

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

THURSDAY, THE 18TH DAY OF OCTOBER 2012/26TH ASWINA 1934

WP(C).No. 24682 of 2012 (I)

PETITIONERS:

1. INDIAN DENTAL ASSOCIATION,  
REPRESENTED BY ITS HONORARY SECRETARY,  
DR.CAPT.SANTHOSH KUMAR P.U,  
VAISHAK, TC 7/52 (6) , ULLOOR,  
MEDICAL COLLEGE P.O. , TRIVANDRUM-695011.
2. DR.CAPT.SANTHOSH KUMAR P.U. ,  
VAISHAK, TC 7/52 (6) , ULLOOR,  
MEDICAL COLLEGE P.O. , TRIVANDRUM-695011.

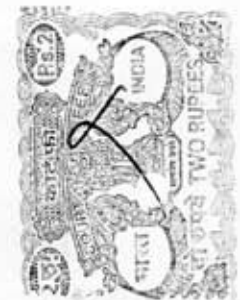
BY ADVS.SRI.V.G.ARUN  
SRI.T.R.HARIKUMAR

RESPONDENTS:

1. THE KERALA STATE POLLUTION CONTROL BOARD,  
REPRESENTED BY ITS SECRETARY,  
THIRUVANANTHAPURAM-695001.
2. STATE OF KERALA, REPRESENTED BY ITS SECRETARY,  
LOCAL SELF GOVERNMENT INSTITUTIONS,  
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM-695001.
3. THE PRINCIPAL SECRETARY, DEPARTMENT OF ENVIRONMENT,  
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695001.
4. UNION OF INDIA, REPRESENTED BY ITS SECRETARY,  
MINISTRY OF ENVIRONMENT AND FOREST,  
NEW DELHI-110077.
5. THIRUVANANTHAPURAM CORPORATION,  
REPRESENTED BY ITS SECRETARY,  
THIRUVANANTHAPURAM-695001.

BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA  
BY SENIOR GOVERNMENT PLEADER, SMT. REZIYA P.A.  
BY SRI. M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD  
BY SRI.NANDAKUMARA MENON (SR) THIRUVANANTHAPURAM CORPORATION

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-10-2012,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**ANTONY DOMINIC,J**


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**W.P.(C)No.24682 of 2012**  
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**Dated this the 18<sup>th</sup> day of October, 2012**

**JUDGMENT**

Heard the learned counsel for the petitioners, learned Standing Counsel for the first respondent, learned Government Pleader for respondents 2 and 3, learned A.S.G for the fourth respondent and the learned senior counsel for the fifth respondent.

2. First petitioner is an association of Dentists and the second petitioner is a Dental Practitioner. In this writ petition, the grievance of the petitioners is in relation to Exts.P4, P5 and P6 issued by the respondents making the provisions of the Bio-Medical Waste(Management and Handling) Rules, 1998 applicable to the Dental Clinics in Kerala. It is in this background, the petitioners are seeking the following reliefs:

- i). To issue a writ of certiorari calling for the records leading to the issuance of Exhibits-P4, P5 and P6 and quash the same to the extent the Government Order and Circulars insist upon production of authorization/registration issued by the first respondent under the Bio-Medical Waste*
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- (Management and Handling) Rules, 1998 as a condition for grant of registration, regardless of strength/number of patients;*
- ii) to declare that Dental clinics with less than 1000 patients per month and having affiliation with IMAGE, for collection and disposal of bio-medical waste, are not liable to obtain authorization under the Bio-Medical Waste(Management and Handling) Rules, from the Pollution Control Board.*

3. Going by the definition of Bio-Medical Waste as contained in Rule 3(5) and the Duty of Occupier as provided in Rule 4 of the Rules, Dental Clinics are also covered by the provisions of the Rules. However, Rule 8 dealing with authorization reads thus:

*8.Authorisation: (1) Every occupier of an institution generating, collecting, receiving, storing, transporting, treating, disposing and/or handling bio-medical waste in any other manner, except such occupier of clinics, dispensaries, pathological laboratories, blood banks providing treatment/service to less than 1000(one thousand) patients per month, shall make an application in Form1 to the prescribed authority for grant of authorization.*

- 2. Every operator of a bio-medical waste facility shall make an application in Form 1 to the prescribed*

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*authority for grant of authorization.*

*3. Every application in Form 1 for grant of authorization shall be accompanied by a fee as may be prescribed by the Government of the State or Union Territory.*

*(4. The authorization to operate a facility shall be issued in Form IV, subject to conditions laid therein and such other condition, as the prescribed authority, may consider it necessary.)*

4. Reading of this provision shows that those Dental Clinics which treat less than 1000 persons per month are exempted from the provision requiring authorization.

5. Although such of those Dental Clinics, which are exempted by virtue of the provision contained in Rule 8 are not required to obtain authorization, Dental Clinics, which are not eligible for such exemption are required to obtain authorization as per the Rules.

In that view of the mater, clarifying the position as above, this writ petition is disposed of.

Sd/-

**ANTONY DOMINIC, JUDGE**

In



APPENDIX

PETITIONERS EXHIBITS:


- EXT.P1 : COPY OF THE LETTER NO.PCB/HO/EEI/BMW/GEN/03/07 DATED 08.02.2008 OF THE FIRST RESPONDENT.
- EXT.P2 : COPY OF THE LITERATURE REGARDING IMAGE PUBLISHED IN THE WEBSITE OF THE INDIAN MEDICAL ASSOCIATION.
- EXT.P3 : COPY OF THE APPLICATION FORM ISSUED BY THE INDIAN MEDICAL ASSOCIATION FOR OBTAINING AFFILIATION WITH IMAGE.
- EXT.P4 : COPY OF CIRCULAR NO.47724/DC1/2011/LSGD DATED 09.12.2011.
- EXT.P5 : COPY OF THE CIRCULAR NO.PCB/T4/115/97 DATED 02.03.2012.
- EXT.P6 : COPY OF G.O(MS)NO.04/12/ENVT.DATED 13.03.2012.
- EXT.P7 : COPY OF NOTICE NO.H11/29164/12 DATED 04.06.2012 ISSUED BY THE THIRUVANANTHAPURAM CORPORATION TO A MEMBER OF THE FIRST PETITIONER ASSOCIATION.
- EXT.P8 : COPY OF THE LETTER DATED 09.08.2012 ISSUED TO THIRD RESPONDENT.
- EXT.P9 : COPY OF THE LETTER DATED 09.08.2012 ISSUED TO SECOND RESPONDENT.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

  
P.A. TO JUDGE

TRUE COPY

  
EXAMINER