

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN  
&  
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WA.No. 1722 of 2015 IN WP(C).3506/2015

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AGAINST THE JUDGMENT IN WP(C) 3506/2015 DATED 02-06-2015

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APPELLANTS/1ST AND 2ND RESPONDENTS :

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1. NADUVIL GRAMA PANCHAYATH  
REPRESENTED BY ITS SECRETARY, NADUVIL PO  
KANNUR DISTRICT, PIN-670 593.
2. THE SECRETARY,  
NADUVIL PANCHAYATH, NADUVIL PO, KANNUR.

BY ADVS.SRI.T.V.JAYAKUMAR NAMBOODIRI  
SRI.T.C.SIBI

RESPONDENT/WRIT PETITIONER :

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MEMI GRANITES PVT.LTD  
REPRESENTED BY ITS MANAGING DIRECTOR K.T.ZIYAD  
BUILDING NO.IV/40, SIDHIQUE NAGAR PO, IRIKKUR  
KANNUR DISTRICT-670 593.

BY ADV. SRI.K.V.SOHAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
01-09-2015,ALONG WITH WA No.1850/2015, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

**ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.**

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W.A. Nos. 1722 and 1850 OF 2015  
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Dated this the 1<sup>st</sup> day of September, 2015

**JUDGMENT**

**Shaffique, J.**

W.A. No.1722 of 2015 has been filed by respondents 1 and 2 and W.A. No.1850 of 2015 has been filed by a third party after seeking leave of this Court to file the appeal. Both the appeals arise out of the judgment dated 02.06.2015 passed in W.P.(C) No.3506 of 2015.

2. The writ petition was filed the 1<sup>st</sup> respondent in these appeals challenging Ext.P17 decision taken by the respondent Panchayat and Ext.P18 order passed by the Tribunal for Local Self Government Institutions in appeal No.698 of 2013. According to the petitioner, he had established a Quarry and Stone Crusher Unit in Survey No.292/1A of Naduvil Village. The application of the petitioner was forwarded to the Single Window Clearance Board for Industries and the Department of Mining and Geology granted permission to the petitioner to conduct quarrying in respect of

12 cents of property covered by Ext.P2. According to the petitioner, he had obtained all other licences/permissions from all competent authorities for carrying on quarrying operation, but the Panchayat refused to grant permission stating irrelevant reasons. The petitioner preferred an appeal before the Tribunal which came to be confirmed against which this writ petition has been filed.

3. Based on the contentions urged on behalf of the respondent, learned Single Judge proceeded on the basis that since the Single Window Clearance Board, being a competent statutory authority, has already directed grant of licence, it is not open for the Panchayat to desist from granting any such license. In the result, a direction was issued observing that since the petitioner has obtained all clearances from the authorities concerned and that he had undertaken that he will start quarrying in the 12 cents of land only, further direction was issued to the respondent Panchayat to grant license as prayed for by the petitioner. It is challenging the aforesaid direction, these

writ appeals have been filed. It is submitted by learned counsel appearing for the appellants that an Environmental Impact Study has to be conducted before grant of license and therefore learned Single Judge was not justified in directing issue of license.

4. On the other hand learned counsel for the writ petitioner/respondent herein submits that as the petitioner had obtained all necessary licenses, the direction was issued by the Single Window Clearance Board directing the Panchayat to issue necessary license. However, in the meantime, during the pendency of the lis, licenses obtained by the petitioner had expired for which he still has to submit renewal applications, after obtaining necessary Environmental Clearance from competent authorities. It is stated that the attempt of the Panchayat, refusing to grant license, after a direction has been issued by Single Window Clearance Board to issue license, is baseless.

5. Learned Counsel appearing for the Panchayat submits that none of the licenses in favour of the petitioner have been renewed and therefore the Panchayat will have to

reconsider the entire issue after obtaining necessary licenses from competent authorities by the petitioner.

6. Having heard learned counsel appearing on either side, we are of the view that, since the petitioner has not obtained Environmental Clearance for functioning the quarry, which is the pre-condition for grant of license, petitioner cannot operate the quarry unless the Environmental Clearance is obtained. As far as the licenses to be granted by the Panchayat, the Panchayat will have to verify whether all other licenses/permissions are in order before such grant. Once it is confirmed that the petitioner had renewed all the licenses and had obtained environmental clearance, necessarily, based on the directions issued by the Single Window Clearance Board, the Panchayat will have to grant license. In such circumstances, we modify the judgment of learned Single Judge to the extent of directing the petitioner to produce the Environmental Clearance and all other licenses/permissions renewed up to date before the Panchayat, in which event the Panchayat shall grant license. The

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petitioner shall not operate the quarry until the license is issued by the Panchayat.

The Writ Appeals are disposed of as above.

**Ashok Bhushan,  
Chief Justice.**

**A.M. Shaffique,  
Judge.**

ttb/01/09