

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 7374 of 2015 (V)

PETITIONER(S) :

**M/S.KANNAMTHANAM & CO.,
MALAYAM P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING PARTNER
K.J.THOMASKUTTY.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN**

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. DISTRICT GEOLOGIST,
DISTRICT OFFICE, DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM- 695 001.**

BY SR. GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE QUARRYING PERMIT DATED 14.02.2014 VALID TILL 13.02.2015 IN RESPECT OF RE.SY.NO.372/26.

EXHIBIT P1(A): TRUE COPY OF THE QUARRYING PERMIT DATED 14.02.2014 VALID TILL 13.02.2015 IN RESPECT OF RE.SY.NO.373/11, 373/12, 372/2 AND 373/15.

EXHIBIT P1(B): TRUE COPY OF THE QUARRYING PERMIT DATED 14.02.2014 VALID TILL 13.02.2015 IN RESPECT OF RE.SY.NO.369/21.

EXHIBIT P1(C): TRUE COPY OF THE QUARRYING PERMIT DATED 14.02.2014 VALID TILL 13.02.2015 IN RESPECT OF RE.SY.NO.372/5, 372/18 AND 372/19.

EXHIBIT P2: TRUE COPY OF THE COVERING LETTER DATED 13.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR RENEWAL OF EXT.P1 PERMIT.

EXHIBIT P2(A): TRUE COPY OF THE COVERING LETTER DATED 13.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR RENEWAL OF EXT.P1(A) PERMIT.

EXHIBIT P2(B): TRUE COPY OF THE COVERING LETTER DATED 13.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR RENEWAL OF EXT.P1(B).

EXHIBIT P2(C): TRUE COPY OF THE COVERING LETTER DATED 13.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR RENEWAL OF EXT.P1(C)PERMIT.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 7374 of 2015

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Dated, this the 24th day of March, 2015

JUDGMENT

The petitioner was running a quarry on the strength of Ext. P1 series permits issued by the second respondent, which were valid till 13.02.2015. The petitioner wanted to have renewal of the permits and hence applications were preferred before the third respondent, vide Ext. P2 series. The delay in considering the same is causing irreparable loss and hardships to the petitioner. Hence the writ petition.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

3. During the course of hearing, it is brought to the notice of this Court that renewal of the permit and the alleged requirement to have environmental clearance for quarries, including the closed quarries, were subject matter of consideration of a Division Bench this Court in W.P.(C) No. 31148 of 2014 and connected cases including W.A No. 1566 of 2014. It is stated that final verdict has already been pronounced by the Division Bench yesterday [23.03.2015].

4. The learned Government Pleader points out that the Bench has made clear that the Government Order dated 10.01.2014 cannot be relied on by the parties in view of the restraint order issued by the National Green Tribunal dated 27.09.2013 till such time the restraint order continues. The observation of the Bench in paragraph 82 of the said judgment is relevant, which is extracted below :

82. In view of the foregoing discussion, we come to the following conclusions.

(i) In case where quarrying/mining/lease which were existing on the date of issuance of Notification dated 14.09.2006 or on the date of issue of the order dated 18.05.2012 by the Government of India, Ministry of Environment and Forests with regard to area less than 5 hectares no environmental clearance with regard to extraction of minor mineral is required. Notification dated 14.09.2006 contemplated obtaining environmental clearance only with regard to new projects/new activities.

(ii) Government Order dated 10.01.2014 cannot be relied on by the parties in view of the restraint order issued by the National Green Tribunal dated 27.09.2013 till such time the restraint order continues.

(iii) By amendment of Section 14 by Act 37 of 1986 making Section 4 applicable to minor minerals also the provision contained in Section 4 shall be applicable to mining operations by a person holding mining lease or any other kind of mineral concession. It cannot be accepted that mining operation with effect from 10.02.1987 cannot be continued by a person holding any other mineral concession apart from mining lease.

(iv) Judgment of the Apex Court in **Deepak Kumar's case (supra)** did not contemplate environmental clearance for an area less than 5 hectares with regard to existing mining lease/mining permits on the date of judgment. Paragraph 29 of the judgment clearly directed that leases of minor minerals including their renewal for an area of less than five hectares be granted by the State/Union Territories only after getting environmental clearance.

(v) Environmental clearance as contemplated by Notification dated 14.09.2006 required environmental clearance for new projects/new activities.

(vi) The Notification dated 14.09.2006 having been applied vide order dated 18.05.2012 of

the Government of India, Ministry of Environment and Forests all mining operations for new project and new activities for an area less than 5 hectares after 18.05.2012 required environmental clearance carried through either a mining lease or mining permit.

(vii) Interim order passed by the Apex Court on 27.01.2012 was intended by the Supreme Court to operate till the Rules have been framed by the States taking into consideration the guidelines and recommendations of the Ministry of Environment and Forests.

(viii) As per Rule 68 no mining/quarrying operations can be permitted without there being an approved mining plan. But such rule is subject to exception as engrafted in Rule 66, i.e., for existing lease holders, time has been allowed to submit mining plan.

5. In the said circumstances, the writ petition is disposed of, directing the third respondent to consider and pass appropriate orders on Ext. P2 series in accordance with law, in light of the observation made by the Division Bench as aforesaid, at the earliest, at any rate, within two weeks from the date of receipt of a copy of this judgment.

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: 5 :

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the third respondent for further steps.

Sd/-

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

kmd