

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 3117 of 2012 (L)

PETITIONER:

P.R.SABU AGED 43 YEARS
S/O.P.K.RAGHAVAN
RESIDING AT PUTHENPURAKKAL CHELASHERY
POOTHADI AMSOM AND DESOM, VARADHOOR.P.O.
SULTHAN BATHERI TALUK, WAYANAD DISTRICT.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)

RESPONDENTS:

1. THE DISTRICT COLLECTOR
WAYANAD, PIN-673 121.
2. THE SUB DIVISIONAL MAGISTRATE
MANANTHAVADY, WAYANAD DISTRICT.670 645.
3. THE DEPUTY TAHSILDAR
VYTHIRI TALUK, WAYANAD DISTRICT. PIN-673 576.
4. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM. 695001

SRI.NOUSHAD THOTTATHIL, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER
BEFORE THE 1ST RESPONDENT DATED 04.02.2010

EXT.P2 TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED
19.02.2010

EXT.P3 TRUE COPY OF THE JUDGMENT IN WPC NO.7108/2010 PASSED BY
THE HON'BLE HIGH COURT DATED 05.03.2010

EXT.P4 TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED
09.7.2010

EXT.P5 TRUE COPY OF THE JUDGMENT IN WPC 33764/2010 PASSED BY THE
HON'BLE HIGH COURT DATED 09.11.2010

EXT.P6 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER
TO THE 2ND RESPONDENT DATED 29.11.2010

EXT.P7 TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED
02.06.2011

EXT.P8 TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE HIGH
COURT IN WPC NO.20560/2011 DATED 28.07.2011

EXT.P9 TRUE COPY OF THE REVIEW PETITION FILED BY THE PETITIONER
DATED 18.10.2011

EXT.P10 TRUE COPY OF THE REPLY ISSUED BY THE 2ND RESPONDENT TO
THE PETITIONER DATED 24.10.2011

EXT.P11 TRUE COPY OF THE REVISION PETITION FILED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED 28.11.2011

EXT.P12 TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED
19.12.2011

EXT.P13 TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER
UNDER THE RIGHT TO INFORMATION ACT DATED 25.06.2010

EXT.P14 TRUE COPY OF THE INFORMATION FURNISHED TO THE PETITIONER
DATED 14.07.2010

RESPONDENTS' EXHIBITS: NIL

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

.....
W.P.(C) No.3117 of 2012
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Dated this the 5th day of August, 2015

JUDGMENT

The grievance of the petitioner is that the District Collector rejected his revision petition on the ground of delay. The petitioner, whose jeep was confiscated on being found that the said jeep was involved in illegal transportation of river sand, had approached this Court earlier against the order passed by the District Collector as per Ext.P2. This Court has by Ext.P3 judgment directed the District Collector to consider his contentions before passing final orders. Thereafter the District Collector, after considering the contentions of the petitioner, passed Ext.P4 order on 9.7.2010, imposing a fine of Rs.25,000/- on the petitioner, finding that petitioner has committed an offence under the provisions contained in Kerala Protection of River Banks and Regulation of Removal of Sand Act,2001 (hereinafter referred to as 'the Act'). While so, the Act underwent an amendment. The petitioner had approached this Court again against the order of the District Collector by filing W.P.(C)

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No.33764 of 2010. Taking note of the amendment effected to the Act, this Court directed the Sub Divisional Magistrate concerned, to reconsider the matter in accordance with law. Thereafter the Sub Divisional Magistrate passed order-Ext.P7, upholding the confiscation of the vehicle and authorising the Tahsildar to conduct the auction of the vehicle. As against this order, the petitioner approached this Court in W.P.(C) No.20560 of 2011 and by Ext.P8 judgment dated 28.7.2011 this Court disposed of the writ petition, observing that there is a statutory remedy against the order passed by the Sub Divisional Magistrate under section 23B of the Act. But instead of invoking the remedy of revision available under section 23B, the petitioner again approached the Sub Divisional Magistrate by Ext.P9 representation on 18.10.2011. That representation was rejected by the Sub Divisional Magistrate pointing out the observation in the judgment in W.P.(C) No.20560 of 2011, wherein this Court had observed that the petitioner's remedy was under section 23B of the Act. The petitioner thereafter submitted Ext.P11 revision petition dated 25.11.2011 before the District Collector. The

District Collector thereupon rejected the revision petition by Ext.P12 order, stating that revision ought to have been filed within a period of 15 days from the date of the order, as provided under section 23B. He further stated that the District Collector does not have any authority to condone the delay beyond the prescribed limit of 15 days. This is the order under challenge in this writ petition.

2. Section 23 B of the Act provides for a revision against the confiscation order passed under section 23A within 15 days from the date of such order before the District Collector. It further provides that where the District Collector is satisfied that the revision petitioner had sufficient cause for not filing the revision within the time limit, he may condone the delay up to 15 days, but further delay shall not be condoned. The petitioner submits that the action of the District Collector is illegal when this Court has directed the petitioner to approach the District Collector by invoking the remedy of revision.

3. I heard the learned counsel appearing for the petitioner as well as the learned Govt Pleader Sri. Noushad Thottathil.

4. Section 23B reads as follows:

"23B. Revision to the District Collector:- Any person aggrieved by an order of confiscation under Section 23A may, within fifteen days from the date of such order, prefer a revision to the District Collector and where the District Collector is satisfied on the basis of documents that the said order requires reconsideration, he may revise, amend or cancel such order:

Provided that where the District Collector is satisfied that the revision petitioner had sufficient cause for not filing the revision within the time limit, he may condone the delay up to 15 days, but further delay shall not be condoned".

5. It is also pertinent to note that in this case the petitioner himself had approached this Court against the order passed by the Sub Divisional Magistrate and this Court had by Ext.P8 judgment disposed of that writ petition, observing that a remedy of revision is available for the petitioner under section 23B of the Act. That judgment was on 28.7.2011. The petitioner approached the Sub Divisional Magistrate again on 18.10.2011 and it was only after the Sub Divisional Magistrate rejected the petition as per his order dated 24.10.2011 that the petitioner chose to file a

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revision petition before the District Collector on 28.11.2011. The District Collector has rejected the petition seeing that the delay exceeded the limit which he could condone.

In the above circumstances, I do not find any reason to interfere with the order passed by the District Collector which is perfectly in terms of section 23B.

The writ petition is dismissed.

Sd/-

**P.V.ASHA,
JUDGE.**

rkc