

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF DECEMBER 2013/29TH AGRAHAYANA, 1935

WP(C).No. 21902 of 2013 (K)

PETITIONER:

**SHAMSUDHEEN, AGED 51 YEARS,
S/O. ABDUL KHADERKUTTY, KEERIKKAD VILLAGE,
KARTHIKAPALLY TALUK, ALAPPUZHA.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

- 1. THE DIRECTOR OF MINING AND GEOLOGY,
DIRECTORATE OF MINING AND GEOLOGY, KESHAVADASAPURAM,
PATTOM P.O., THIRUVANANTHAPURAM-695 004.**
- 2. THE DISTRICT GEOLOGIST,
ALAPPUZHA, CIVIL STATION,
ALAPPUZHA, PIN-688 001.**
- 3. STATE POLICE CHIEF,
THIRUVANANTHAPURAM, PIN-695 001.**
- 4. THE DISTRICT POLICE CHIEF,
ALAPPUZHA DISTRICT, PIN-688 001.**
- 5. THE COMMISSIONER OF POLICE,
ALAPPUZHA, ALAPPUZHA, DISTRICT-688 001.**
- 6. THE DISTRICT COLLECTOR,
ALAPPUZHA, CIVIL STATION,
ALAPPUZHA, PIN-688 001.**
- 7. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

BY SR. GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-12-2013,ALONG WITH WPC. NO.21910 OF 2013 THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

WP(C).No. 21902 of 2013 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1- TRUE COPY OF THE PERMIT ISSUED BY THE SECOND RESPONDENT TO
THE PETITIONER DATED 05-04-2013.**

**EXHIBIT P2- TRUE COPY OF THE INTERIM ORDER OF HONOURABLE COURT
DATED 24-07-2013 IN WPC NO. 18380 OF 2013.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

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W.P.(C). Nos. 21902 & 21910 of 2013

Dated this the 20th day of December, 2013

JUDGMENT

The issue involved in all these cases is as to the rights and liberties of the petitioners to deal with 'weathered sand' on the strength of registration obtained under the KVAT Act and the licence obtained from the concerned local authority and whether any licence has to be obtained from the Mining and Geology Department. The issue is squarely covered by the decision rendered by this Court as per the common judgment dated 10.12.2013 in W.P.(C).No. 4415 of 2013 and connected cases, which stands against the petitioners. In the said circumstance, interference is declined and all these writ petitions are dismissed accordingly.

2. It is made clear that, the dismissal of these writ petitions will not stand in the way of the petitioners in seeking for compounding the offence in view of the enabling provisions under the MMDR Act, 1957 and the KMMC Rules, 1967.

3. Coming to the extent of amount to be satisfied as compounding fee, the Rules specifically stipulate that any offence under the Rules can be compounded subject to the

satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs. 5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. The maximum fine in respect of such offence prescribed under the 'Act' is stated as ₹ **25,000/-**. It is in the said circumstance, that this Court has been passing orders enabling the concerned petitioners to have interim custody of the vehicle on satisfaction of a sum of ₹ **25,000/-**, also directing the concerned respondent to consider the application for compounding, if any.

4. If the petitioners are desirous to have the offence compounded, conceding the guilt, it is for them to approach the concerned respondent/authorised officer by filing necessary application in this regard and once the offence is compounded, no further prosecution proceedings shall lie against them.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-