



2025:KER:78555

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 22ND DAY OF OCTOBER 2025/30TH ASWINA, 1947

WP(C) NO. 26080 OF 2023

PETITIONER:

JESSY.T
AGED 41 YEARS
KALAPPURAKKAL VEEDU, CHANDIROOR, AROOR,
ALAPPUZHA, PIN - 688534

BY ADVS.
SRI.B.RAGHUNATHAN
DR.STANLY CHAZHOOR
SHRI.R.SRINATH
SRI.K.JALADHARAN
SRI.V.M.JACOB

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
LABOUR AND SKILLS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001

2 DIRECTOR OF FACTORIES AND BOILERS,
DIRECTORATE OF FACTORIES AND BOILERS,
SURAKSHA BHAVAN, KUMARAPURAM,
THIRUVANANTHAPURAM, PIN - 695011

BY ADVS.
GOVERNMENT PLEADER
SRI. A.S. DHEERAJ, GP.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

Dated this the 22nd day of October, 2025

The petitioner is recognized as a Draftsman and issued with Competency Certificate under Rule 2A of the Kerala Factories Rules ('the Rules' for short), which entitles her to prepare building plans and other structural drawings for factories under Sections 6 and 112 of the Factories Act, 1948 ('the Act' for short). While working on the strength of the Competency Certificate issued, the petitioner had prepared and submitted a plan for registration of a factory named 'SWV Metals Private Limited', under Section 85 of the Act. The plan prepared by the petitioner was forwarded to the Director of Factories and Boilers/ 2nd respondent. After scrutiny of the application, the 2nd respondent issued Exhibit P3 notice requiring the petitioner to show cause why her Competency Certificate should not be cancelled for deliberately suppressing the existence of



the Eramalloor St. Francis LP School building immediately in front of the proposed factory. Thereupon, the petitioner submitted Exhibit P4 explanation admitting the omission on her part in describing the existing school building in the plan. Being not satisfied with the explanation, the 2nd respondent issued Exhibit P5, finding the omission to be a fabrication of the plan and cancelling the Competency Certificate issued to the petitioner. Aggrieved, this writ petition is filed seeking the following reliefs;

- “i) issue a writ of certiorari or other appropriate writ, order or direction to call for the records leading to Ext.P5 and quash the same.
- ii) issue a writ of mandamus or other appropriate writ, order or direction to 2nd respondent to allow the petitioner to continue as a Draftsman-A as envisaged under Factories Act, 1948 and Kerala Factories Rules, 1957.
- iii) to issue an order or direction declaring that the conditions mentioned in Ext.P1 certificate so far as it is inconsistent with Kerala Factories Rules, 1957 as ultravires the Rules, 1957.”



2. Learned Counsel for the petitioner contended that the petitioner having admitted her mistake, the 2nd respondent was not justified in imposing the harsh punishment of cancelling the Competency Certificate. It is contended that Rule 3(2)(b)(i.) only requires the plan to be drawn to scale showing the site of the factory and immediate surroundings including adjacent buildings and other structures, roads, drains, etc. Moreover, immediately on receipt of Exhibit P3, the petitioner had submitted a revised plan showing the existing school building and based on that plan, licence of the factory was renewed. According to the learned Counsel, the distance criteria is not applicable since a portion of the school building is in a dilapidated condition and the petitioner had taken the measurement from the portion of the building in which the school is actually functioning.

3. Learned Government Pleader submitted



that as per Rule 3(3) of the Kerala Factories Rules, the siting of the factory should be at a minimum distance of 25 meters from educational institutions. In the inspection conducted by the 2nd respondent, it was revealed that the distance between the proposed factory and the existing school is only 9 meters. Being so, the omission to mention about the existence of school building in the immediate vicinity is nothing but deliberate suppression amounting to fabrication. It is submitted that the plan and proposal was submitted under Section 85 of the Factories Act for establishment of a new factory. The said plan was not approved and permit of the existing factory alone was renewed.

4. Indisputably, an educational institution is existing adjacent to the proposed factory. In the plan submitted by the petitioner, she did not describe the existing school building as a building in which an educational institution is functioning. As per Rule 3(3),



the factory will not be granted siting permission if there is an educational institution within 25 meters. Even in the revised plan submitted by the petitioner, the distance between the factory and school building was incorrectly shown as 32 meters. In such circumstances, this Court will not be justified in interfering with Exhibit P5 order of the 2nd respondent.

5. The remaining question is whether the omission, even if taken to be intentional, should result in the harshest punishment of cancellation of petitioner's Competency Certificate for all times. Hence, this Court is of the opinion that the 2nd respondent should have a re-look on the punishment imposed, considering that the petitioner is a lady and her livelihood depends on the Certificate.

The writ petition is hence disposed of by permitting the petitioner to submit an application for grant of Competency Certificate under Section 2A of the



Rules and directing the 2nd respondent to treat it as a fresh application and take appropriate decision thereon.

Sd/-

**V.G.ARUN
JUDGE**

ARK



APPENDIX OF WP(C) 26080/2023

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF REGISTRATION CERTIFICATE NO.CP/0047/2022 DATED 25.4.2023 ISSUED BY 2ND RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE REQUEST SUBMITTED BY SWV METALS PRIVATE LIMITED REQUESTING FOR PERMIT TO 2ND RESPONDENT (UNDATED) .
EXHIBIT P3	TRUE COPY OF LETTER NO.DFB/1723/2023-T2 DATED 27.6.2023 OF 2ND RESPONDENT.
EXHIBIT P4	TRUE COPY OF LETTER SUBMITTED BY PETITIONER TO 2ND RESPONDENT DATED 8.7.2023.
EXHIBIT P5	TRUE COPY OF ORDER NO.DFB/1723/2023-T2 DATED 27.7.2023 ISSUED BY 2ND RESPONDENT.
EXHIBIT P6	TRUE COPY OF THE STATUS REPORT AVAILABLE IN THE WEBSITE OF THE FACTORIES AND BOILERS.
EXHIBIT P7	TRUE COPY OF REGISTRATION CERTIFICATE NO.CP/0047/2022 DATED 12.4.2022 ISSUED BY 2ND RESPONDENT.
EXHIBIT P8	TRUE COPY OF THE SITE PLAN SUBMITTED BY M/S SWV METALS PRIVATE LIMITED.

RESPONDENT EXHIBITS

EXHIBIT R2 (A)	TRUE COPY OF REGISTRATION AND LICENSE CERTIFICATE
EXHIBIT R2 (B)	TRUE COPY OF THE PLAN UPLOADED BY THE APPLICANT INITIALLY
EXHIBIT R2 (C)	TRUE COPY OF NOTE FILE
EXHIBIT R2 (D)	TRUE COPY OF THE GUIDELINES FOR SCRUTINY OF PERMIT APPLICATION CHECKLIST FOR DRAFTSMAN



EXHIBIT R2 (E) TRUE COPY OF G.O(P)NO.19/2020/LBR DATED 03/02/2020

PETITIONER EXHIBITS

EXHIBIT P9 TRUE COPY OF THE SCREENSHOT OF THE RELEVANT PAGE RETURNING MY APPLICATION FOR RENEWAL OF MY DRAFTSMAN-A COMPETENCY CERTIFICATE AS AVAILABLE IN THE WEBSITE OF FACTORIES AND BOILERS, KERALA.

EXHIBIT P10 TRUE COPY OF THE SCREENSHOT OF THE PERMIT REVISION DOCUMENTS RETURNED AS AVAILABLE IN THE WEBSITE OF FACTORIES AND BOILERS, KERALA.

EXHIBIT P11 TRUE COPY OF LETTER NO.DFB/3180/2023-T3 DATED 27.5.2024 OF 2ND RESPONDENT.

EXHIBIT P12 TRUE COPY OF LETTER NO.DFB/567/2024-T2 DATED 25.5.2024 OF 2ND RESPONDENT.

EXHIBIT P13 TRUE COPY OF LETTER ISSUED BY 2ND RESPONDENT TO PETITIONER DATED 23.5.2024.

EXHIBIT P14 TRUE COPY OF ORDER DATED 1.5.2024 ISSUED BY JOINT DIRECTOR OF FACTORIES AND BOILERS, KOLLAM.

EXHIBIT P15 TRUE COPY OF GO(P)NO.52/2023/LBR DATED 22.6.2023.

EXHIBIT P16 TRUE COPY OF THE APPLICATION UNDER RIGHT TO INFORMATION ACT, 2005 SUBMITTED BY SHRI.DILIPKUMAR.T TO STATE PUBLIC INFORMATION OFFICER, DIRECTORATE OF FACTORIES AND BOILERS DATED 6.6.2024.

EXHIBIT P17 TRUE COPY OF LETTER NO.DFB/1541/2024-T2 OF THE STATE PUBLIC INFORMATION OFFICER, INSPECTOR, FACTORIES AND BOILERS GR-II TO SHRI.DILIPKUMAR.T DATED 9.7.2024.