

THOTTATHIL B.RADHAKRISHNAN, Ag.CJ.  
&  
ANU SIVARAMAN, J.

-----  
W.P(C).No. 5636 of 2016  
-----

Dated this the 10<sup>th</sup> June, 2016

O R D E R

Thottathil B.Radhakrishnan, Ag.CJ.

The Kerala Suchitwa Mission, represented by its Executive Director, Thycaud, Thiruvananthapuram-695 014 and the State Police Chief, Thiruvananthapuram are impleaded as additional 11<sup>th</sup> and 12<sup>th</sup> respondents respectively. Issue notice to the 11<sup>th</sup> respondent by speed post at the cost of the petitioner. The learned Senior Government Pleader takes notice for the 12<sup>th</sup> respondent.

2. We have heard the learned counsel for the petitioner, learned Senior Government Pleader and the learned counsel appearing for different Municipal Corporations. The Plastic Waste (Management and Handling) Rules, 2011 provides different modes of management of plastic waste and other types of plastic, including virgin plastic, which are defined and dealt with under those Rules issued by the Central Government in exercise of the powers conferred by Sections 3, 6 and 25 of the Environment (Protection) Act, 1986. The sum and substance of this writ petition is the larger public need to have a comprehensive consideration of the limit to



which plastic ought to be permitted to be used in the form of plastic carry bags and also in different other forms. The situation in which the writ petition is filed is that there is indiscriminate littering of plastic and burning of plastic and plastic related substances as also other similar materials like rubber and rubber products in an uncontrolled manner in public places and in open places in private domain, the requirement of which, we are satisfied, is that burning of plastic including plastic waste and virgin plastic as defined in Plastic Waste (Management and Handling) Rules, 2011 need to be curbed immediately to prevent further deterioration of the immediate environment in different areas of the State. Equally important is the threat of indiscriminate burning of rubber and rubber products in public places and in open places in private domain.

3. The Kerala State Pollution Control Board has severe shortage of staff. In different other matters, this Court had already sounded that it is high time that the staff pattern of the Kerala State Pollution Control Board is looked into seriously. Otherwise, that will become an institution, which would remain as a static scarecrow.

4. On the whole, we are satisfied that indiscriminate burning of plastic and rubber in any form results in a situation which leads to infraction of the Environment (Protection) Act, 1986 and the different rules framed thereunder as well as the different sister laws in that regime including those relating to water management and air

management. We are also satisfied that the situation has an alarming negative impact on public health and is also a matter of nuisance and needs to be controlled to protect the health of the citizens by protecting and improving the environment and preventing hazards to human beings and other living creatures, plants and properties. In the aforesaid background, we find that the situation needs to be regulated through an interlocutory order which we issue as follows:

- i. Burning of plastic and rubber waste and waste including plastic and rubber will stand prohibited as an effect of this order within the local limits of respondents 5 to 10 Municipal Corporations. The Secretaries and the Health Officers and Health Inspectors of those Municipal Corporations are hereby directed to appropriately supervise the respective areas under their jurisdiction to ensure that there is no burning of plastic or rubber.
- ii. The impleaded additional 12<sup>th</sup> respondent, the State Police Chief, is hereby required to consider issuing a circular to all Police authorities under his command to ensure that the needful is done, since preventive police exercise and prevention of nuisance and allied matters and effectuating such orders will fall within the Police powers of the State and could be effectuated in terms of the different provisions of the Code of Criminal Procedure and the Kerala Police Act. This shall be done with an aim of ensuring that the

message goes to the people to be obedient to this order and thereby stand dissuaded from breaching the terms of restrictions imposed hereby on burning of plastic and rubber.

- iii. Preventive initiatives by the Police and the Local Self Government authorities shall be the first mode and requisite prosecutions will have to follow as the next step.
- iv. The Suchitwa Mission, which is impleaded as the additional 11<sup>th</sup> respondent, will place its views at the earliest, so that a comprehensive look can be had to all the aspects to be placed for consideration through this public interest litigation.
- v. Respondents 1 to 3 will also be at liberty to place their views appropriately.

Post on 12.7.2016.

Hand over to all the learned counsel appearing. The learned Senior Government Pleader will give appropriate communication to the State Police Chief, apart from respondents 1 to 3.

Sd/-  
THOTTATHIL B.RADHAKRISHNAN,  
ACTING CHIEF JUSTICE

Sd/-  
ANU SIVARAMAN, JUDGE

/true copy/

  
ASSISTANT REGISTRAR

vgs1(

18/6