

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 6864 of 2015 (G)

PETITIONER(S) :

**ZIYAD, AGED 39 YEARS,
S/O.HAMSA, KATTIKODATH THURUTH, THAMEEM MANZIL,
ALANGAD.P.O, KARUMALLOOR VILLAGE, PARAVUR TALUK,
ERNAKULAM DISTRICT (OWNER OF A JCB
BEARING REGISTRATION NO.KL-42-G-3913).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. THE VILLAGE OFFICER,
KARUMALLOOR VILLAGE, ERNAKULAM DISTRICT-683 511.**
- 2. THE DEPUTY COLLECTOR,
ERNAKULAM DISTRICT-682030.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 4. THE DISTRICT COLLECTOR,
ERNAKULAM, CIVIL STATION, KAKKANADU, PIN-682 030.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SEIZURE MAHAZAR DATED 25.02.2015 PREPARED BY THE FIRST RESPONDENT.
- EXT.P2: TRUE COPY OF THE LICENCE DATED 03.12.2014 ISSUED BY THE SECRETARY, KARUMALLUR GRAMA PANCHAYATH TO THE PETITIONER.
- EXT.P3: TRUE COPY OF THE DEALERS LICENSE DATED 01/01/2015 ISSUED BY THE DISTRICT GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY, ERNAKULAM TO THE PETITIONER.
- EXT.P4: TRUE COPY OF THE SANITARY CERTIFICATE DATED 02.01.2015 ISSUED BY THE HEALTH INSPECTOR, KARUMALLUR TO THE PETITIONER.
- EXT.P5: TRUE COPY OF THE CONSENT TO OPERATE DATED 04.02.2015 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.6864 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

The grievance of the petitioner is against the seizure of the JCB bearing Registration No.KL-42-G-3913 by the first respondent on 25.02.2015, allegedly based on the instruction of the second respondent vide Ext.P1 Mahazar. The learned counsel for the petitioner points out that, the petitioner is running a Small Scale Industry Unit at the spot, engaged in washing of 'M-sand' and supplying the same for various purposes, including the construction of Metro Railway. It is also pointed out that, the petitioner has obtained all the requisite licenses/clearance from all corners as borne by Exts.P2 to P5. Ext.P2 is the licence issued by the local authority, while Ext.P3 is the dealer's licence issued by the Geologist. The Health Inspector, Karumallur has issued Ext.P4 Sanitary Certificate and the consent to operate has been given by the Pollution Control Board vide Ext.P5. It is without any regard to the actual facts and figures that, seizure has been effected, which made the petitioner to approach this Court by

filing the writ petition.

2. The learned Government Pleader submits that, the petitioner was doing various unauthorised activities and as such, a stop memo was issued earlier by the Deputy Collector, when a road was being constructed to the yard. When a spot inspection was conducted by the Deputy Collector, the JCB was lying parked in the premises and it was in the said circumstances, that the said vehicle was seized.

3. After hearing both the sides, this Court finds that the materials on record do not prima facie disclose any offensive activity being pursued with the JCB at the relevant time, when the seizure was effected. As such, this Court finds it fit and proper to cause the said vehicle to be released to the petitioner forthwith on execution of a bond, undertaking that the vehicle will not be alienated and that no activity will be pursued so as to diminish the value of the vehicle, during pendency of the proceedings. The concerned respondent is at liberty to proceed with further steps, if at all any offence has been committed by the petitioner, by filing appropriate proceedings before the

appropriate forum in accordance with relevant provisions of law. If any such exercise is intended to be pursued, it shall be done within 'one month' from the date of receipt of a copy of this judgment.

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

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp