

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

DATED THIS THE 15TH DAY OF OCTOBER, 2019

BEFORE

THE HON'BLE MR. JUSTICE R DEVDAS

WRIT PETITION No.111502/2019 (GM-RES)

BETWEEN:

SHRUSHTI AGRO & COLD STORAGE
PLOT NO.SPL, Q-1, KSSIDC,
KANABARGI INDUSTRIAL AREA,
AUTO NAGAR, BELAGAVI-590016,
REPTD. BY ITS PARTNER,
SHRI AMOL S/O. VIDYADHAR MOHANDAS
AGE 34 YEARS, OCC: BUSINESS,
R/O. PLOT NO.1202, SAHAYADRI NAGAR,
BELAGAVI - 591108

... PETITIONER

(BY SRI. SANTOSH PUJARI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
VILHANA SOUDHA, BENGALURU-560001
2. THE CHAIRMAN
KARNATAKA STATE POLLUTION CONTROL BOARD
"PARISARA BHAVANA, NO.49
CHURCH STREEET, BENGALURU-560001
3. THE MEMBER SECRETARY
THE KARNATAKA STATE POLLUTION CONTROLE BOARD
"PARISARA BHAVANA, NO.49
CHURCH STREET, BENGALURU-560001
4. THE SENIOR ENVIRONMENTAL OFFICER
ZONAL OFFICE, DHARWAD ZONE

GROUND FLOOR, PLOT NO.4
LAKKAMANAHALLI INDUSTRIAL AREA
P.B. ROAD, DHARWAD-580004

5. THE SENIOR ENVIRONMENTAL OFFICER
KARNATAKA STATE POLLUTION CONTROL BOARD
BELAGAVI DIVISION, AUTO NAGAR, BELAGAVI-590015
6. THE DEPUTY COMMISSIONER
BELAGAVI, COURT COMPOUND, BELAGAVI-590001
7. THE COMMISSIONER OF POLICE
SUBHASH NAGAR, BELAGAVI-590016

... RESPONDENTS

(BY SRI. G.I.GACHCHINAMATH, ADV. FOR R2 TO R5;
SMT. VEENA HEGDE, AGA FOR R1, R6 & R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT OR DIRECTION, DIRECTING THE RESPONDENTS TO CONDUCT SPOT INSPECTION OF THE PETITIONERS FACTORY, BY ISSUING ATLEAST THREE DAYS PRIOR NOTICE AND VIDEOGRAPHY THE VIOLATIONS/CONTRAVENTIONS, THAT HAS BEEN COMMITTED BY THE PETITIONER IN RESPECT OF THE AIR & WATER ACT AND RULES AND REGULATIONS PRESCRIBED THEREIN, IN RELATION TO THE LAW PREVALENT AS ON DATE OF SPOT INSPECTION, BEFORE INVOKING THE PROVISIONS OF AIR AND WATER ACT, WHICH FALLS WITHIN THE EXCLUSIVE DOMAIN OF THE RESPONDENTS NO.1 TO 5, (B) ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT OR DIRECTION DIRECTING THE RESPONDENTS NO.1 TO 5, TO INVOKE THE PLENARY POWERS AS DESCRIBED IN AIR & WATER ACT AND RULES AND REGULATIONS PRESCRIBED THEREIN ONLY IF THE VIOLATIONS/CONTRAVENTIONS, THAT HAS BEEN COMMITTED BY THE PETITIONER IN RESPECT OF THE AIR & WATER ACT AND RULES AND REGULATIONS PRESCRIBED THEREIN IN RELATION TO THE LAW PREVALENT AS ON DATE OF SPOT INSPECTION AND TO INVOKE ONLY THE PROVISIONS OF AIR AND WATER ACT, WHICH ARE WITHIN THE EXCLUSIVE DOMAIN OF THE RESPONDENTS NO.1 TO 5.

THIS WRIT PETITION COMING ON FOR *PRELIMINARY HEARING* THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER**R.DEVDAS J., (ORAL):**

Learned counsel for the petitioner submits that, prayer in the writ petition is seeking a writ of mandamus or direction to the respondent-Karnataka State Pollution Control Board to act within its powers as contemplated under the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Rules, 1975, and the Karnataka State Board for the prevention and control of water pollution (procedure for Transaction of Business) and Air (Prevention and Control of Pollution) Act & Rules. It is submitted that, on a plain reading of the communication dated 28.05.2018, which is produced at Annexure-D, it is evident that the respondent-Board is acting beyond its powers. It is submitted that the Board has nothing to do with the activity of the petitioner in procuring meat and processing the same or storing the

same in the cold storage in the premises of the petitioner. It is submitted that the communication would clearly show that the respondent-authorities are acting beyond their powers.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent-Board and perused the writ papers.

3. Since the prayer is only to direct the Board to act within its powers as contemplated under law, this Court is of the opinion that the petition could be disposed of by issuing certain directions to the respondent-Board.

4. On going through the communication dated 28.05.2018, in paragraph No.5, which the Board has issued, certain observations are made and compliance of the same is sought by the petitioner. In the said observations, at point No.1, the Board requires the petitioner, which is engaged in the activity of meat

trimming and preservation in cold storage to submit documents regarding legal sources of procurement of meat and a copy of the KIADB allotment letter for permission to carry on the activity. In the opinion of this Court the said observations of the Board is beyond its powers. As regards the other observations which pertain to the air and water pollution, if the Board requires the petitioner to comply with the provisions of the statutes governing the air and water pollution, the petitioner is required to comply with the same. If there is non compliance, the authority is empowered to deal with the same in accordance with law.

5. With these observations, the petition is disposed off while directing the respondent-Board to act within its power.

**Sd/-
JUDGE**

*Svh/-