

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 4783 of 2014 (W)

PETITIONER(S) :

BINU PAUL
AGED 32, S/O.M.V. PAULOSE @ LONAPPAN
MATTAPPILLY HOUSE, PULIYANAM P.O., ANGAMALY
ERNAKULAM DISTRICT.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY
SRI.NIXON PAUL

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF MINING AND GEOLOGY, SECRETARIAT
TRIVANDRUM.

2. DISTRICT COLLECTOR
ERNAKULAM.

3. THE GEOLOGIST,
MINING AND GEOLOGY, ERNAKULAM.

4. THE VILLAGE OFFICER,
PARAKKADAVU VILLAGE, ERNAKULAM DISTRICT.

Addl.5. ALL KERALA CRUSHER OWNERS ASSOCIATION
STATE COMMITTEE OFFICE, GALAXY COMPLEX, KANNUR
REPRESENTED BY GENERAL SECRETARY, M.A.ALI
AGED 59 YEARS, S/O.ABDUL KHADER, MOOKKADA HOUSE
KALADY PO., ALUVA TALUK, ERNAKULAM.

ADDL.R5 IMPEADED AS PER ORDER DATED 25.11.2014 IN IA 16189/14.

RADDL BY ADV. SRI.P.M.ZIRAJ
RADDL BY ADV. SRI.A.M.ABDULLA
RADDL BY ADV. SRI.O.M.SAJAYAN
RADDL BY ADV. SRI.K.S.DHANESH KUMAR
RADDL BY ADV. SRI.K.S.SREENATH
RADDL BY ADV. SMT. RESHMA P.JOSEPH
RADDL BY ADV. SRI. SUBI K.
RADDL BY ADV. SRI.P.MOHAMED SABAH
RADDL BY ADV. SRI.C.PAULOSE
R1-R4 BY ADVOCATE GENERAL SRI.K.P.DANDAPANI
SR.GOVERNMENT PLEADER SRI.C.S.MANILAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-03-2015, ALONG WITH WPC. 8212/2013, WPC. 4662/2014, WPC.
6338/2014, WPC. 6361/2014, WPC. 7632/2014, WPC. 10738/2014, AND
CONNECTED CASES THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .NO.4683 OF 2014

APPENDIX

PETITIONERS' EXHIBITS:

EXHIBIT P1: COPY OF NO OBJECTION CERTIFICATE DATED 6.5.2013 OF THE
2ND RESPONDENT.

EXHIBIT P2: COPY OF CONSENT ISSUED BY THE THIRD RESPONDENT DATED
2.3.2013.

EXHIBIT P3: COPY OF REPRESENTATION BEFORE THE 3RD RESPONDENT.

/TRUE COPY/

PS TO JUDGE

vgs

P.N.RAVINDRAN, J.

**W.P.(C).Nos.4783, 6338
and 6361 of 2014**

Dated this the 12th day of March, 2014

REFERENCE ORDER

W.P.(C)No.4783 of 2014: The petitioner, who is the owner of a parcel of land, 15.67 ares in extent, situate in Sy.No.278/2-2 of Parakkadavu Village, Ernakulam District submitted an application to the District Collector, Ernakulam under rule 5(7) of the Kerala Minor Mineral Concession Rules, 1967 for the grant of a No Objection Certificate to mine ordinary earth from the said lands. On that application the District Collector issued Ext.P1 No Objection Certificate dated 6.5.2013 with the observation that the Geologist shall take further action to grant the quarrying permit strictly in accordance with the provisions contained in the Kerala Minor Mineral Concession Rules and with the further stipulation that a copy thereof shall be submitted to the District Collector's office in due course. Ext.P1 No Objection Certificate was issued having regard to the views expressed by the Geologist in Ext.P2 letter dated 2.3.2013.

2. After Ext.P1 No Objection Certificate was issued, the petitioner submitted Ext.P3 representation dated 5.2.2014 before

**W.P.(C).Nos.4783, 6338
and 6361 of 2014**

-:2:-

the District Geologist, Ernakulam requesting that a quarrying permit may be issued forthwith. In this writ petition which was filed on 17.2.2014, the petitioner prays for an order directing the District Geologist, Ernakulam to issue the quarrying permit forthwith. It is contended that in view of Ext.P1 No Objection Certificate which was issued pursuant to the recommendations of the Geologist contained in Ext.P2, the District Geologist is bound to issue the quarrying permit notwithstanding the change in the Government policy. It is contended that in view of Ext.P1 No Objection Certificate there is no necessity to get environmental clearance before removing ordinary earth.

3. **W.P.(C)No.6338 of 2014:** The petitioners are residents of Elamad Grama Panchayat in Kollam District. In this writ petition they seek a writ in the nature of mandamus commanding respondents 2 to 5 and 7 and 8 to stop the quarrying operations being conducted by respondents 9 and 10 in Government lands and in private lands situate within the local limits of Elamad Grama Panchayat. The petitioners also seek a direction to respondents 1 to 5 and 7 and 8 not to allow respondents 9 and 10 to conduct quarrying operations in the

Government lands and private lands described in the writ petition except under a valid quarrying lease and permit issued after environmental clearance is obtained from the Ministry of Environment and Forests. Reliance is placed on the decision of the Apex Court in ***Deepak Kumar and others v. State of Haryana and others***, 2012 (4) SCC 629 and the directions therein.

4. **W.P.(C)No.6361 of 2014**: The petitioners herein are residents of Naranamoozhy Grama Panchayat in Pathanamthitta District. In this writ petition they pray for a declaration that the 6th respondent is not entitled to conduct quarrying operations in 4.3564 hectares of land situate in Sy.No.781/1-23-1 and Sy.No.781/1-23-2 of Athikkayam Village, Ranni Taluk on the strength of Ext.P12 proceedings dated 3.10.2013 issued by the District Collector, Pathanamthitta and Ext.P13 No Objection Certificate issued by the District Collector, Pathanamthitta. They also seek a declaration that the 6th respondent is not entitled to conduct quarrying operations without obtaining environmental clearance from the State Environmental Impact Assessment Authority. The petitioners also seek a writ of certiorari quashing

Exts.P12 and P13. The principal contention raised in the instant writ petition is that the 6th respondent does not possess environmental clearance for conducting quarrying operations and that the quarrying operations conducted by him would destabilize and weaken the hillock and lead to its collapse, thereby endangering their life and properties.

5. In ***Deepak Kumar and others v. State of Haryana and others*** (supra) the Apex Court after a detailed consideration of various aspects including the stand taken by the Ministry of Environment and Forests and the Ministry of Mines of the Government of India observed as follows:-

"25. Quarrying of river sand, it is true, is an important economic activity in the country with river sand forming a crucial raw material for the infrastructural development and for the construction industry but excessive instream sand and gravel mining causes the degradation of rivers. Instream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the streambed and along coastal areas causes the deepening of rivers which may result in destruction of aquatic and riparian habitats as well. Extraction of alluvial material as already mentioned from within or near a streambed has a direct impact on the stream's physical habitat characteristics.

26. We are of the considered view that it is highly necessary to have an effective framework of mining plan which will take care of all environmental issues and also evolve a long-term rational and

sustainable use of natural resource base and also the bio-assessment protocol. Sand mining, it may be noted, may have an adverse effect on biodiversity as loss of habitat caused by sand mining will affect various species, flora and fauna and it may also destabilise the soil structure of river banks and often leaves isolated islands. We find that, taking note of those technical, scientific and environmental matters, MoEF, Government of India, issued various recommendations in March 2010 followed by the Model Rules, 2010 framed by the Ministry of Mines which have to be given effect to, inculcating the spirit of Article 48-A and Article 51-A(g) read with Article 21 of the Constitution.

27. The State of Haryana and various other states have not so far implemented the above recommendations of MoEF or the guidelines issued by the Ministry of Mines before issuing auction notices granting short-term permits by way of auction of minor minerals boulders, gravel, sand etc., in the riverbeds and elsewhere of less than 5 ha. We, therefore, direct all the States, Union Territories, MoEF and the Ministry of Mines to give effect to the recommendations made by MoEF in its Report of March 2010 and the model guidelines framed by the Ministry of Mines, within a period of six months from today and submit their compliance reports.

28. The Central Government also should take steps to bring into force the Minor Minerals Conservation and Development Rules, 2010 at the earliest. The State Governments and UTs also should take immediate steps to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 taking into consideration the recommendations of MoEF in its Report of March 2010 and model guidelines framed by the Ministry of Mines, Government of India. Communicate the copy of this order to MoEF, Secretary, Ministry of Mines, New Delhi; Ministry of Water Resources, Central Government Water

Authority; the Chief Secretaries of the respective States and Union Territories, who would circulate this order to the Departments concerned."

The Apex Court also directed that until the Minor Minerals Conservation and Development Rules, 2010 is brought into force, all leases of minor minerals including their renewal for an area of less than five hectares be granted by the States/Union Territories only after getting environmental clearance from the Ministry of Environment and Forests.

6. Pursuant to the order passed by the Apex Court on 27.2.2012 on I.A.No.12-13 of 2011 in S.L.P.(C)No.19628-19629 of 2009 (***Deepak Kumar v. State of Haryana & Others***) the Ministry of Environment and Forests, Government of India issued OM No.L-11011/47/2011-IA.II(M) dated 18.5.2012 wherein inter alia it was stipulated that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior environmental clearance. It was also stipulated that where the area is less than 5 hectares such projects will be treated as category B as defined in EIA Notification 2006 and will be considered by the respective State Environmental Impact Assessment Authorities notified by the

Ministry of Environment and Forests and following the procedure prescribed in EIA notification 2006.

7. After the Apex Court passed the order dated 27.2.2012 and the Government of India issued the Office Memorandum dated 18.5.2012, the State of Kerala amended the Kerala Minor Mineral Concession Rules, 1967 by issuing G.O.(P).No.138/12/ID dated 17.11.2012 which was published in Kerala Gazette Extraordinary No.1216 dated 19.11.2012. By that amendment, sub-rule (7) was incorporated in rule 5 to stipulate that every application for grant of quarrying permit for ordinary earth from any type of land shall be accompanied by a No Objection Certificate from the District Collector concerned. Schedule-I to the Kerala Minor Mineral Concession Rules, 1967 was also amended and entry 2A was incorporated therein and it was stipulated that royalty at the rate of Rs.20 per metric ton or Rs.40 per cubic metre will have to be paid for ordinary earth.

8. Shortly thereafter, the Government of India issued OM No.L-11011/47/2011-IA,II(M) dated 24.6.2013 laying down the guidelines for grant of environmental clearance under EIA Notification 2006 for mining brick earth and ordinary earth.

**W.P.(C).Nos.4783, 6338
and 6361 of 2014**

-:8:-

Pursuant thereto, by an interim order passed on 27.9.2013 the National Green Tribunal, Principal Bench, New Delhi restrained digging of brick earth or ordinary earth against the directives issued by the Ministry of Environment and Forests in its Office Memorandum dated 24.6.2013 in any part of the country without obtaining environmental clearance from the competent authority. The interim order passed by the National Green Tribunal, Principal Bench, on 27.9.2013 reads as follows:

"We have heard Learned Counsel appearing for the Applicant. This application has been filed for a direction against the Respondents No.1 to 3 who are Uttar Pradesh Government to stop extraction of brick earth as per the decision of the Hon'ble Apex Court in the case of "Deepak Kumar Vs. State of Haryana & Ors." followed by the directions issued by the Ministry of Environment & Forests (MoEF) dated 18.05.2012 and 24.06.2013 to all States. As per such office memorandum issued by the MoEF, the MoEF has directed that digging of brick-earth for brick making and ordinary earth for road making from an area of 5 hectares or more in extent is to be categorised as B-1 project and those less than 5 hectares shall be categorised as B-2 category and stipulated various conditions for the purpose of obtaining Environmental Clearance (EC) in respect of the clusters. The grievance of the Applicant is that in spite of the decision of the Hon'ble Apex Court followed by the directives issued by the MoEF, the Uttar Pradesh Government has not framed rules/guidelines for the purpose of obtaining EC and are

allowing indiscriminate digging of brick earth for brick making and ordinary earth for road making and that is what has prompted him to file the present application.

Considering the seriousness of the issue involved in this application stands admitted. Issue notice to the Respondents by registered post/acknowledgement due as well as dasti. Private Notice also allowed. Notice returnable by the next date of hearing. We are also of the considered view that the Respondents must be restrained from permitting such digging until further orders of this Tribunal.

Inasmuch as the Judgment of the Hon'ble Apex Court as well as the directives issued by the MoEF has got the effect and applicability throughout the territory of India, all the States of India are expected to follow the same and therefore, what is applicable to Respondents No.1 to 3 by our interim order is applicable to all the other States and UTs also.

Accordingly, we restrain any person, Company and Authority to carry out any such digging activities of brick earth or ordinary earth against the directives issued by the MoEF dated 24.06.2013 in any part of the country without obtaining EC from the competent authority as per the Notification. The Chief Secretaries of all the States/UTs are to ensure strict adherence to this order. Dasti order allowed."

9. The State of Kerala thereafter issued G.O.(MS) No.5/2014/ID dated 10.1.2014 whereby Government decided that short term permits can be granted to existing quarries for

extraction of minor minerals for a period not exceeding one year, without insisting on environmental clearance. The Government order dated 10.1.2014 reads as follows:-

GOVERNMENT OF KERALA

Abstract

Industries Department-Mining and Geology-Short term permits for extraction of Minor Minerals-pending Environment clearance-Extension of time granted-orders issued

INDUSTRIES (A) DEPARTMENT

G.O.(Ms) No.5/2014/ID Dated, Thiruvananthapuram, 10th January, 2014

*Read:- 1) G.O.(Ms).No.140/2012/ID dated 23.11.2012
2) G.O.(Ms). No.144/2012/ID dated 11.12.2012*

ORDER

Government as per the orders read above have ordered that short term permits can be granted for the existing quarries for extraction of minor minerals from private holdings of less than five hectares which are not on leases on Government lands for a period not exceeding one year, without insisting Environment Clearance from the Ministry of Forest and Environment, if the applicant concerned had complied with all other conditions for issuance of such permits specified under the Kerala Minor Mineral Concessions Rules 1967. This order was subject to further orders, if any that would be passed by the Supreme Court of India on the clarification petition proposed to be moved by the Government of Kerala in the Supreme Court on the order dated 27.2.2012 in SLP © No:19628/2009.

Government after having considered the situation of acute shortage of raw materials in the construction field of the state due to standstill of

operations in the sector are pleased to extend the tenure of operation of the aforesaid orders with respect to grant of short term permits without insisting the Environment clearance for a further period of one year.

By order of the Governor,

*P.H.Kurian
Principal Secretary to Government.*

10. The Government of Kerala have recently issued G.O. (MS.)No.02/14/Env. dated 21.2.2014. The said Government order is extracted below:-

GOVERNMENT OF KERALA

Abstract

Environment Department - Mining and quarrying of minor minerals for construction - Integration of environmental safeguards - orders issued

ENVIRONMENT (A) DEPARTMENT

G.O.(Ms)No.02/14/Env. Dated, Thiruvananthapuram, 21.02.2014

- Read:-*
- (1) Order dated 27.02.2012 of the Hon'ble Supreme Court of India in SLP No.19628-19629/2009 (Deepak Kumar case).*
 - (2) Office Memorandum No.L-11011/47/2011-1A (M) dated 18.05.2012 of the MoEF, Government of India.*
 - (3) Office Memorandum No.L-11011/47/2011-1A (M) dated 24.06.2012 of the MoEF, Government of India.*
 - (4) Orders dated 05.08.2013 and 29.08.2013 of the Hon'ble National Green Tribunal in O/A.No.171/2013 filed by the NGT Bar Association.*
 - (5) Order dated 26.09.2013 of the Hon'ble National Green Tribunal in M.A.No.671/2013*

in O/A No.171/2013.

- (6) *Order dated 17.01.2014 of the Hon'ble National Green Tribunal in M.A.No.803/2013 in OA No.744/2013 filed by Sri.Hassan.M.*

ORDER

The categorical directions of the Hon'ble Supreme Court in the order read above and the pursuant decision conveyed in the Office Memorandum read as second paper above on prior Environmental Clearance for mining of minor minerals even in areas of less than five ha resulted in complete stoppage of mining/quarrying of building materials in the state and construction activities including public works. Government of Kerala had as early as in 1967, framed the Kerala Minor Mineral Concession Rules, which inter alia ensure that operation of mines of minor minerals and the environmental fall outs are subjected to strict regulatory parameters. Consents of the Kerala State Pollution Control Board stipulate adequate measures to ensure that environmental conditions are duly incorporated and those are being complied with. In the context of the additional environmental conditions imposed, its adverse consequences in the construction sector and the resultant hardships to common man, Government have reviewed the situation and now issue the following orders for strict compliance by all concerned:

1. Rock quarrying:

Quarrying permits (quantity based short term permit up to 1 year), under consolidated royalty payment system (area based mineral concession for granite and laterite building stone) and quarrying leases (long term concession for a period upto 12 years) are the mineral concessions for quarrying operation issued under the Kerala Minor Mineral Concession Rules, 1967. As far as the State of Kerala is concerned, long term quarrying leases can be granted only for the mining of granite stones. More than 90% of the building stone quarries are less than 1 hectare in area and most of them are privately owned.

These quarries are the main source of raw material for the developmental activities of the State. On the other hand, long term quarrying leases are not being issued for environmentally sensitive minerals like ordinary earth, ordinary sand and ordinary clay with a view to protect the ecology, because longer the period of mining, the greater the exploitation and consequent environmental degradation.

The system of permit being environmentally benign and carries the environmental safeguards as expounded in the recommendations of the MoEF extracted in para II of the order read as first paper above, and is statutorily approved and implemented since 1967, even as Environmental Clearance is being insisted for quarrying on long term lease, short time permits in small private holding have been sanctioned to be continued on the extent permit conditions up to 09.02.2015. Government order that while operating these quarries on permit, the permit holders shall be required to submit an undertaking that Environmental Clearance as may be required for such quarrying activities will be obtained from the State Environmental Impact Assessment Authority.

Leases will be issued or renewed only after obtaining prior Environmental Clearance and the same policy will apply to permits given by Revenue as well as Mining & Geology Departments.

2. River sand mining:

Effective provisions taking due care of environmental and ecological concerns of river sand mining have been incorporated in the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 to regulate removal of sand from the rivers. As per Section 9 of the said Act, the total quantity of sand that can be removed from a 'Kadavu' (meaning a river bank or water body where removal of sand is carried out) or river bank giving due regard to the guidance of expert agencies like the Centre for Earth Science Studies (Now NCESS) and Centre for Water Resources Development and Management (CWRDM), or other

agencies as Government may determine.

Rule 8(b) of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules 2002 lays down that the District Expert Committee under the Act, shall determine the quantum of river sand that could be removed from each 'Kadavu' annually after the monsoon. The practicable way out for scientific and ecologically sustainable river sand mining in the small rivers of Kerala is sand auditing for each river. It has been decided earlier that making the sand audit for Manimala river as a model, sand audit in respect of all other rivers may be done engaging other expert agencies as well, so that the audit could be completed expeditiously, with NCESS, Thiruvananthapuram as the Resource Department for the rivers of the 7 Southern Districts and the CWRDM, Kozhikode for the rivers of the 7 Northern Districts. There is no ban on river sand mining except in Ecologically Sensitive Areas, if it is done in accordance with the direction of the Courts and as per available sand audit reports. Such a procedure has been adopted in Kannur District, which could be replicated.

Accordingly Government order that sand audit be conducted in all the remaining rivers and where current audit report are not available, engaging expert agencies in consultation with NCESS/CWRDM as the case may be, to be done under their direct supervision. The NCESS/ CWRDM shall provide the standard procedure for ;the work of the expert agencies to be engaged and scientific opinion and yardsticks and also other required data. The District Collectors may avail of the River Management Fund for the sand audit works. Those which have valid sand audit studies completed will collect and reach the applications for sand removal along with the sand audit report to the Member Secretary, State Expert Appraisal Committee (Director of Environment & Climate Change, 'Devi Kripa', Pallimukku, Petta (P.O.), Thiruvananthapuram - 24), in Form I of the EIA Notification No.1533 dated 14.09.2006 of the MoEF, Government of India, available in the website of MoEF. The Districts which

do not have updated reports will urgently arrange to get these studies updated for determination of feasibility of sand removal and conditions. In such cases the Director of Environment & Climate Change will allow sand mining provided the District Authorities who apply, undertake to complete the studies in six months. Government also order that the sand lying in dams and reservoirs will be desilted for use for which the District Collectors will urgently take action after obtaining approval of Forest Department wherever necessary.

3. Ordinary Earth (Red earth):

As per the Office Memorandum read as third paper above, activities of burrowing/excavation of 'brick earth' and 'ordinary earth' up to an area less than 5 ha has been categorized as 'B2' category subject to the guidelines therein for Environmental Clearance, which is obligatory. The Local Panchayat can grant permission for removal of ordinary earth up to 250 tonnes and on royalty payment of ₹ 5000/- for that much quantity. For all purposes other than for domestic as pointed out above, Environmental Clearance is to be insisted upon for the time being. The intention is to progressively arrive at a position where Environmental Clearance will be obtained for all types of earth removal.

For area less than 5 ha the State Environmental Impact Assessment Authority has prescribed a simplified procedure and application form in Malayalam (available in the website of SEIAA). The District Collectors will designate an authorized officer in each District who will be approached by the owner of the land, or contractor having NOC from the owner with the above said application and the officer will forward the application to the Member Secretary, State Expert Appraisal Committee (Director of Environment & Climate Change, 'Devi Kripa', Pallimukku, Petta (P.O), Thiruvananthapuram-24) who in turn will take expeditious action to consider the application for Environmental Clearance.

The existing Government Orders on Environmental Clearance for mining of the above minor minerals is modified to the above extent.

The authority granting the final sanction will be personally responsible for ensuring Environmental Clearance in all cases where such clearance is required.

By Order of the Governor,

*G.RAJEEV,
Additional Secretary."*

11. The Government order dated 21.2.2014 would indicate that the State of Kerala has understood the direction issued by the Apex Court in ***Deepak Kumar Vs. State of Haryana & Ors*** as one requiring environmental clearance to be obtained for mining of minor minerals even from lands having an extent of less than five hectares. However, on the premise that it has resulted in complete stoppage of mining/quarrying of building materials in the State and adverse consequences in the construction sector, the Government have issued the aforesaid order which in turn permits continuance of mining operations by persons holding quarrying permits subject to the condition that they should submit an undertaking that environmental clearance as may be required for such quarrying activities will be obtained from the State

Environmental Impact Assessment Authority. It is also stipulated that leases will be issued or renewed only after obtaining prior environmental clearance and the same policy will apply to permits given by the Revenue as well as Mining and Geology Departments.

12. The Government orders dated 10.1.2014 and 22.1.2014 are in direct conflict with the order passed by the Principal Bench of the National Green Tribunal on 27.9.2013 which directs the Chief Secretaries of all States and Union Territories to ensure strict adherence to that order. A large number of cases filed by persons who have filed applications before Geologists and District Collectors for quarrying permits to quarry ordinary earth and for No Objection Certificates are coming up before this Court every day. A large number of such writ petitions are also filed by citizens who have applied for quarrying permits for quarrying granite. Writ petitions are also filed by citizens seeking to interdict private individuals from operating quarries. In none of the cases environmental clearance from the competent authority is produced or relied upon. Though initially royalty was not payable in respect of ordinary earth, by

virtue of the amendment brought about to Schedule-I of the Kerala Minor Mineral Concession Rules, 1967, the position has changed. It is also stipulated that every application for grant of quarrying permit for ordinary earth has to be accompanied by a No Objection Certificate issued by the District Collector. Ext.P1 produced in W.P.(C)No.4783 of 2014 is the No Objection Certificate issued by the District Collector on 6.5.2013. It was thereafter that by its interim order dated 27.9.2013, the National Green Tribunal restrained digging of brick earth or ordinary earth contrary to the direction issued by the Ministry of Environment and Forests in its notification dated 24.6.2013, in any part of the country without obtaining environmental clearance from the competent authority. This in turn has led to the petitioner moving this Court.

13. In such circumstances, I am of the opinion that an authoritative pronouncement on the question whether even in the case of existing quarrying/mining permits environmental clearance from the competent authority, namely the Ministry of Environment and Forests, in respect of lands having an extent of more than 5 hectares and from the State Environmental Impact

Assessment Authority in the case of lands having an area of less than 5 hectares should be obtained before exploiting the quarrying permit is called for. Incidentally the question whether the Government order dated 10.1.2014 can be relied on by the petitioner in view of the interim order passed by the National Green Tribunal also arises for consideration. The impact of the amendment to section 14 of the Mines and Minerals (Development and Regulation) Act, 1957 by Act 37 of 1986 with effect from 10.2.1987 also arises for consideration. By virtue of the said amendment, section 14 of the Act applies to quarrying leases and mining leases and other mineral concessions granted in respect of minor minerals. Therefore, for that reason also I am of the opinion that an authoritative pronouncement on the issue is called for.

I accordingly adjourn these writ petitions to be heard by a Division Bench of this Court. Registry to place the records before the Honourable the Chief Justice for orders.

**P.N.RAVINDRAN,
Judge.**

ahg.

P.N.RAVINDRAN, J.

**W.P.(C).Nos.4783, 6338
and 6361 of 2014**

REFERENCE ORDER

12th March, 2014