

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 3799 of 2013 (Y)

PETITIONER :

**ABDUL NASAR, AGED 53 YEARS
S/O. MOHAMMED, RESIDING AT KARAYIL HOUSE
EDAKKARA P.O., NILAMBUR, MALAPPURAM.**

**BY ADVS.SRI.A.V.JAMES
SRI.P.DALBI EMMANUAL PALAMOOTTIL**

RESPONDENT(S) :

- 1. STATE OF KERALA
REP. BY SECRETARY TO GOVERNMENT, FORESTS DEPARTMENT
THIRUVANANTHAPURAM, PIN-**
- 2. THE DIVISIONAL FOREST OFFICER
NILAMBUR NORTH DIVISION, MALAPPURAM, PIN-**
- 3. THE CHIEF CONSERVATOR OF FORESTS
NODEL OFFICER AND CONVENER, STATE LEVEL COMMITTEE
THIRUVANANTHAPURAM, PIN-695001.**
- 4. THE EXCUTIVE ENGINEER
KERALA STATE ELECTRICITY BOARD,
MANJERI, PIN-**

**R1 TO R3 BY GOVT. PLEADER SRI. JOSEPH GEORGE
R4 BY ADV. SRI.SAJEEV KUMAR K.GOPAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

PETITIONERS' EXHIBITS :

RESPONDENTS' ANNEXURES :

//TRUE COPY//

Mn

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.3799 of 2013

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Dated this the 27th day of January, 2015

JUDGMENT

The petitioner has approached this Court seeking for a direction to the 2nd and 3rd respondents to issue NOC to the petitioner for availing 50HP power supply to the petitioner's Saw Mill run under the name and style as Karayil Saw Mill & Wood Industries in Malappuram district. The learned counsel for the petitioner points out that the petitioner's saw mill was established and was in operation for several decades and that the cut off date prescribed by the Apex Court as per the decision on 30.10.2002 will not be applicable in the case of the petitioner. Besides the documents produced as Exts.P1 to P10, some supplementary documents are produced along with I.A No.4522 of 2013 as Ext.P11 and I.A No.157 of 2014 as Exts.P12 and P13.

2. A statement has been filed by the 2nd respondent pointing out that the validity of the NOC given by the Divisional Forest Officer, Nilambur North Division on 23.01.2003 was in existence

only till 23.01.2004 and thereafter, the petitioner has not obtained NOC from the forest department. By virtue of the Kerala Forest (Regulation of Saw Mills and other Wood Based Industrial Units) Rules 2012 the applications for NOC pending with the State Level Committee were transferred to the concerned Divisional Officers as highlighted in the said statement. The involvement of the petitioner with reference to the commission of an offence, the finding and the sentence imposed are adverted to paragraph 6 of the statement, also producing a copy of the judgment dated 28.07.2011 in C.C No.163 of 2010 as Annexure R2(a). It is stated that, by virtue of Sub rule 1(i) of Rule 8 of the Kerala Forest (Regulation of Saw Mills and other Wood Based Industrial Units) Rules 2012, the applicant shall not be a person convicted of any offence punishable under the Kerala Forest Act, 1961, or the Wildlife (Protection) Act, 1972 or any other relevant enactment. It was in the above circumstance, that the application preferred by the petitioner for licence was rejected and the same was communicated to the petitioner as per order dated 26.11.2012, a copy of which has been produced as Annexure R2(b). It is also

added that the petitioner has not subjected the said order to be challenged either before this Court or by approaching the Chief Conservator of Forest, Eastern Circle, Palakkad, who is the designated appellate authority.

3. It is relevant to note that the above statement was filed by the respondents as early as on 01.03.2013. Nearly two years are already over. The petitioner has not chosen to challenge Annexure R2(b), nor any amendment of the writ petition has been preferred so far. In the above circumstance, this Court finds that there is no merit to call for interference invoking the discretionary jurisdiction. Interference is declined and the writ petition is dismissed accordingly.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

vdv //True Copy// P.A to Judge