

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

WP(C).No. 1793 of 2007(L)

PETITIONER:

JOY, AGED 36, S/O.JOSEPH,
VISHAKAM, H.NO.13/446, THOONGAMPARA,
NELLIYOTTUKONAM, KATTAKKADA.

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS:

THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.VINOD CHANDRAN, J.

W.P.(C).No.1793 of 2007

Dated this the 11th day of August, 2015

JUDGMENT

The petitioner is the registered owner of lorry bearing Reg.No.Kl.01.AD/6166 and a tipper lorry bearing Reg.No.KL.01/20-2162. The petitioner had purchased sand from Tamil Nadu and was transporting it into the State of Kerala. The police attached to Thiruvallam Police Station seized both the vehicles. The report was also forwarded by the Police to the District Collector to initiate confiscation proceedings under Section 23 of Protection of River Banks and Regulation of Removal of Sand Act, 2001. The petitioner moved an application Ext.P7, before the District Collector for release of the vehicles. No proceedings till now has been initiated under the Act of 2001.

2. The petitioner approached the Judicial Magistrate Court for seeking release of the vehicles. On calling for a report from the District Collector, the District Collector by Ext.P8 informed the learned Magistrate that

though no proceedings were initiated under the Acts and Rules, the District Collector is imposing a fine of Rs. 10,000/- for each vehicle. If no proceedings have been initiated for the alleged offence, then it is not decipherable as to what power was invoked by the District Collector in imposing such fine on the vehicles. Further no notice was issued to the petitioner and no order was communicated to the petitioner also.

3. In fact, when the above writ petition was filed there was an interim order directing the District Collector to issue a copy of the order imposing penalty. The said interim order was passed on 15.01.2007. Government has not filed any counter affidavit and the order has not been produced herein.

4. The petitioner was then directed to be granted release of the vehicles by interim order dated 24.01.2007, on payment of the fine, however making the payment subjected to the disposal of the writ petition.

5. Since no order have been passed, under the Act of 2001, Ext.P8 is of no consequences. The amounts

remitted as per the interim order dated 24.01.2007 shall be immediately refunded to the petitioner. If the same has been paid and the vehicles got released. If not the vehicle shall be released without any fine being remitted.

The writ petition is allowed.

Sd/-
K.VINOD CHANDRAN
JUDGE

AD