

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 2331 of 2015 (N)

PETITIONER(S) :

**JOSHY, AGED 41 YEARS,
S/O.GEORGE, VADAKKETHALA, CHITTISSERY P.O.,
NENMANIKKARA VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. KERALA STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY,
PALLIMUKKU, PETTA P.O., THIRUVANANTHAPURAM - 695 024,
REPRESENTED BY ITS CHAIRMAN.**
- 2. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
THRISSUR DISTRICT - 680 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
ENVIRONMENT & CLIMATE CHANGE DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

*** ADDITIONAL R4 IMPEADED**

- 4. UNION GOVERNMENT OF INDIA,
REPRESENTED BY SECRETARY, ENVIRONMENTAL DEPARTMENT,
NEW DELHI, PIN - 110 006.**

*** ADDITIONAL R4 IS IMPEADED AS PER ORDER DATED 11.02.2015 IN
I.A.NO.2086/15.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF ENVIRONMENTAL CLEARANCE CERTIFICATE
DATED 10/06/2014 ISSUED BY THE FIRST RESPONDENT TO
THE PETITIONER.**
- P2: TRUE COPY OF APPLICATION DATED 11/11/2014 SUBMITTED BY
THE PETITIONER BEFORE THE FIRST RESPONDENT.**
- P3: TRUE COPY OF THE APPLICATION DATED 29/12/2014 SUBMITTED BY
THE PETITIONER BEFORE THE SECOND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 2331 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner has obtained Ext.P1 'Environmental Clearance' on 10.06.2004 and was doing the quarrying operation in the concerned property situated in the Thrissur District. By virtue of the expiry of the same, the petitioner sought to have the same renewed by filing necessary application. The petitioner was let known by the 2nd respondent that the application preferred by the petitioner could be considered only subject to production of 'environmental clearance' by the State Environmental Impact Assessment Committee. This made the petitioner to approach this Court, seeking for a direction to be given to the 2nd respondent to consider Ext.P3 application for renewal of the 'Environmental Clearance'. Despite the pendency of the matter for quite long, the application is still to be considered, which is stated as causing irreparable losses and hardships to the petitioner and hence the writ petition.

2. Heard the learned Government Pleader as well.

3. 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 also the developmental measures althrough out.

4. 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.

5. 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.

6. 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.

7. In the said circumstances, there will be a direction to the addl. 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.