

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 339 of 2015 (N)

PETITIONER:

**M.J.MATHEW, S/O.JOSEPH,
MADAKKATHANAM P.O,
THODUPUZHA - 685 605.**

BY ADV. SRI.M.C.JOHN

RESPONDENT(S):

- 1. THE DIVISIONAL FOREST OFFICER,
KOTHAMANGALAM,
ERNAKULAM DISTRICT, PIN - 686 001.**
- 2. THE MANJALLOOR ERAVA PANCHAYATH,
REPRESENTED BY SECRETARY,
MANJALLOOR GRAMA PANCHAYATH,
MANJALLOOR, ERNAKULAM - 685 601.**
- 3. THE KERALA STATE ELECTRICITY BOARD,
REP. BY THE ASSISTANT ENGINEER,
ELECTRICAL SUB DIVISION, THODUPUZHA - 685 601.**

***ADDL. R4 IMPEADED**

- 4. THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR
OF FORESTS, HIGH RANGE CIRCLE, KOTTAYAM, PIN - 686 006.**

**ADDL. R4 IS IMPEAD AS PER ORDER DATED 04.02.2015
IN IA.1519/2015**

**R1 & ADDL.R4 BY SENIOR GOVT. PLEADER SRI.JOSEPH GEORGE
BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER(FOREST)
R3 BY SRI.SAJEEVKUMAR K.GOPAL, SC
BY SMT.P.KRADHIKA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE PANCHAYATH LICENCE DATED 10-09-2013
ISSUED FOR 2013 BY THE PANCHAYATH.
- EXHIBIT P2 : TRUE COPY OF NEW LICENSE DATED 24-4-2014 ISSUED BY THE
2ND RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF LICENCE NO WBI/SLC/953/KGLM/0035/2012
DATED 12-12-2012 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF NOTICE NO.WBI/4011/2012 DATED 27-09-2014 ISSUED
BY THE 1ST RESPONDENT.
- EXHIBIT P5 : TRUE COPY OF ORDER NO WBI.4011/12 DATED 09-12-2014 ISSUED BY
THE 1ST RESPONDENT.
- EXHIBIT P6 : TRUE COPY OF THE LICENCE NO.G4-10/06 DATED 12.6.2006 ISSUED
BY THE 2ND RESPONDENT.
- EXHIBIT P7 : TRUE COPY OF THE JUDGMENT DATED 25.3.2008 IN
WP(C)NO.28371/07 OF THIS COURT.
- EXHIBIT P8 : TRUE COPY OF THE CERTIFICATE NO.L.DIS(C2)-12091/13
DATED 29.6.2013 ISSUED BY THE DISTRICT MEDICAL OFFICER,
ERNAKULAM.
- EXHIBIT P9 : TRUE COPY OF THE NO OBJECTION CERTIFICATE NO.A-6670/13
DATED 1.7.2013 ISSUED BY THE ASSISTANT DIVISIONAL OFFICER,
FIRE AND RESCUE SERVICES.
- EXHIBIT P10 : TRUE COPY OF THE CONSENT NO.PCB/EKM/D02/IC-18/2013
DATED 5.2.2013 ISSUED BY THE POLLUTION CONTROL BOARD.
- EXHIBIT P11 : TRUE COPY OF THE APPEAL PETITION DATED 7.1.2015.

RESPONDENT(S)' EXHIBITS & ANNEXURES:

- ANNEXURE R1(A) : TRUE COPY OF LICENSE NO.WBI/SLC/953/KLM/35/12 UNDER
THE KERALA FOREST (REGULATION OF SAW MILLS AND
OTHER WOOD BASED INDUSTRIAL UNITS) RULES, 2012.
- ANNEXURE R1(B) : TRUE COPY OF UNDERTAKING IN STAMP PAPER
DATED 18.12.2012 SUBMITTED BY THE PETITIONER.
- ANNEXURE R1(C) : TRUE COPY OF PETITION DATED 9.1.2014 RECEIVED BY THE
ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(VIGILANCE) FROM SRI.E.C.JOSEPH.

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- ANNEXURE R1(D) : TRUE COPY OF STATEMENT TAKEN FROM THE PETITIONER DURING THE ENQUIRY.**
- ANNEXURE R1(E) : TRUE COPY OF ENQUIRY REPORT DATED 25.2.2014 SUBMITTED BY THE RANGE FOREST OFFICER, FLYING SQUAD, THODUPUZHA TO THE DIVISIONAL FOREST OFFICER, FLYING SQUAD, KOTHAMANGALAM.**
- ANNEXURE R1(F) : TRUE COPY OF LETTER NO.TA1-9/14 DATED 27.3.2014 ALONG WITH THE ENQUIRY REPORT.**
- ANNEXURE R1(G) : TRUE COPY OF REPLY DATED 23.10.2014 SUBMITTED BY THE PETITIONER TO THE SHOW CAUSE NOTICE.**

/TRUE COPY/

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P(C). No. 339 of 2015

Dated this the 4th day of February, 2015

J U D G M E N T

Challenge is against Ext.P5 order dated 09.12.2014, passed by the 1st respondent, whereby the licence already issued to the petitioner to conduct a 'Saw Mill' stands cancelled, for violation of the terms of the licence and the relevant provisions of law.

2. The case of the petitioner is that, he was running the 'Saw Mill' for the past several years under category - 1, after obtaining all the requisite licences from the concerned authorities including the Local Authorities as well as the Forest Authorities. Exts.P1 and P2 are the licences issued by the respondent Panchayath. Ext.P3 is the Clearance issued by the 1st respondent (which is stated as issued under Category No.V, as pointed out by the learned Special Government Pleader). While so, the petitioner was served Ext.P4 notice dated 27.09.2014, issued by the 1st respondent, proposing to cancel the licence for the insinuating circumstances mentioned therein. The case projected by the petitioner is that, there was an instance when one 'Anjili' log which was lying in the premises was caused to be sawn in the

'Saw Mill' belonging to the petitioner, at the instance of an employee, for his personal purpose. This was found out at the time of inspection carried out by the 'Squad' concerned, on the basis of a complaint of a person who was in inimical terms with the petitioner. A writ petition was before this Court as WP(C) No.28371/2007, which was disposed of as per Ext.P7 judgment dated 25.03.2008. The petitioner is stated as carrying out the activity, strictly in conformity with the relevant provisions of law and terms of the licence issued. The petitioner's statement has been recored pursuant to Ext.P4 and subsequently, the licence came to be cancelled as per Ext.P5 order, which in turn is under challenge in this writ petition.

3. A detailed statement has been filed by the 1st respondent also producing copies of the relevant documents as Ext.R1(a) to R1(c). The petitioner has filed a reply affidavit as well.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the 1st respondent.

5. The learned Government Pleader submits with

reference to the materials on record that, the licence issued to the petitioner was only for conducting the 'sawing operation' making use of the 'rubber wood' and that no other timber was liable to be sawn in the saw mill belonging to the petitioner. It is also pointed out that, the factum of sawing operation conducted with regard to 'Anjili' tree stands admitted. Though the petitioner had sought to explain the particular circumstances, in so far as the above exercise is admitted, there is clear contravention of the statutory prescription in terms of the licence particularly, Rule 18(1) of the Kerala Forest (Regulation of Saw Mill and other wood based Industrial Unit) Rules 2012. By virtue of the mandate under the Rule, once the licence is cancelled or suspended, the unit shall stand closed down and is not entitled to operate, unless the proceedings are set aside or modified by the competent authority.

6. The learned counsel for the petitioner points out that, being aggrieved of Ext.P5 order, the petitioner had already moved the additional 4th respondent by filing Ext.P11 appeal.

7. After hearing both the sides, the writ petition is disposed of, directing the additional 4th respondent to consider and pass appropriate final orders on Ext.P11, after affording an

opportunity of hearing to the petitioner. It shall be done, at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of this judgment along with a copy of this writ petition before the additional 4th respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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