

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 5309 of 2015 (K)

PETITIONER(S):

**CHACKOCHAN, AGED 32 YEARS
S/O THOMAS, OLICKAL HOUSE, ASHARIKKADU P.O
PEECHI VILLAGE, THRISSUR TALUK
THRISSUR DISTRICT (OWNER OF THE LORRY BEARING REGISTRATION NO
KL 45 F 5393).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DEPUTY COLLECTOR,
ALAPPUZHA DISTRICT 688541.**
- 2. THE SUB INSPECTOR OF POLICE,
NOORNAD POLICE STATION, ALAPPUZHA DISTRICT 688541.**
- 3. THE REVENUE DIVISIONAL OFFICER,
CHENGANNUR, ALAPPUZHA DISTRICT 688541.**
- 4. THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT 688541.**
- 5. THE DIRECTOR,
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM 695001.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE MAHASSAR DATED 10-11-2014 PREPARED BY THE FIRST RESPONDENT**
- EXHIBIT P2 TRUE COPY OF THE CASH MEMORANDUM DATED 09-11-2014 ISSUED BY A SAND DEALER OF NAME RASHEED TATTAPARAMBIL TO THE PETITIONER**
- EXHIBIT P3 TRUE COPY OF THE DEALERS LICENSE ISSUED BY THE SENIOR GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY TO SAID MR. RASHEED THATTAPRAMBIL DATED 04-04-2014**
- EXHIBIT P4 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 19-11-2014 IN WPC NO 30783/2014**
- EXHIBIT P5 TRUE COPY OF THE ANALYTIC REPORT OF THE FIFTH RESPONDENT DATED 12-12-2014**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P.(C) No. 5309 of 2015

Dated this the 26th day of February, 2015.

JUDGMENT

The petitioner is the owner of the vehicle bearing registration No.KL-45-F-5393, which is seized by the second respondent alleging illegal transport of river sand. According to the petitioner, it was not river sand, but weathered sand. Projecting his grievance, the petitioner approached this Court by filing W.P.(C) No.30783 of 2014, which was disposed of as per Ext.P4 judgment dated 19.11.2014, whereby sample was directed to be taken and tested and the proceedings were directed to be finalised accordingly. Pursuant to the above judgment, sample was taken and sent for analysis. The analysis was done at the Chemical Lab, Thiruvananthapuram. It is now certified that the commodity transported by the petitioner was only crushed weathered rock, as borne by Ext.P5 test report dated 12.12.2014. It is in the said circumstance that the petitioner has moved this Court again

for causing the custody to be released.

2. Heard the learned Government Pleader as well, who made available the relevant files. It is stated that the Senior Analyst is also present before this Court. During the course of hearing, the learned Government Pleader points out that five different types of tests are involved, so as to ascertain the character and features of the commodity concerned. The first one regard to the verification of the sample. The second one with regard to the analysis of silt by 'volume percentage' and 'mass percentage' and the third step is an analysis with reference to size of particles. The fourth one pertains to salinity and the fifth and the most important one is microscopic analysis. The learned Government Pleader points out that, in the said test, the sample turned to be of angular size, which reflects the particular feature of weathered sand, as in the case of river sand, it will mostly be rounded in shape.

3. After hearing both the sides, this Court finds that no further proceedings under the Kerala Protection of River Banks

and Regulation of Removal of the Sand Act, 2001 require to be proceeded against the petitioner or the vehicle.

4. The learned counsel for the petitioner points out that the material was being transported on the strength of Ext.P2 cash memorandum and that the same is referred to in Ext.P1 mahazer.

In the above circumstance, this Court finds that the petitioner is entitled to have the vehicle released forthwith. It is ordered accordingly. If any offence is involved in any manner with reference to MMDR Act/ KMMC Rules, it is for the second respondent to proceed further steps in accordance with law. The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Scl.