

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).NO. 1261 OF 2015 (G)

PETITIONER(S):

**M/S. MALLELIL INDUSTRIES PRIVATE LIMITED,
ATTACHAKKAL P.O., KONNI, PATHANAMTHITTA
REPRESENTED BY ITS MANAGING DIRECTOR
R.SREEDHARAN NAIR.**

**BY ADVS.SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH**

RESPONDENT(S):

**1. THE DISTRICT ENVIRONMENTAL ENGINEER
DISTRICT OFFICE
KERALA STATE POLLUTION CONTROL BOARD, MAKKANKUNNU
PATHANAMTHITTA - 689 645.**

**2. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
ENVIRONMENT (A) DEPARTMENT, SECRETARIAT
TRIVANDRUM - 695 001.**

**R2 BY SR.GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN
R1 BY ADV.SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 1261 OF 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF RELEVANT PAGES OF QUARRYING LEASE DEED DT. 10.5.06.**
- P2 - TRUE COPY OF PROCEEDINGS OF DIRECTOR OF MINING & GEOLOGY DT. 05.3.09.**
- P2(A) - TRUE COPY OF APPLICATION FOR RENEWAL DT. 28.3.14 FILED BY PETITIONER FOR RENEWAL OF CONSENT.**
- P3 - TRUE COPY OF THE CONSENT TO OPERATE (RENEWED) DT. 19.11.14 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**
- P4 - TRUE COPY OF THE GOVERNMENT ORDER BEARING G.O(P) NO. 02/14/ENV. DT. 21.2.14 ISSUED BY THE GOVERNMENT.**
- P5 - TRUE COPY OF LICENSE ISSUED BY THE KONNI GRAMA PANCHAYAT TO THE PETITIONER DT. 01.4.14.**
- P6 - TRUE COPY OF JUDGMENT DT. 20.12.14 IN WPC NO. 35142/14 OF THIS COURT.**
- P7 - TRUE COPY OF JUDGMENT DT. 20.12.14 IN WPC NO. 35185/2014 OF THIS COURT.**

RESPONDENT(S)' EXHIBITS :NIL

OKB

TRUE COPY

P.A. TO JUDGE

K.HARILAL, J.

W.P(C). No.1261 of 2015

Dated this the 9th day of February, 2015

JUDGMENT

The petitioner is a private limited company represented by its Managing Director. The company is engaged in quarrying granites. Quarrying operations are being conducted by virtue of the quarrying lease granted by competent authority and the extent of lease area is 2.154 hectares only. The 1st respondent has granted consent to operate the quarry. Prior to the expiry of the current consent, the petitioner had filed an application for renewal of the consent and paid necessary fees, as evident from Ext.P2(a), which was for a period of 3 years with effect from 30.6.2014. However, the 1st respondent had renewed the consent only upto 9/2/2015 vide Ext.P3. The respondents have limited the tenure of validity upto 9/2/2015 on the premise that there is such a stipulation in Ext.P4 Government Order. However, Ext.P4 does not call for any such restriction or limitation, according to the petitioner. The learned counsel for the petitioner submits that limiting of the tenure of validity upto 9/2/2015 is without any

lawful basis or force of law; but it is arbitrary, unreasonable and violation of the right guaranteed under Article 19(1)(g) of the Constitution of India.

2. The learned counsel for the Pollution Control Board submits that after the pronouncement of the judgment in **Deepak Kumar v. State of Haryana [2012 (4) SCC 629]** the consent can be given for a period below one year only.

3. Per contra, the learned counsel for the petitioner submits that the parameters laid down in **Deepak Kumar's** case (supra) is not applicable to the instant case as the extent of property to be quarried is 2.154 hectares only and the original lease was granted as early on 10/5/2006, prior to the pronouncement of the decision in **Deepak Kumar's** case (supra).

4. The learned Standing Counsel for the 1st respondent drew my attention to Ext.P4 and submitted that lease can be granted for one year only in view of Ext.P4. On the other hand, the learned counsel for the petitioner drew my attention to Exts.P6 and P7 judgments passed by this Court and submitted that the Board is expected to issue consent in accordance with their norms and parameters, notwithstanding the stance of other statutory

authorities.

5. Having regard to the submissions at the bar, I am of the opinion that since Ext.P2(a) application for renewal is pending before the competent authority, the issue raised before this Court does not deserve to be considered on merits at present. It is for the competent authority to take a decision at first. In the above view, the 1st respondent is directed to consider Ext.P2(a) in the light of Exts.P6 and P7 judgments passed by this Court and pass appropriate orders within two months, after affording an opportunity of being heard to the petitioner. It is made clear that the petitioner shall be allowed to continue the operation till a decision is taken by the 1st respondent.

This writ petition is disposed of as above.

Sd/-
K.HARILAL, JUDGE

okb.