALIYAKATTAK
VINJARAMOODU, THIRUVANANTHAPURAM -695 607.

0 ADDL.R10: SAINU CHANDIR,
S/O.RAJAN, GEETHALAYAM, MAILAKUZHI, VINJARAMOODU,
THIRUVANANTHAPURAM -695 607.

11 ADDL.R11: SHIBIN U.S.,
S/O.SHIVANNANDAN, MATHRUSMARANA, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM-695 607.

12 ADDL.R12: AJAYAKUMAR,
S/O.RAGHUMATHAN, KUMAR VILASAM, VALIYAKATTAKKAL,



VINJARAMOODU, THIRUVANANTHAPURAM -695 607.

- 13 ADDL.R13: SATHEESAN,
S/O.KRISHNAN, S.S.BHAVAN, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM-695 607.
- 14 ADDL.R14: C.ARJUNAN,
S/O.CHELLAPPAN, NELLIPALLY VEEDU, VINJARAMOODU,
THIRUVANANTHAPURAM -695 607.
- 15 ADDL.R15: SUDHARSANAN,
S/O.KESHAVAN, S.S.BHAVAN, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM-695 607.
- 16 ADDL.R16: LIJOY S.,
S/O.SATHEENA, UTHRADAM, VALIYAKATTAKKAL,
VINJARAMOODU, THIRUVANANTHAPURAM-695 607 (ADDL.R6 TO
R16 ARE IMPEADED AS PER ORDER DATED 17.10.2025 IN
IA NO.1/2025 IN WP(C) NO.34275/2025).

BY ADVS.
SRI.M.H.HANIL KUMAR
SHRI.KALEESWARAM RAJ
KUM.THULASI K. RAJ
SMT.APARNA NARAYAN MENON
SMT.CHINNU MARIA ANTONY

OTHER PRESENT:

SR.RENJITH THAMPAN,SR.
SRI.M.H.HANIL KUMAR,GP

THIS WRIT PETITION (CIVIL) FINALLY HEARD ON 24.03.2026,
THE COURT ON 01.04.2026 DELIVERED THE FOLLOWING:



“CR”

P.V.KUNHIKRISHNAN, J

W.P(C) No. 34275 of 2025

Dated this the 1st day of April, 2026

JUDGMENT

This case unveils the poignant story of two entrepreneurs whose dream to start an industrial unit with most modern machinery was stifled, not by law or authorities who have to decide whether there is any chance of pollution or environmental problems, but by the tumult of a handful of neighbours residing about 150 meters away from the unit and consequently the representatives of the local authority are afraid to take a decision in accordance with law. Our state, Kerala, is known as God’s Own Country. It is famous for its lush green beauty. But the state also wants industries that don't affect this natural charm. However, there is a general allegation



that industries will not progress in Kerala because of people's protests and trade unionism, but, in reality, our industrial growth has been commendable in recent times. The credit goes to all Keralites and, of course, to political parties and their leaders who were in power at different periods, irrespective of the colour of their parties, and who always convinced the people of the necessity of industries in our state for our economic growth. But these isolated instances will definitely discourage entrepreneurs from investing in our state. Some political parties and elected representatives fear that siding with industry in an area will cost them their vote bank there. This is the General Election time in Kerala. The political parties and the candidates should tell the electorate and get their mandate by saying that, if they are elected, no entrepreneur in Kerala who has obtained all statutory clearances from all authorities, including pollution and environment authorities, will be forced to close down their unit because of the protest of a



handful of people if their apprehension has no basis. It is the duty of the elected representatives to convince the electorate at the time of the election itself that, once statutory clearance is obtained, nothing will happen, and industrial growth is the need of the hour in our state. As I said earlier, this is a sad story of two entrepreneurs who invested crores of rupees in establishing a Hotmix Plant. The present case presents the predicament of an entrepreneur who, in compliance with all known statutory prescriptions, invested several crores of rupees to establish an industrial unit in the State. The records disclose that he secured all necessary licenses, clearances, and permits from the competent authorities after undergoing a prolonged and exacting scrutiny. It is not in dispute that no violation of environmental norms, pollution standards or other statutory violations has been alleged by any statutory authority. The unit, though complete in all physical respects with most modern machinery, has not



been permitted to commence operations by the local Grama Panchayat due to public protests. What was conceived as an economic activity has been reduced to a vast, voiceless structure of concrete and steel due to public protest, which lacks scientific or environmental backing. The gates that were designed to open daily for workmen now remain locked, guarding only the idle machinery and gathering dust. But the papers before this Court reveal a deeper loss, the steady erosion of confidence in the rule of law. When approvals granted under the existing legal framework are rendered meaningless by extra-legal pressure, the very legitimacy of that framework is called into question. Public dissent has its rightful place in a constitutional democracy, but without a lawful basis, a venture that satisfies every statutory command cannot be shut down on the basis of public protest. If such a course is tolerated, investment will be deterred, employment opportunities will wither, and law-abiding enterprises will be



taught the wrong lesson that compliance is not protection. The petitioner's grievance is therefore not merely personal; it reflects a systemic concern that governmental assurances, once acted upon, may evaporate at the threshold of implementation. It is this concern that now requires judicial address in this Writ Petition.

2. I will narrate the facts in brief: The first petitioner, Sudheer. S, has intended to start a proprietary concern of a Drum Mix Plant of 20 KW. For the purpose of establishing the said proprietary hot mix plant, the 1st petitioner has filed an application under Section 233 of the Kerala Panchayat Raj Act, 1994 (hereinafter referred to as 'Act, 1994') before the 1st respondent Panchayat. The 1st respondent, as per Ext.P5 letter, sought a report from the District Medical Officer and, as per Ext.P6 letter, sought a report from the Kerala State Pollution Control Board (hereinafter referred to as 'PCB'). The District Medical Officer, as per Ext.P7, informed that there is no



objection to the establishment of the industrial unit. The PCB had issued consent to operate, as evident from Ext.P8 on 04.05.2017. Since the 1st petitioner had filed an application to establish the unit on 06.02.2017 and no intimation was issued within 30 days by the Panchayat, it is the case of the petitioners that the 1st petitioner has been deemed to have obtained permission under Section 236 of the Act, 1994, to establish the unit as a proprietary concern. Hence, the 1st petitioner had established the hot mix plant in the year 2017, is the submission. But, as per the decision dated 10.05.2017, as evident from Ext.P9, the Panchayat Committee rejected the application of the 1st petitioner on the ground that there was a public protest. Ext.P10 is the intimation issued by the Secretary of the Panchayat to the petitioner. According to the petitioners, since the 1st petitioner submitted an application on 06.02.2017 for establishing a proprietary concern, and no intimation was issued within 30 days, the said permission is deemed to have



been granted under Section 236 of the Act, 1994, dehors Ext.P10.

3. Hence, aggrieved by Ext.P10, the petitioner filed a revision before the Tribunal for Local Self Government Institutions (hereinafter referred to as 'Tribunal') and the Tribunal stayed Ext.P10 by order dated 16.05.2017, as evident by Ext.P11. Despite Ext.P11, the Panchayat issued a stop memo to the petitioner on 29.05.2017, as evident from Ext.P12. On the basis of Ext.P12 stop memo, some of the persons who have an axe to grind against the petitioner have obstructed the functioning of the unit, is the submission. Therefore, the petitioner approached this Court and this Court, as per Ext.P.13 judgment, granted police protection for the functioning of the 1st petitioner's proprietary concern, is the further submission.

4. In the meanwhile, it is submitted that, by abundant caution, the 1st petitioner, as a proprietor, had, on 28.01.2018,



again filed an application under Section 233 of the Act, 1994, as well as an application dated 24.01.2018 for a D&O licence, as evident from Exts.P14 and P15. In the meantime, the Tribunal disposed of RP No. 55/2017 and passed an order on 31.01.2018. That order is not produced in the Writ Petition. It is submitted by the petitioners that, in the said judgment, the Tribunal directed that the Panchayat shall not interfere with the functioning of the 1st petitioner's tar mixing unit till a decision is taken on Ext.P14. The operative portion of the order of the Tribunal is extracted in paragraph No.9 of the Writ Petition, which is extracted hereunder also:

"Considering the findings in point No.1, revision petition is only liable to be dismissed. In the result, the revision petition is dismissed. Anyway accepting the submission of the learned counsel for revision petitioner, the respondent is directed not to interfere with the functioning of the tar mixing unit of the petitioner till the disposal of the application under Sec.233 of the Kerala panchayath Raj act dated 28.01.2018 submitted before the respondent on 29.01.2018 within the statutory limit".



5. Based on the above-said order, the 1st petitioner was permitted to continue the tar mix unit, is the submission. It is submitted that no orders were passed on the Ext.P14 application and hence in view of Section 236 of the Act, 1994, again, there is a deemed sanction, is the submission. Accordingly, the 1st petitioner was continuing the unit as a proprietary concern without any obstruction, is the submission.

6. In the meanwhile, petitioners 1 and 2 entered into a partnership and formed a partnership firm in the name and style 'N&T Tar Hotmix Plant'. Ext.P16 is the acknowledgement of registration issued by the Registrar of Firms. According to the petitioners, after the establishment of the partnership firm 'N&T Tar Hotmix plant', the partnership firm has decided to install new machinery and modern facilities. The 1st petitioner has decided to discontinue the proprietary concern, continue as a partnership with the 2nd petitioner, and install new machinery.



7. The petitioners have purchased an ultra-modern hot mix plant (batch mix plant), spending more than Rs. 5 crore. Ext.P17 invoice is produced to prove the same. After the aforesaid machinery was brought to the petitioners' unit, the petitioners' firm entered into an agreement with the owners of the land for installing the said batch mix plant on 8.3 acres of land, as evident from Ext.P18, the rent agreement dated 20.04.2022, which is the submission. It is also submitted that a fresh application under Section 233 of the Act, 1994, was submitted by the petitioners to the Panchayat on 21.06.2022, as evident by Ext.P19. Since Ext.P19 is dated 21.06.2022, the Panchayat has to take a decision on or before 20.07.2022, it is submitted.

8. According to the petitioners, in view of the amendment to Section 233(4) of the Act, 1994, as per Act 14 of 2018, the Panchayat cannot reject the application but can only impose conditions while considering the application. Since



no intimation was received by the petitioners on or before 20.07.2022, after the application dated 21.06.2022 under Section 233 of the Act, 1994, in view of Section 236(3) of the Act, 1994, the said permission is deemed to have been granted, is the submission. However, much thereafter, on 24.01.2023, the Panchayat issued a stop memo as evident by Ext.P20. Against Ext.P20, the petitioners had filed an appeal before the Tribunal for Local Self-Government Institutions (for short, 'Tribunal') as Appeal No.157/2023, and the Tribunal had stayed that stop memo, as evident by Ext.P21, is the submission. It is also submitted that the stay order is even now in force. In the meantime, the Pollution Control Board granted consent to operate the establishment of the petitioners' firm on 13.03.2023, as evident by Ext.P22. But certain persons obstructed the functioning of the petitioners' unit, and the petitioners had filed WP(C) No. .15965/2024 before this Court for police protection. This Court, by order dated 16.04.2024,



directed the police to maintain law and order.

9. When the case came up for consideration on 19.06.2024, it was submitted by the respondent that there is no trade license for the petitioners. This Court clarified that the interim order will continue only if there is a valid license. According to the petitioner, the trade license issued to the petitioners is valid for 5 years. However, the petitioners had withdrawn the said writ petition, with liberty to approach this Court again. With abundant caution, the petitioner again filed an application on 21.06.2024 under Sections 232 and 233 of the Act, 1994, which was rejected by the Panchayat the very next day. Ext. P23 is the application for the licence dated 21.06.2024.

10. In the meanwhile, the petitioners had filed an application under the Micro, Small and Medium Enterprises Development Act (for short, 'MSME Act'), and obtained an acknowledgement certificate dated 25.06.2024, as evident by



Ext.P24. On the basis of the Ext.P24 certificate, the petitioners approached this Court by filing WP(C) No. 23320/2024 for police protection for the operation of the hot mix plant. However, it is submitted that this Court held that the acknowledgement certificate under the MSME Act is applicable only to new units, and not to units already in operation. The above judgment of this Court is produced as Ext.P25. A writ appeal filed against the same was withdrawn by the petitioners.

11. Faced with the aforesaid situation, the petitioners had again filed an application under Section 233 of the Act, 1994, and Ext.P26 is the relevant page of the application filed by the petitioners, and Ext.P27 is the receipt dated 17.05.2025, showing the receipt of the application. When Ext.P26 was considered, the Panchayat committee took the stand that the application under Section 233 of the Act, 1994, cannot be allowed due to apprehensions among the local people that it will create serious health problems. Ext.P28 is the decision of



the 4th respondent Panchayat. Ext.P29 is the intimation issued by the Secretary of the Panchayat on 30.05.2025, communicating Ext.P28.

12. According to the petitioners, as per the letter dated 06.02.2025, the District Medical Officer has certified that there are no health issues if the petitioners' unit starts functioning. Ext.P30 is the sanitary certificate issued by the Health Inspector on 23.06.2025. In the meantime, an allegation was made that the building in which the petitioners' unit's office is functioning is a residential building. It is the case of the petitioners that the Panchayat had issued commercial occupancy to the building and granted additional building No. 10/516A, and to prove the same, the petitioners produced Ext.P31, the building tax receipt.

13. In such circumstances, the petitioners filed W.P.(C) No. 21247/2025 before this Court challenging Ext.P28 decision of the Panchayat. This Court had disposed of the above writ



petition by Ext.P1 judgment. In Ext.P1 judgment, this Court found that the Panchayat has only the power to either grant permission absolutely or grant permission with conditions.

14. According to the petitioners, this Court found that the decision of the Panchayat is vitiated, because it is without following the procedures contemplated under Section 233 of the Act, 1994, and without considering the report of the Government Authority. After these observations, by Ext.P1 judgment, this Court set aside Ext.P28 order and further directed the Panchayat to reconsider afresh Ext.P26, as per the procedure laid down under Section 233 of the Act, 1994. On the basis of Ext.P1 directions, the petitioners filed a detailed note of arguments and produced the pleadings in the writ petition before the Panchayat. However, the Panchayat rejected that application. Ext.P3 is the resolution of the Panchayat, and the Panchayat has taken a stand that the application is for permission for 130 HP machinery. In Ext.P3, the Panchayat



committee, without any authority, holds that the aforesaid 130 HP machinery was installed prior to 2018, and hence, the Panchayat committee had the authority to reject the application up to 2018.

15. Because of the aforesaid situation, the Panchayat Committee illegally assumed the authority to reject the application, which the Panchayat Committee does not have the power to do, after the amendment to Section 233 of the Act 1994 in the light of Act 14 of 2018, is the submission. Aggrieved by Exts.P3 and P4, this writ petition is filed.

16. Heard, Adv. Sri. Renjith Thamban, the learned Senior Counsel for the petitioners, assisted by Adv. Sri. Ajith Krishnan, Sri, M.H. Hanilkumar, the learned Standing Counsel appearing for respondent Nos. 4 and 5 and also Adv. Sri. Kaleeswaram Raj, the learned counsel appearing for the party respondents. I also heard the learned Government Pleader.

17. The learned Senior Counsel, Sri. Renjith Thamban



raised twofold contentions. The Senior Counsel submitted that Ext.P3 decision of the Panchayat is nothing but a clear violation of the directions in Ext.P1 judgment of this Court. The Senior Counsel also submitted that, even if, for argument's sake, it is accepted that there is no violation of the Ext.P1 judgment, the Ext.P3 decision of the Panchayat will not stand for other reasons as well. The counsel also submitted that the Panchayat proceeded on the basis that the petitioners had submitted an application for a permit before the amendment of Section 233 of the Kerala Panchayat Raj Act, 1994 (for short "Act 1994"). According to the Senior Counsel, the application considered by the Panchayat is one submitted subsequent to the amendment to Section 233 of the Act 1994, as per Act 14 of 2018. The Senior Counsel also takes me through the Exhibits produced along with the writ petition to substantiate his case.

18. Adv. Sri. Kaleeswaram Raj, argued the matter in detail. In addition to the oral argument, Adv. Raj also



submitted an additional written submission. The main contentions of Adv. Raj, in his oral argument, which is reiterated in the additional written submission, are the following:

I. In Ext.P1 judgment, there was only an open remand back to respondent Panchayat to reconsider and there was no direction to grant license to the petitioners.

II. There is no interference with the findings in Ext.R10(a) and the Panchayat is bound by the said findings and cannot take a decision ignoring the same.

III. The District Collector's report in WA No.1244/2024 remains unchallenged and it has attained finality.

IV. A Hot Tar Mix Plant causes serious hazards to the nearby inhabitants.

V. Once the direction in Ext.P1 judgment was complied with, no review against the said judgment would lie.

VI. The issue regarding the power of the Panchayat to refuse permission for licenses is presently pending consideration before the Full Bench of this Hon'ble Court.

VII. The petitioners have not availed the alternate efficacious remedy available to them.

VIII. The contentions of the Panchayat in their counter affidavit remain uncontroverted and the petitioners have not rebutted the said contentions.

IX. The unit of the petitioners is a moving unit and can be



shifted far away from human settlements, after obtaining proper and valid permissions.”

Adv. Sri. Kaleeswaram Raj also takes me through the counter affidavit filed by his clients.

19. Adv. Sri. Hanilkumar, the learned Standing Counsel for the Panchayat, also supported the argument of Adv. Kaleeswaram Raj. Adv. Hanil Kumar also submitted that the Panchayat has filed a detailed counter, and he took me through it. The main contention of Adv. Hanilkumar is that, the writ petition is not maintainable because an alternative remedy is available and the petitioners have not availed the same. It is also submitted by Adv. Hanil Kumar that the petitioners have not obtained any installation permit and license from the Panchayat, and they constructed several buildings without obtaining any valid building permit from the Panchayat. It is also submitted by the counsel that the Panchayat granted building number 10/516 to the owner of the property for a



residential building, and the said building cannot be used for any commercial or industrial purpose, because a hot mix plant does not fall under the residential category. It is also submitted by the Standing Counsel appearing for the Panchayat that, after perusing the records, it is found that the tar mixing unit was installed in March 2017 without the Panchayat's permission, and the Panchayat issued stop memos immediately upon receipt of the complaints to stop its functioning. The stop memos were issued on 16.06.2022 and 24.01.2023, when the petitioners attempted to operate the unit is the submission.

20. This Court considered the contentions of the petitioners and the respondents. This Court also perused the pleadings and documents relied upon by the petitioners.

21. The impugned order in this writ petition is Ext.P3 order passed by the 4th respondent Panchayat. It is a decision taken by the Panchayat in accordance with the directions issued by this Court in Ext. P1 judgment. In the Ext.P1



judgment, this Court directed that the Ext.R1(d) application produced in that writ petition is to be reconsidered within 60 days. This Court also discussed in detail the powers of the Panchayat under Section 233(3) of the Act 1994, in the light of the amendment under Act 14 of 2018.

22. A perusal of the Ext.P3 order would show that the license application was rejected mainly for two reasons. The 1st reason is that the amendment carried out in Section 233 of the Act 1994, based on Act 14 of 2018, is not applicable to the petitioners' application, as the machinery was already installed by the petitioners before Act 14 of 2018 came into force. The second ground mentioned in the impugned order is that the petitioners installed machinery with a capacity of 130 HP without the Panchayat's permission.

23. I will consider the first objection raised by the Panchayat in Ext.P3 to reject the application of the petitioners. According to the Panchayat, the machinery was installed by the



petitioners before Act 14 of 2018 came into force, and consequently, the amendment to Section 233 based on Act 14 of 2018 is not applicable to the petitioners' application in this case. This Court, as per the Ext.P1 judgment, directed to reconsider the Ext.R1(d) application submitted by the petitioners. Ext.R1(d) produced in Ext.P1 proceedings is Ext.P26 in this writ petition. Ext.P26 is undated, but a receipt showing the acceptance of Ext.P26 is produced as Ext.P27, and the same is dated 17.05.2025. Therefore, the Panchayat is directed to consider the application dated 17.05.2025, which is produced in this writ petition as Ext.P26 (which is Ext.R1(d) in the writ petition, which led to Ext.P1 judgment).

24. Admittedly, the Act 14 of 2018 came into force in the year 2018. Therefore, the Ext.P26 application, which was filed on 17.05.2025, is to be considered based on the law in force as of the date of Ext.P26. For that reason itself, the finding in Ext.P3 is to be rejected.



25. In addition to that, the applicants in the Ext.P26 application are the petitioners 1 and 2 in this writ petition. The partnership between the petitioners 1 and 2 came into existence only on 04.06.2022, as evident from Ext.P16, the acknowledgement of registration issued by the Registrar of Firms. The petitioners formed the partnership firm in the name and style 'N & T Tar Hotmix Plant' and registered the same before the Registrar of Firms on 04.06.2022. Therefore, the applicants in Ext.P26, who were partners of N & T Tar Hotmix Plant, became partners only from 04.06.2022, which is admittedly after the Act 14 of 2018 came into force.

26. It is also stated in Ext.P3 that the machinery were installed in 2017. But, according to the petitioners, the ultra model hot mix plant was purchased based on the invoice dated 25.03.2022, as evident by Ext.P17. How can a new piece of machinery purchased as per Ext.P17 invoice on 25.03.2022 be installed in 2017 by the petitioners? That shows that the



Panchayat is trying to find a reason to reject the application. Therefore, the statement in Ext.P3 that the machinery was installed in 2017 cannot be accepted at all, for the simple reason that the firm in the name of N&T Turbo Hotmix Plant was formed only on 04.06.2022, and the ultramodel hot mix plant was purchased only on 25.03.2022. Therefore, the statement in Ext.P3 that the application for a license was submitted after the machinery was installed in 2017 will not stand in light of Exts.P16 and P17.

27. I think the Panchayat is confused with the application submitted by the 1st petitioner alone in the year 2017 under Section 233 of the Act 1994 as a proprietary concern, and the application submitted by the petitioners together after forming the partnership firm on 17.05.2025. It would be better to narrate the sequence of events up to Ext.P16, the acknowledgement of registration issued by the Registrar of Firms on 04.06.2022, the date on which the firm was



registered.

28. The 1st petitioner, Sudheer S, decided to start a proprietary concern of a Hot mix plant of 20 KW originally and for the purpose of establishing the said Hot mix plant, the 1st petitioner filed an application under Section 233 of the Act, 1994, before the 1st respondent, Panchayat, in the year 2017. The Panchayat issued Ext.P5, the letter dated 09.02.2017, to the District Medical Officer, Thiruvananthapuram, for obtaining a NOC. The Panchayat also issued Ext.P6, the letter dated 9.2.2017, to the Pollution Control Board for obtaining consent. Thereafter, the District Medical Officer, as per Ext.P7, issued a No-objection Certificate to the 1st petitioner for starting a tar mixing unit. For clarity, it would be better to extract the relevant portion of Ext.P7, namely the No-objection certificate issued by the District Medical Officer on 17.4.2017.

“മേൽ സൂചനകൾ പ്രകാരം നെടുമങ്ങാട് താലൂക്കിൽ നല്ലനാട് വില്ലേജിൽ, നെല്ലനാട് ഗ്രാമപഞ്ചായത്ത് വാർഡ് X ൽ സർവ്വേ നമ്പർ 391/1 ൽ പെട്ട 2 ഏക്കർ സ്ഥലത്ത് റോഡ് ടാർ ചെയ്യുന്ന മിക്സിംഗ് യൂണിറ്റ് ആരംഭിക്കുന്നതിന് ശ്രീ



സുധീർ എസ്, ശശി മന്ദിരം, ചാതംകുഴി, അടയമൺ ഗ്രാമപഞ്ചായത്ത് ഈ ആഫീസിൽ സമർപ്പിച്ച അപേക്ഷയിന്മേൽ അനുമതി നൽകുന്ന താഴെപ്പറയുന്ന നിബന്ധനകൾക്ക് വിധേയമായി നിരാക്ഷേപ പത്രം നൽകാവുന്നതാണ്. “

29. I am extracting the above No-objection certificate issued on 17.4.2017 by the District Medical Officer to show that originally, the 1st petitioner submitted the application for starting the hot mix plant, and the 2nd petitioner was not in the picture in the year 2017. Ext.P8 is the consent to operate issued by the Pollution Control Board on 7.4.2017, and the occupier's details mentioned in Ext.P8 are also those of the 1st petitioner alone. Ext.P8 was valid till 30.4.2018.

30. The contention of the 1st petitioner was that he filed an application to establish the unit on 6.2.2017, and since no intimation was issued within 30 days, the permission is deemed to have been granted under Sec.236 of the Act, 1994, to the 1st petitioner to establish the unit as a proprietary concern. Based on that deemed permission, the 1st petitioner established the



hot mix plant in 2017. However, the Panchayat committee, as per Ext. P9 rejected the application of the 1st petitioner on the ground that a public protest had occurred. Ext.P9 is the decision, and Ext.P10 is the intimation issued by the Secretary of the Panchayat to the 1st petitioner. According to the 1st petitioner, even if the Ext.P9 decision was taken by the Panchayat committee on 10.5.2017, since the petitioner's application was filed on 6.2.2017 and no order was issued within 30 days, the Ext.P9 decision has no effect. I think that contention of the 1st petitioner is well-founded. A Division Bench of this Court in ***Sudhakaran V. v. Pallichal Grama Panchayat and Anr.*** [2016 (2) KHC 481] observed like this :

14. *"The consideration of an application for permission or licence or renewal thereof is available only during the period prescribed for the same and unless the order is communicated within the specified time, either granting the renewal or rejecting the same, the Panchayat cannot exercise jurisdiction to reject the same at a later occasion. Thereafter, the remedy of the Panchayat is only to verify whether the licensee is complying with the conditions*



imposed under the licence as per the rules, bye - laws etc."

31. In ***Abdul Shafeek v. Asamannoor Grama Panchayath and Another*** [2018 (3) KHC 170], the same issue is also considered. It will be better to extract the relevant portion of the above judgment also.

" 3. The learned Standing Counsel for the respondent Panchayat would contend that, although there was no formal order rejecting the application submitted by the petitioner pursuant to the dismissal of his appeal by the Tribunal for Local Self Government Institutions, the respondent Panchayat had intimated the petitioner by communication dated 07/05/2018 that his fresh application also continued to be defective in the manner indicated by the Tribunal in the appellate order. It is stated that, inasmuch as the application of the petitioner was inherently defective, the same could not be treated as a valid application for issuing a deemed license in terms of S.236(3) of the Kerala Panchayat Raj Act.

On a consideration of the submissions of the learned Standing Counsel for the respondent, I find that, while it may be a fact that the application submitted by the petitioner was inherently defective, it is also a fact that the respondent Panchayath, which could have rejected the said application of the petitioner on that



ground, did not choose to do so, and thereby kept the application alive beyond the statutory period contemplated under the Panchayat Raj Act for attracting the deeming provision. The decisions of this Court in Rajesh Ramachandran v. Corporation of Trivandrum, 2008 (3) KHC 175 : 2008 (3) KLT 419 : 2008 (2) KLJ 821 : ILR 2008 (3) Ker. 264, which was affirmed by a Division Bench in Sudhakaran v. Pallichal Grama Panchayat, 2016 (2) KHC 481 : 2016 (2) KLT 175 would clearly indicate that if no orders of rejection are passed on an application for permission / license, including a defective one, within the statutory period contemplated under the Act, then by virtue of the provisions of S.236(3), the permission sought for is to be deemed granted and the only recourse available to the respondent Panchayat thereafter, would be to initiate proceedings against the petitioner for a cancellation of the said deemed permission in the event of their noticing that the activities of the petitioner are being carried on in contravention of the conditions of the permission or in violation of the statutory provisions. Thus, I allow the writ petition by declaring that the petitioner is entitled to a deemed permission in accordance with S.236(3) of the Kerala Panchayat Raj Act. The 2nd respondent shall issue the petitioner with a certificate stating that he has obtained a deemed permission in terms of S.236(3), within a period of two weeks from the date of receipt of a copy of this judgment. I make it clear that nothing in this judgment shall stand in the way of the respondent initiating any action for cancellation of the said permission, in the event of their noticing that the petitioner has not complied with the conditions in the



permission or has breached any of the statutory provisions applicable to him.”

32. In the light of the above dictum laid down by this Court in ***Sudhakaran's*** case (supra) and ***Abdul Shafeek's*** case (supra), the stand of the 1st petitioner that the 1st petitioner was having a deemed license is justified. Therefore, the statement in Ext.P3 that the petitioners did not have any permit in 2017 is incorrect. The 2nd petitioner was not in the picture at that time, and the 1st petitioner had a deemed permission to establish the hot mix plant.

33. Even though Ext.P10 is not valid in the light of the dictum laid down by this Court in ***Sudhakaran's*** case (supra) and ***Abdul Shafeek's*** case (supra), the petitioners challenged Ext.P10 decision before the Tribunal for Local Self Government Institutions by filing RP No.55/2017 and the Tribunal stayed the same as evident by Ext.P11 order. In spite of the Ext.P11 stay order, the Panchayat issued a stop memo to the petitioner on



29.5.2017, which is admittedly after Ext.P11 stay order. Ext.P12 is the stop memo. I am of the considered opinion that Ext.P12 stop memo will not stand, in the light of Ext.P11 stay order and also, in the light of the dictum laid down by this Court in **Sudhakaran's** case (supra) and **Abdul Shafeek's** case (supra). In the meantime, there was an obstruction to the functioning of the unit of the 1st petitioner, and the 1st petitioner approached this Court by filing a writ petition, WP(C) No.20228/2017, for police protection. This Court, as per the Ext.P13 judgment, granted police protection for the functioning of the 1st petitioner's proprietary concern. This also shows that the 2nd petitioner was not in the picture when this Court disposed of WP(C) No.20228/2017, as evident from Ext.P13.

34. As an abundant caution, it is submitted that the 1st petitioner, as a proprietor, had again filed an application under Section 233 of the Act, 1994 and also for a D&O license. Exts.P14 and P15 are the applications. At this stage, RP



No.55/2017 was disposed of by the Tribunal. The Tribunal did not interfere with the Panchayat's decision. But the 1st petitioner was allowed to function till the disposal of the application submitted by him, as evident from Exts. P14 and P15 applications. The relevant portion of the decision in RP No.55/2017 is extracted in paragraph 4 above in this judgment.

35. From the above decision, it is clear that the Tribunal also directed not to interfere with the functioning of the tar mixing unit of the 1st petitioner, till the application under Sec.233 of the Act, 1994, is disposed of. That also strengthens the petitioners' contention that the unit was conducted by the 1st petitioner, with a valid permit and in accordance with the Tribunal's orders. Thereafter, the petitioners Nos. 1 and 2 entered into a partnership firm in the name and style of 'N&T Tar Hot Mix Plant', as evident from Ext. P16, the acknowledgement of registration. Therefore, it is clear that, till



4.6.2022, the 2nd petitioner was not in the picture, and the 2nd petitioner came into the picture only after 4.6.2022. It is also clear that the machinery was purchased only on 25.3.2022, as evident from Ext.P17. It is further clear that this Court in the Ext.P1 judgment directed to consider the Ext.P26 application dated 17.5.2025. Therefore, the finding in Ext.P3 that the machinery was installed in 2017 by the petitioners and that the petitioners were operating the tar mixing unit without any authority or permit from 2017 cannot be accepted at all. Therefore, the finding in Ext.P3 to that effect is to be set aside in toto.

36. The 2nd ground mentioned in Ext.P3 also will not stand, in the light of the above discussion. The Panchayat stated in Ext.P3 that 130 HP machinery was installed in 2017 without the Panchayat's permission. As I said earlier, those machines were purchased only in 2022. Moreover, the 2nd petitioner was not in the picture in the year 2017. Therefore,



the finding in the Ext.P3 decision of the Panchayat to that effect is also not correct.

37. In addition to all these, I am of the considered opinion that the Ext.P3 decision is, in effect, flouting the findings in Ext.P1 judgment. This Court in Ext.P1 judgment considered the impact of the amendment of Section 233 of the Act 1994 in detail. After extracting the amended Section 233 of the Panchayat Raj Act in paragraph 10 of Ext.P1 judgment, this Court observed like this:

11. A reading of above extracted provision substantiates that, the Secretary, on receiving an application to establish a factory/install machinery, has to conduct an enquiry under sub-section (3) of Section 233 and then submit a report to the Village Panchayat regarding any objection based on the density of the population or if it would cause any nuisance or pollution to the people. Then, the Village Panchayat has to grant permission either absolutely or conditionally as it thinks fit. Before granting permission, the Secretary shall obtain and consider reports from the statutory authorities mentioned under sub-section (4) of Section 233.



12. It is pertinent to note that, by Act 14 of 2018, the words "or refusing" have been consciously omitted by the legislature from the erstwhile subsection (4) of Section 233 of the Act. Thus, it is to be inferred and understood that an application filed under Section 233 has to be absolutely or conditionally allowed and cannot be rejected.

13. In the case at hand, Ext.R1 (d) application, though said to be not considered in the counter affidavit, is rejected by Ext.R1(e) decision and Ext.P11 letter principally for the reason that the functioning of the Plant would cause health problems to the people of the locality. This finding is based on assumptions and conjectures, and prima facie without considering the impact of Act 14 of 2018. The decision-making process stands vitiated because it is without following the procedure contemplated under Section 233 of the Act and without considering the reports of the competent statutory authorities.

14. On a consideration of the facts and the materials on record, and that the above pertinent questions were not considered by the respondents 1 and 2 before the passing of the impugned orders, I am convinced that the alternative statutory remedy is not efficacious and this is a fit case to exercise the discretionary powers of this Court



under Article 226 of the Constitution of India, also particularly since the decision-making process is erroneous. Accordingly, I hold that the 2nd respondent has to consider Ext.R1(d) application afresh, after considering the scope and purport of the above provision and the materials on record.

In the aforesaid circumstances, I allow the writ petition by quashing Ext.R1(e) decision and the consequential Ext.P11 letter, and directing the Secretary to reconsider Ext.R1(d) application afresh as per the procedure laid down under Section 233, after adverting to the contentions of the parties. The petitioners are permitted to produce the entire pleadings in this writ petition before the 2nd respondent with a copy of this judgment. The respondents 1 and 2 are directed to reconsider Ext.R1(d) application, in accordance with law and as expeditiously as possible, at any rate, within 60 days from the date of production of a copy of this judgment. The parties are permitted to file their written submissions with the supporting materials before the Village Panchayat, who in turn shall reconsider the matter, untrammelled by any observations made by this Court in this judgment. The writ petition is ordered accordingly. "



38. Now, the Panchayat rejected the application, stating that the amended Section 233 of the Act 1994 is not applicable because the machinery were installed in the year 2017. That finding in Ext.P3 will not stand in the light of the discussion in the earlier paragraphs of this judgment. Moreover, in the Ext.P1 judgment, this Court directed that the Ext.P26 application, dated 17.05.2025, is to be reconsidered by the Panchayat. When this Court directed reconsideration of the application dated 17.05.2025 in the light of the amended Section 233 of the Act, 1994, the Panchayat cannot say that the machinery was installed in 2017 and, therefore, the amendment to Section 233 as per Act 14 of 2018 is not applicable. This is nothing but a clear violation of the directions in the Ext.P1 judgment. When this case came up for consideration on 04.02.2026, it was heard in part on that day. At that stage, the counsel appearing for the respondents 6 to 16 submitted that they intended to file a review against the



Ext.P1 judgment, and accordingly, the case was posted to 19.02.2026. Thereafter, when the case came up for consideration on 19.02.2026, the counsel appearing for respondents 6 to 16 submitted that a review petition had been filed before the Division Bench in the writ appeal because Ext.P1 was challenged by them before the Division Bench and the appeal was withdrawn with liberty to agitate the matter when a fresh cause of action arises. The counsel appearing for the respondents 6 to 16 submitted that in the light of the principle laid down by this Court in **Kunhitharuvai Memorial Charitable Trust v Kerala University of Health Sciences** [2025 KHC OnLine 2361], the review is to be filed before the Division Bench. Whether the review is to be filed before the Division Bench or before the learned Single Judge to review the Ext.P1 judgment is a matter to be decided by the party respondents. Therefore, the case was again adjourned to 06.03.2026. On 06.03.2026, this Court passed the following



order:

" The counsel for the party respondents seeks further adjournment. The same is seriously opposed by the senior counsel who is appearing for the petitioners. The counsel for the party respondents submitted that the review petition is already numbered and the said Bench is not sitting.

The party respondents can take steps to list the case, if they are intending to do so.

Post finally to 24.03.2026."

39. When the case came up for consideration on 24.03.2026, the counsel for respondents 6 to 16 submitted that the Division Bench concerned is not sitting, and a request was made to the Registrar General for listing the case. At the insistence of the petitioners' counsel, both sides agreed that the writ petition could be heard de hors the pendency of the review petition, and accordingly, it was heard in detail on 24.03.2026. Now, the Ext.P1 judgment is in existence. The finding in the Ext.P1 judgment is binding on the party respondents. Therefore, in the light of the Ext.P1 judgment,



also, the Ext.P3 order will not stand, and the same is to be set aside. This observation is made by this Court in addition to the finding that the reasoning in Ext.P3 will not stand.

40. Now, I will consider the contentions raised by the party respondents in this case. The first contention is that Ext.P1 judgment is an open remand back to the respondent Panchayat to reconsider, and there was no direction to grant a license to the petitioners and therefore Ext.P3 will stand. In the light of the discussion above, this contention will not stand. As I mentioned earlier, this Court had directed that the Ext.P26 license application dated 17.05.2025 be considered in light of the amendment to Section 233 of the Act 1994 made as per Act 14 of 2018. When such a direction is issued, the Panchayat cannot take the stand that the machinery was installed in 2017 and therefore the application is to be considered under the unamended provision of Section 233 of the Act, 1994. First of all, that argument will not stand in light of the discussion



above, especially in light of Ext.P16, which acknowledges the partnership between the petitioners, and Ext.P17, the invoice by which the machinery was purchased, dated 25.03.2022. The counsel for the party respondents submitted that Ext.P1 is an open remand and therefore the Panchayat can decide the matter independently de hors the observations in the Ext.P1 judgment. Assume, for argument's sake, that the said argument is accepted, since this Court has already found that the findings in Ext.P3, issued by the Panchayat, will not stand, there is no point in considering that contention. Therefore, the counsel for the party respondents' first contention will not stand.

41. The second contention of Adv. Kaleeswaram Raj, is that the Ext. R10(a) judgment has become final, and the Panchayat is bound by the said finding and cannot take a decision in disregard of the same. Ext.R10(a) is already marked by the petitioners in the writ petition as Ext.P25. Then, why the



same is again produced in the counter-affidavit is not clear. This Court perused Ext.P25. Ext P25 is a judgment delivered in a writ petition filed under Article 226 of the Constitution of India for police protection, relying on Ext.P24, the acknowledgement from the industries department. Admittedly, the Ext.P25 judgment was delivered before the Ext.P26 application submitted by the petitioners, which led to the Ext.P1 judgment. The petitioners filed an application under the Micro, Small and Medium Enterprises Development Act and obtained an acknowledgement certificate, as evident by Ext.P24. On the basis of the Ext.P24 certificate, the petitioners have approached this Court with the above writ petition for police protection. The same was not entertained by this Court, as evident from Ext.P25, and the writ appeal filed against it was withdrawn by the petitioners. The same is not suppressed by the petitioners, and the Ext.P25 judgment is produced along with the writ petition. At that stage, the petitioners filed



Ext.P26 application, which led to Ext.P1 judgment. The observation in Ext.P25 judgment is made based on Ext.P24 MSME acknowledgement issued by the Department of Industries and Commerce. While arguing the police protection matter, this court answered certain contentions raised by the parties. Thereafter, the Ext P1 judgment was delivered, in which Ext P25 was also referred to. I am of the considered opinion that the same is not binding while deciding this writ petition, which is against the Ext.P3 decision of the Panchayat taken based on Ext.P1 judgment. This Court has to consider whether the Ext.P3 decision is correct or not in the light of the documents produced in this writ petition. I am not aware whether the documents produced in this writ petition were produced in that writ petition. Moreover, it is a decision dismissing the petitioners' application for police protection, and its observations are based solely on the grounds for seeking police protection at that stage. That will not stand in the way of



this court in deciding the matter on merit, based on the contentions raised by the petitioners against Ext. P3.

42. The third contention raised by the respondents is that a report was submitted by the District Collector in W A No.1244 of 2024, which was filed against Ext.P25. The same is produced in this case as Ext.R10(d). It will be better to extract that report:

"1. All the allegations and averments made against the respondent except those which are specifically admitted hereunder are incorrect and hence denied.

2. The hot mixing plant mentioned in the order of WA No. 1244/2024 dated 21.08.2024 is situated 200 meters east of Chembur bridge and south of Venjaramood junction-Attingal main road. The 01 Hec 16 Are 40 Sq.m. land in Resurvey No. 391/1 in Block No:26 where the plant is situated belongs to late. Kuttanpilla Muralidharan Nair, Padmavilasam in Mundakal. Muralidharan Nair's wife and children through an agreement has permitted the owners of the plant to operate in the said land. But in view of the interim order of Honourable High Court in WP(C)No. 15965/2024 it is reported that the said



plant has not been functioning for about two months. Prior to the judgment of this Honourable Court, during preliminary investigation by the Grama Panchayath it was learnt that there are about 20 houses within a radius of 50 meters of the said plant, the smoke emitted during the night when the plant operated was causing serious health problems including respiratory & skin diseases. Vide Letter No. J1-8992/2024 dated 23.08.2024 submitted by Tahsildar, Nedumangad, Tahsildar has reported that it would be appropriate to give permission for further operations of the plant only after carrying out a detailed study and necessary clearance from the Gram Panchayat, Pollution Control Board, Fire Force and other related technical departments.

3. As per report No. 400221/LLIP0S/GPO/2024/4667/(1) submitted by Secretary, Nellanad Grama Panchayath, the said plant which was operating without license or permission of the Grama Panchayat has been shut down following the order of Honourable High Court of Kerala in Writ Petition No. 23320/2024 dated 09.08.2024.

All the facts stated above are true to the best of knowledge, belief and information.”(Underline supplied)



43. In the report, it is stated that during the preliminary investigation by the Grama Panchayat, it was learned that 20 houses are situated within a radius of 50 meters of the said plant and the smoke emitted during the night when the plant was operated was causing serious health problems, including respiratory and skin diseases. Even the Panchayat has no case that any houses are within a 50-meter radius of the plant, as per the Ext.P3 decision, which is the impugned order in this case. It would be better to extract the relevant portion of the Panchayat Secretary's report reproduced in Ext P3.

"സ്ഥാപനത്തിന് ഏകദേശം 150 മീറ്ററിന്റെ പുറത്തു നിരവധി വീടുകൾ ഉണ്ടെന്നും, സമീപത്തായി ഒരു തോട് ഒഴുകുന്നതായും പരിസരവാസികളുടെ ശക്തമായ എതിർപ്പു ഈ കാര്യത്തിൽ ഉണ്ടെന്നും, 16.6.2022 ലും 24.1.2023 ലും പഞ്ചായത്ത് സ്റ്റോപ്പ് മെമോ നൽകിയതായാണ് പഞ്ചായത്ത് രേഖകൾ കാണിക്കുന്നതെന്നും സെക്രട്ടറി കമ്മിറ്റി മുൻപാകെ അറിയിച്ചു. "

44. The above statement regarding the residential houses situated only beyond 150 meters from the unit of the



petitioners is specifically stated in paragraph 16 of the counter affidavit filed in this case by the panchayat. Moreover, the petitioners produced Ext.P32, the report of the District Medical Officer, along with I. A No.3 of 2026. It will be better to extract the contents of Ext.P32:

"ജില്ലയിൽ നെല്ലനാട് ഗ്രാമപഞ്ചായത്തിൽ വലിയ കട്ടയ്ക്കാൽ വാർഡിലെ മൈലക്കുഴി എന്ന സ്ഥലത്ത് ആരംഭിച്ചിട്ടുള്ള എൻ & ടി ഹോട്ട്മിക്സ് പ്ലാന്ററിനെതിരെ പൊതുജനപരാതി ഉണ്ടായതിനെ തുടർന്ന് വാമനപുരം ബ്ലോക്ക് പ്രാഥമികാരോഗ്യ കേന്ദ്രത്തന്റെ നേതൃത്വത്തിൽ നടത്തിയ സർവ്വേ റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിലും, പ്ലാന്റ് നിലനിൽക്കുന്ന വസ്തുവിൻ്റെ മേലുള്ള തർക്കത്തെതുടർന്നും നെല്ലനാട് ഗ്രാമപഞ്ചായത്ത് പ്രസ്തുത പ്ലാന്റിന്റെ പ്രവർത്തനാനുമതി നിർത്തിവെച്ചിട്ടുള്ളതാണ്.

സൂചന(1) പ്രകാരം 03.09.2024 നും 20.12.2024 നും ശ്രീ. താജുദ്ദീൻ & ശ്രീ.സുധീർ.എസ് ഈ കാര്യലയത്തിൽ സമർപ്പിച്ചിരുന്ന അപേക്ഷകളിൻ്റെമേൽ 09.10.2024 തീയതിയിൽ ആരോഗ്യ വകുപ്പിൽ നിന്നും ഉദ്യോഗസ്ഥർ പ്രസ്തുത പ്ലാന്റിൽ പരിശോധന നടത്തുകയുണ്ടായി. പ്ലാന്റ് ഏകദേശം 8.30 ഏക്കർ ചുറ്റളവിലുള്ള സ്ഥലത്താണ് പ്രവർത്തിക്കുന്നതെന്നും ഇത് ജനവാസ മേഖലയിൽ നിന്നും ഉള്ളിലാണെന്നും, 150 മീറ്റർ ചുറ്റളവിൽ വീടുകൾ ഇല്ലായെന്നും മുദാക്കൽ, മാണിക്കൽ



ഗ്രാമപഞ്ചായത്തുകളുടെ അതിർത്തികളിൽ നിന്നും 500 മീറ്ററിൽ കൂടുതൽ ദൂരത്തിലാണെന്നും ബോധ്യപ്പെട്ടിട്ടുണ്ട്. പ്ലാന്റ് ആധുനിക സാങ്കേതിക വിദ്യയിൽ നിർമ്മിച്ചിട്ടുള്ളതും, പ്ലാന്റിൽ നിന്നുള്ള മലിനീകരണ സാധ്യത വളരെ കുറവായിട്ടുള്ളതും, മലിനീകരണ നിയന്ത്രണ ബോർഡിന്റെ നിർദ്ദേശ പ്രകാരമുള്ള എല്ലാ മാനദണ്ഡങ്ങളും പാലിച്ചിട്ടുള്ളതായും കാണുന്നു. പ്ലാന്റിൽ നിന്നും ജലമലിനീകരണത്തിനുള്ള സാധ്യത ബോധ്യപ്പെട്ടിട്ടില്ല. പ്ലാന്റിൽ നിന്നും പുറംതള്ളുന്ന ക്ലേയിൽ നിന്നും മലിനീകരണ സാധ്യത കാണുന്നില്ല. കൂടാതെ ക്ലേ ടൈൽ കമ്പിനിക്ക് പുനരുപയോഗത്തിനായി നൽകുന്നതായും മനസ്സിലാക്കുന്നു. പൊടി നിയന്ത്രണത്തിനായി വാട്ടർ സ്പ്രിംഗളർ ഏർപ്പാത്തിയിട്ടുള്ളതായും ബോധ്യപ്പെട്ടു. ജീവനക്കാർക്കുള്ള സുരക്ഷ സംവിധാനങ്ങളും സ്ഥാപിച്ചിട്ടുണ്ട്. പ്ലാന്റിൽ സ്ഥാപിച്ചിട്ടുള്ള ചിമ്മിനിക്ക് 21.05 മീറ്റർ ഉയരമുണ്ട്. സൈക്ലോൺ സെപ്പറേറ്റർ, സ്കൂബർ, ബാഗ്ഫിൽറ്റർ എന്നിവയും മതിയായ അളവിൽ പ്ലാന്റിനോട് ചേർത്ത് സ്ഥാപിച്ചിട്ടുണ്ട്.

15.01.2025 ന് രാവിലെ 11.00 മണിക്ക് മലിനീകരണ നിയന്ത്രണ ബോർഡ് എഞ്ചിനീയർ അടങ്ങുന്ന ടീം, ഈ കാര്യലയത്തിലെ ജൂനിയർ അഡ്മിനിസ്ട്രേറ്റീവ് മെഡിക്കൽ ഓഫീസർ ടെക്നിക്കൽ അസിസ്റ്റന്റ് എന്നിവർ സംയുക്ത പരിശോധന നടത്തുകയും പ്ലാന്റിനോട് ഏറ്റവും അടുത്ത് സ്ഥിതി ചെയ്യുന്ന വീടിന് ചേർന്ന് വരുന്ന സ്ഥലത്ത് Air Quality Monitoring and Noise level Monitoring machine സ്ഥാപിക്കുകയും 11.15 AM മുതൽ 1.15 PM വരെ പ്ലാന്റ് പൂർണ്ണമായും പ്രവർത്തനമാക്കിക്കൊണ്ട് നിരീക്ഷണം നടത്തുകയും ചെയ്തു. പ്ലാന്റ് പ്രവർത്തിക്കുമ്പോൾ പുറത്തുള്ള



പുകയുടെ മാലിന്യങ്ങൾ അനുവദനീയമായ അളവിനും താഴെയാണ്.

പൊതുജനാരോഗ്യ പ്രശ്നങ്ങൾ ഉണ്ടാകുന്നതിനുള്ള സാഹചര്യം നിലവിൽ ഇല്ലായെന്ന് ആരോഗ്യ വകുപ്പിൽ നിന്നുള്ള പരിശോധനകളിൽ ബോധ്യപ്പെട്ടതിനാലും, കേരള സമസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡിൽ നിന്നും അനുകൂലമായ റിപ്പോർട്ട് നൽകിയിട്ടുള്ള സാഹചര്യത്തിലും നിലവിൽ എൻ & ടി ഹോട്ട്മിക്സ് പ്ലാന്റ് പ്രവർത്തനവുമായി ബന്ധപ്പെട്ട വിഷയത്തിൽ എന്തെങ്കിലും കോടതി വ്യവഹാരങ്ങൾ നിലനിൽക്കുന്നുവെങ്കിൽ ആയത് കൂടി പരിഗണിച്ചുകൊണ്ട് മേൽ പ്ലാന്റ് പ്രവർത്തനം നടത്തുന്നതിന് പ്രവർത്തനാനുമതി നൽകാവുന്നതാണെന്ന് ഇതിനാൽ അറിയിക്കുന്നു."

45. Ext.P32 is dated 06.02.2025 and Ext.R10(d) is dated 04.09.2024. Therefore, this Court has to rely on the subsequent report of the District Medical Officer dated 06.02.2025, which is produced as Ext.P32. Hence, the third ground raised by the party respondents based on Ext R10(d) is to be rejected.

46. The fourth ground raised by the counsel for the party



respondents is that hot mix plants cause serious harm to the nearby inhabitants. The answer to the above contention is set out in Ext.P32, as extracted above. In addition, all statutory authorities have granted clearance to the petitioners. The Pollution Control Board issued consent. When the statutory authorities gave no objection, this Court cannot accept the respondents' contention that the hot tar mix plants pose serious hazards to nearby inhabitants.

47. The 5th contention raised by the counsel for the respondents based on the dictum laid down by the Division Bench of this Court in **Kunhitharuvai Memorial Charitable Trust's** case (supra) is already considered by this Court and there is no dispute on that and it is the discretion of the party respondents to decide in which forum a Review Petition is to be filed.

48. The 6th point raised by the party respondents is that the issue regarding the power of the Panchayat to refuse



permission for a license is pending consideration before the Full Bench of this Court. Admittedly, no interim order has been issued in those cases. Therefore, the same is not a reason to retain the Ext.P3 order passed by the Panchayat in the light of the Ext.P1 judgment.

49. The 7th contention raised by the party respondents is that there is an alternative remedy available to the petitioners against Ext.P3, and the same is not considered. The petitioners also relied on the judgment of this Court in **Suresh Kumar R. v. State of Kerala** [2024 (6) KHC 443]. The contention based on an alternative remedy was raised in W.P.(C) No.21247 of 2025, which led to Ext.P1. This Court in paragraph No.14 of that judgment, which is extracted above, clearly stated that even if alternative remedies are available, this is a fit case in which the discretionary jurisdiction under Article 226 of the Constitution of India is to be invoked. It is a settled position that, when an alternative remedy is available, this Court need



not entertain a Writ Petition under Article 226 of the Constitution of India. But here is a case where an entrepreneur is behind the Panchayat for obtaining permission, and the Panchayat dismissed that application even though the Ext.P1 judgment is there and the amended Section 233 of the Act, 1994, is also there. If this Court does not interfere in this case, invoking the powers under Article 226 of the Constitution of India, it will be an injustice to a genuine entrepreneur who has invested crores of rupees.

50. At this stage, the counsel for the party respondents submitted that, simply because crores of rupees are invested by the petitioners, the same is not a reason to interfere with Ext.P3 when there is an environmental hazard because of the unit. As I mentioned earlier, all statutory authorities have found that there is no environmental hazard. These are only apprehensions of the party respondents.

51. Counsel for the party respondents submitted that the



party respondents also invested a huge amount to construct their houses, and they have to shift their residence from the place if the unit is started. As I mentioned earlier, the District Medical Officer reported that the residential houses are situated about 150 meters away from the plant. The District Medical Officer also submitted that there is no question of health hazards to the nearby residents. The PCB also granted consent, stating that there is no question of pollution. In such circumstances, the party respondents' apprehensions lack scientific support.

52. The other contention raised by the party respondents is that the contentions of the Panchayat in their counter affidavit remain uncontroverted and the petitioners have not rebutted the said contentions. It is submitted that the Panchayat has raised several contentions regarding illegal constructions within the unit of the petitioners, and that the petitioners' unit is located within a residential building where no



commercial activity is permitted. It is also submitted that the Panchayat stated in its counter-affidavit that the petitioners commenced the operation of their hot tar mix plant without obtaining valid permissions or clearance from the Panchayat. Some of these contentions were already considered by this Court in the earlier paragraphs. As far as the alleged illegal constructions by the petitioners are concerned, the Panchayat issued Ext.P20 stop memo, which is challenged before the Tribunal, and the Tribunal has stayed it as per Ext.P21 order. Admittedly, the Ext.P21 order is still in force. Moreover, if there is any illegal construction, the remedy of the Panchayat is to proceed separately in accordance with the Act 1994, and that is not a reason to reject an application for permission. Moreover, that is not a reason to pass the Ext.P3 order as well.

53. A counter affidavit has been filed by the 4th and 5th respondents. Paragraph No.8 of the above counter affidavit is extracted hereunder:



"8. It is submitted that the Panchayat thereafter found that the petitioners have not obtained any installation permit and license from the Panchayat and they have constructed several buildings without obtaining valid building permits from the Panchayat. The Panchayat also found that it has granted a building No 10/516 to the owner of property in respect of a "residential building". The said building cannot be used for any commercial or industrial purpose as the hotmix plant will not come under the residential category. The Panchayat then issued a notice dated 24.01.2024 by way of Exhibit P20 informing the petitioners that petitioners cannot operate the hotmix plant in a residential building and such other buildings constructed without obtaining valid building permits from the Panchayat."

54. The petitioners produced Ext.P33 occupancy certificate issued by the Panchayat dated 03.05.2025. In the light of Ext.P33 and also in the light of the discussion made by this Court in the earlier paragraphs, I am of the considered opinion that the contentions raised by the Panchayat will not stand. The counsel for the party respondents submitted that the petitioners' unit is a moving unit and it can be shifted far away from the human settlements after obtaining proper and



valid permissions. There is no such case for the petitioners that it is a moving unit. The party respondents are relying on certain averments in the Panchayat's counter-affidavit. Moreover, the petitioners' case is clear: they want to start the unit in a building. Therefore, that contention will not stand either.

55. Therefore, I am of the considered opinion that the contentions raised by the Panchayat and the party respondents will not stand. As I mentioned earlier, this is a story of an entrepreneur who has invested crores of rupees and obtained all other statutory clearances, but has been begging before local authorities for years for permission under Section 233 of the Act 1994, who in effect are afraid of a protest by a handful of people, which lacks any basis in light of the District Medical Officer's report, which is extracted in paragraph 44 of this judgment. Simply because there is a hue and cry from a section of people without any basis, a local authority cannot deny the petitioners' valuable constitutional right as a citizen to



establish a unit.

56. In the background of these pleadings, it becomes necessary to notice the peculiar predicament projected by the petitioners. The materials on record show that the petitioners have invested several crores of rupees in establishing an industrial unit in the State of Kerala after securing clearances, licenses, and permits mandated by applicable statutes, rules, and regulations, except the Panchayat's permission. It is not the case that any statutory authority has found that the unit violates environmental norms or any other statutory provisions, except for the apprehension of the party respondents that there may be health hazards if the plant is operational. Such apprehension has no backing in any substantial material. This was ruled out by the District Medical Officer in his report, which is extracted in paragraph 44 of this judgment. Moreover, the unit, though complete in all physical respects, has been unable to commence operations. What was envisaged as a lawful



enterprise intended to generate employment and contribute to the local economy has, due to sustained public protest, been reduced to a silent complex of concrete, steel, and idle machinery. The more serious concern that emerges from the records is the erosion of faith in the efficacy of statutory approvals and in the protection promised by the rule of law. When permissions granted by competent authorities in strict conformity with the legal framework are rendered meaningless by extra-legal resistance, the credibility of that framework itself comes under strain. While public dissent is an acknowledged and protected facet of a democratic society, it cannot, in the absence of any proven illegality, be permitted to wholly thwart a venture that has complied with every statutory requirement. If such a situation is allowed to persist, it is not merely the petitioners who will suffer; our state economy will suffer as well. The wider message conveyed to law-abiding investors is that compliance may still not secure their operational



endeavours. It is this larger constitutional concern and the petitioners' plea for the protection of their legally sanctioned enterprise that now fall for consideration in this Writ Petition. I am of the considered opinion that the Panchayat has to issue permission strictly in accordance with Section 233 of the Act, 1994, in the light of the amended Act 14 of 2018, which is applicable here. The Panchayat cannot reject an application submitted under Section 233 of the Act 1994, in the light of Act 14 of 2018, because by Act 14 of 2018, the words "or refusing" have been consciously omitted by the legislature from the erstwhile sub-section (4) of Section 233 of the Act 1994. Thus, it is to be inferred and understood that an application filed under Section 233 of the Act, 1994, has to be either absolutely or conditionally allowed and cannot be rejected. Therefore, the Panchayat must allow the application and, if necessary, may also impose conditions while granting permission. It should be done forthwith to strengthen faith in the rule of law and to



boost the morale of genuine entrepreneurs who want to invest in Kerala.

Therefore, this Writ Petition is allowed in the following manner:

1. Ext.P3 order is set aside.
2. Respondents 4 and 5 are directed to allow Ext.P26 application, if necessary, after imposing appropriate conditions in tune with Section 233 of the Act, 1994. Necessary orders as directed above shall be passed within two weeks from the date of receipt of a certified copy of this judgment.

Sd/-

**P.V.KUNHIKRISHNAN
JUDGE**

DM/AJ/nvj/SKS/SSG

Judgment reserved	24.03.2026
Date of judgment	01.04.2026
Judgment dictated	25.03.2026
Draft Judgment Placed	28.03.2026
Final Judgment pronounced and uploaded	01.04.2026



APPENDIX OF WP(C) NO. 34275 OF 2025

PETITIONER EXHIBITS

- Exhibit-P1 TRUE COPY OF THE JUDGMENT IN WP(C).21247/2025 DATED 10.07.2025.
- Exhibit-P2 TRUE COPY OF THE JUDGMENT IN WA.2093/2025 DATED 27.08.2025.
- Exhibit-P3 TRUE COPY OF THE DECISION OF THE PANCHAYATH COMMITTEE DATED 27.08.2025.
- Exhibit-P4 TRUE COPY OF THE INTIMATION DATED 08.09.2025 OF THE SECRETARY INTIMATING EXT.P3 DECISION TO THE PETITIONERS.
- Exhibit-P5 TRUE COPY OF THE LETTER DATED 09.02.2017 TO THE DISTRICT MEDICAL OFFICER.
- Exhibit-P6 TRUE COPY OF THE LETTER DATED 09.02.2017 TO THE POLLUTION CONTROL BOARD.
- Exhibit-P7 TRUE COPY OF THE LETTER DATED 17.04.2017 OF THE DISTRICT MEDICAL OFFICER.
- Exhibit-P8 TRUE COPY OF THE CONSENT TO OPERATE ISSUED BY KERALA STATE POLLUTION CONTROL BOARD HAD ISSUED CONSENT TO OPERATE DATED 04.05.2017.
- Exhibit-P9 TRUE COPY OF THE DECISION DATED 10.05.2017 OF THE PANCHAYATH COMMITTEE.
- Exhibit-P10 TRUE COPY OF THE INTIMATION ISSUED BY THE SECRETARY OF PANCHAYATH DATED 11.05.2017.
- Exhibit-P11 TRUE COPY OF THE ORDER OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN IA 858/2017 IN RP 55/2017 DATED 16.05.2017.
- Exhibit-P12 TRUE COPY OF THE STOP MEMO ISSUED BY THE PANCHAYATH ON 29.05.2017.
- Exhibit-P13 TRUE COPY OF THE JUDGMENT IN WP(C)NO. 20228/2017 DATED 28.06.2017.
- Exhibit-P14 TRUE COPY OF THE APPLICATION DATED 24.01.2018 FOR PERMISSION UNDER SEC.233 OF PANCHAYATH RAJ ACT.
- Exhibit-P15 TRUE COPY OF THE D&O LICENSE APPLICATION DATED 24.01.2018.



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- Exhibit-P16 TRUE COPY OF THE ACKNOWLEDGMENT OF REGISTRATION ISSUED BY THE REGISTRAR OF FIRMS DATED 04.06.2022.
- Exhibit-P17 TRUE COPY OF THE INVOICE DATED 25.03.2022 ISSUED BY M/S AMMAN INDIA PRIVATE LIMITED CHENNAI.
- Exhibit-P18 TRUE COPY OF THE RENT AGREEMENT DATED 20.04.2022 ENTERED INTO BETWEEN VISHNU AND GEETHA RANI AND PETITIONERS.
- Exhibit-P19 TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 21.06.2022 ISSUED BY THE PANCHAYATH.
- Exhibit-P20 TRUE COPY OF THE STOP MEMO ISSUED BY THE PANCHAYAT DATED 24.01.2023.
- Exhibit-P21 TRUE COPY OF THE ORDER IN IA.436/2023 IN APPEAL.NO.157/2023 DATED 18.03.2023.
- Exhibit-P22 TRUE COPY OF THE CONSENT TO OPERATE ISSUED BY THE POLLUTION CONTROL BOARD DATED 13.03.2023.
- Exhibit-P23 TRUE COPY OF THE APPLICATION FOR LICENSE DATED 21.06.2024 SUBMITTED BY THE PETITIONER.
- Exhibit-P24 TRUE COPY OF THE ACKNOWLEDGMENT CERTIFICATE DATED 25.06.2024 ISSUED BY THE DEPARTMENT OF INDUSTRIES AND COMMERCE.
- Exhibit-P25 TRUE COPY OF THE DECISION REPORTED IN 2024 KHC ONLINE 1325 (THAJUDHIN A V. STATE POLICE CHIEF).
- Exhibit-P26 TRUE COPY OF THE RELEVANT PAGE OF THE APPLICATION FILED BY THE PETITIONERS, DATED NIL.
- Exhibit-P27 TRUE COPY OF THE RECEIPT OF APPLICATION DATED 17.05.2025.
- Exhibit-P28 TRUE COPY OF THE DECISION DATED 22.05.2025 OF THE 4TH RESPONDENT PANCHAYATH.
- Exhibit-P29 TRUE COPY OF THE INTIMATION ISSUED BY THE SECRETARY OF THE PANCHAYATH 30.05.2025.
- Exhibit-P30 TRUE COPY OF THE SANITARY CERTIFICATE DATED 23.06.2025 ISSUED BY THE HEALTH INSPECTOR VAMANAPURAM HEALTH CENTRE.
- Exhibit-P31 TRUE COPY OF THE BUILDING TAX RECEIPT



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DATED 06.05.2025 FOR BUILDING NO.10/516A.

RESPONDENT EXHIBITS

- Exhibit R 4 [a] A true copy of the complaint dated 6..3..2017
- Exhibit R 4 [b] A true copy of the stop notice dated 3..4..3017 issued to Sudheer
- Exhibit R 4 [c] A true copy of the Appeal filed before the Nellanad Grama Panchayat committee dated 10..5..2017
- Exhibit R 4 [d] A true copy of the photograph showing the present status of the hotmix plaint
- Exhibit R10(b) True copy of the Order No. C2-1448/2024-GME issued by the District Medical Officer dated 24.05.2024.
- Exhibit R10(c) True copy of the Letter issued by the Health Inspector Family Health Centre, Vamanapuram to the 4 th respondent dated 27.06.2024.
- Exhibit R10(a) True copy of the judgment dated 09.08.2024 in WPC No.23320/2024 reported as Thajudheen Vs State Police Chief (2024 KHC Online 1325).
- Exhibit R10(d) TRUE COPY OF THE MEMO FILED BY THE SENIOR GOVERNMENT PLEADER IN WRIT APPEAL NO.1244/2024 DATED 05.09.2024.

PETITIONER EXHIBITS

- Exhibit - P32 TRUE COPY OF THE LETTER OF THE DISTRICT MEDICAL OFFICER THIRUVANANTHAPURAM TO THE SECRETARY, NALLANAD GRAMAPANCHAYATH DATED 06.02.2025
- Exhibit - P33 TRUE COPY OF CERTIFICATE DATED 03.05.2025 ISSUED BY THE NALLANAD GRAMAPANCHAYATH SECRETARY DATED 03.05.2025 ALONG WITH TYPED COPY