

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).NO. 1607 OF 2015 (A)

PETITIONER(S):

**V.S.C. HOLLOW BRICKS AND CRUSHERS,
NEMOM P.O, THIRUVANANTHAPURAM,
REPRESENTED BY ITS PROPRIETOR V.SUDHAKARAN.**

**BY ADVS.SRI.BECHU KURIAN THOMAS,
SRI.ENOCH DAVID SIMON JOEL.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF MINING AND GEOLOGY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. DIRECTOR OF MINING AND GEOLOGY,
DIRECTORATE OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM- 695 001.**
- 3. STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY,
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM- 695 024,
REPRESENTED BY ITS MEMBER SECRETARY.**
- 4. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF ENVIRONMENT, FORESTS & CLIMATE CHANGE,
INDIRA PARYAVARAN BHAVAN, JOR BAGH ROAD,
NEW DELHI -110 003.**

**R1 TO R3 BY SR. GOVT. PLEADER SRI.JOSEPH GEORGE.
R4 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).NO. 1607 OF 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1 TRUE COPY OF THE RECEIPT ISSUED BY THE RESPONDENT.

**EXHIBIT P2 TRUE COPY OF THE MINUTES OF THE 32ND MEETING OF
 THE RESPONDENT HELD ON 12TH AND 13TH OF AUGUST 2014.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 1607 of 2015

Dated this the 27th day of February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- i. Issue a writ in the nature of a declaration declaring that Petitioner can be deemed to possess the environmental clearance under the EIA notification.*
- ii. Issue a writ of mandamus or other appropriate writ order or direction directing the 3rd Respondent to dispose off the application for environmental clearance submitted by the Petitioner as expeditiously as possible, at any rate, within 2 weeks.*
- iii. Issue a writ of mandamus or other appropriate writ order or direction directing Respondents 1 and 2 to permit the Petitioner to conduct the quarrying operations with deemed environmental clearance.*
- iv. Issue such other appropriate writ order or direction that may be deemed to be just and equitable in the facts and circumstances of the case."*

2. The case of the petitioner is that, the petitioner submitted an application for 'Environmental Clearance' before the 3rd respondent as per Ext.P1, but the same was not considered. The petitioner was let known by the 3rd respondent that, there

was no Committee to consider the application for 'Environmental Clearance'. This made the petitioner to approach this Court, seeking for a direction to be given to the 3rd respondent to consider Ext.P1 application for 'Environmental Clearance'. The pendency of the matter for quite long, is stated as causing irreparable losses and hardships to the petitioner and hence the writ petition.

3. Heard the learned Government Pleader as well.

4. The learned counsel for the petitioner points out that, by virtue of the relevant provisions of law and the mandate given by the Apex Court, Environmental Clearance Committee has to be constituted within '30 days' from the date when the Office becomes vacant, particularly in view of Clause 3(5) of the State Environmental Impact Assessment Notification, 2006. It is stated that, though a Committee was constituted in the State earlier, the Office became vacant on 02.11.2014 and the same is still to be re-constituted. There is callous inaction/lapses on the part of the State/Central Government in this regard and the petitioner has been put to suffer quite a lot. By virtue of the laxity on the part of

the concerned respondents, the entire operations have come to a stand still, which have very much adversely affected the on-going projects and the developmental measures althrough out.

5. The learned Government Pleader points out that, necessary steps have already been taken by the State to reconstitute the Committee and a proposal was forwarded to the Central Government, who is the notifying authority, much before expiry of the term of the former Committee. Some clarifications were sought for, which were also furnished to the Central Government in the 2nd week of January, 2015.

6. It is stated by the learned Assistant Solicitor General of India appearing on behalf of the Central Government that, clarification was sought for as to the credentials of the proposed members of the Committee. After getting the clarifications as above, the proposal of the State Government has been accepted and further steps are being taken to have the Committee notified by issuing necessary Gazette Notification. The learned Assistant Solicitor General of India also points out that, some more time is required to complete the process in this regard, particularly in

view of the fact that, it is on the eve of the Budget for the year 2015.

7. After hearing both the sides, this Court finds that there cannot be any doubt or objection with regard to the necessity to constitute a Committee in the manner as prescribed and it is for the Committee to consider the application to be preferred by the persons like the petitioner herein.

8. In the said circumstances, there will be a direction to the 4th respondent to complete necessary steps in this regard for constituting the Committee and notifying the same in accordance with law. This exercise shall be completed at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. Once the Committee is constituted as above, the application preferred by the petitioner shall be considered by the State Environmental Impact Assessment Authority as constituted above and appropriate orders shall be passed in accordance with law, after affording an opportunity of hearing to the petitioner, which exercise shall be completed within a further period of 'one month'.

The writ petition stands disposed of accordingly.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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