

P.I.L. WRIT PETITION NO. 288 OF 2000

W. H. Rizvi,  
JA-AN Apts,  
Ground Floor,  
Near St, Mary's High School,  
Ponda, Goa.

... Petitioner.

versus

1. Toyo Laboratories Pvt.Ltd.  
Ponda, Goa.
2. Chief Officer,  
Ponda Municipal Council,  
Ponda, Goa.
3. Goa State Pollution Control  
Board, Panaji, Goa.
4. State of Goa  
by its Chief Secretary,  
Secretariat,  
Panaji, Goa.
5. South Goa Planning &  
Development Authority  
through its Member  
Secretary, having its  
Office at Margao, Goa.
6. Chief Inspector of Factories  
& Boilers,  
Government of Goa,  
Altinho, Panaji, Goa.

... Respondents.

Mr. A. F. Diniz, Advocate for the Petitioner.

Mr. U. S. Kolwalkar, Advocate for the Respondent No.1.

Mr. S. D. Padiyar, Advocate for the Respondent No.2.

Mr. N. P. Gaunekar, Advocate for the Respondent No.3 absent.

Mr. P.A.Kamat, Additional Government Advocate for the  
Respondent Nos.4 and 6.

CORAM: S. RADHAKRISHNAN &  
P. V. HARDAS, JJ.

DATED: 24TH SEPTEMBER, 2002.

**ORAL JUDGMENT (PER S. RADHAKRISHNAN, J.)**

Heard the learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondents.

2. The main grievance of the Petitioner is that the Respondent No.1 has set up a Pharmaceutical factory for manufacturing tablets posing a serious pollution problem and also that the said factory is being run by the Respondent No.1 without valid permission or licences from the concerned authorities.

3. In the above Petition, the Goa State Pollution Control Board has filed an Affidavit categorically stating that after due inspection, the Goa State Pollution Control Board found that there was no air pollution as alleged in the above Petition.

4. The main grievance of the learned Counsel appearing for the Petitioner is that the concerned building is meant only for residential purposes and as indicated by the permission which was granted at the time when the building was allowed to be constructed. Hence, the learned Counsel appearing for the Petitioner submits that setting up of a Pharmaceutical unit for manufacturing tablets would

be in contravention of the provisions of Section 189 of the Goa Municipalities Act, 1968 and as such, the Chief Officer of Ponda Municipal Council ought not to have granted any permission for manufacturing pharmaceutical products in the said premises. In view thereof, the Petitioner has approached this Court seeking a relief that the Respondent No.1 be restrained from using the said premises by way of factory manufacturing goods like tablets etc.. The Petitioner contends that he had purchased the residential accommodation in the said building in the year, 1998. As soon as he came in possession, he found the nuisance in the building and ultimately approached this Court for the reliefs sought namely to stop the said Pharmaceutical factory from manufacturing the said tablets in the said premises.

5. The learned Counsel appearing for the Respondent No.2/Chief Officer, Ponda Municipal Council pointed out that the requisite permission under Section 189 of the Goa Municipalities Act, 1968 was granted on 17th April, 1986 to enable the Respondent No.1 to set up a Pharmaceutical formulating unit under testing laboratory on the first floor of the building belonging to one Anne D'Costa, Ponda, Goa. This permission is subject to the condition that the Respondent No.1 obtains the requisite licence before commencing of the said unit. The learned Counsel appearing for the Respondent/Chief Officer, Ponda Municipal Council

also brought to our notice that the requisite licence was issued on 17th February, 1988 under Section 263 of the Goa Municipalities Act, 1968. Thereafter, it appears that the regular licence for carrying on the trade was also issued by the Chief Officer, Ponda Municipal Council on 29th July, 1991 under the Trade and Occupation Licensing Bye-Laws, 1989 whereby the Respondent No.1 was permitted to set up a Pharmaceutical unit on the first floor of JA-AN Apartments, near St. Anne's Church, Ponda, Goa. The said licence came to be renewed from time to time upto 31st March, 1997. Thereafter, it appears that the Chief Officer, Ponda Municipal Council issued a letter on 24th August, 1999 to Respondent No.1 calling upon the Respondent No.1 to collect the aforesaid Trade and Occupation licence issued by the Chief Officer, Ponda Municipal Council on payment of Rs.1,548/- being the fees and penalty from 1st April, 1997 to 31st March, 2000. In accordance therewith, the Respondent No.1 has paid the requisite amount to the Respondent No.2/Chief Officer, Ponda Municipal Council. Subsequently thereto, it appears that by letter dated 27th March, 2001, the Respondent No.1 has again tendered the licence fee of Rs.600/- requesting further renewal. Under the aforesaid facts and circumstances, we are not inclined to exercise the writ jurisdiction under Article 226 of the Constitution of India to interfere with in regard to the disputed questions of fact in this particular case such as whether a Pharmaceutical factory could be established in a

residential building or not and whether such a licence could be renewed or not etc.

6. It also appears that subsequent to the non renewal of the said licence, the Respondent No.2 has also launched prosecution against the Respondent No.1 for carrying on the trade without such a licence. Under these circumstances, we are not inclined to interfere in this Writ Petition in regard to the disputed questions of facts. However, we make it clear that the Respondent No.2/Chief Officer, Ponda Municipal Council when he is considering the renewal of the said trade licence, the Respondent No.2/Chief Officer, Ponda Municipal Council could also take into account the complaints of the Petitioner before granting of such renewal. With the above observations, we dismiss the Writ Petition and discharge the Rule.

7. In the event, the Respondent No.2 were to grant such a renewal, the Petitioner may then challenge such a renewal by adopting appropriate proceedings.

S. RADHAKRISHNAN, J.

P. V. HARDAS, J.