

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 11545 of 2012 (P)

PETITIONER:

CHANDY JOSEPH, AGED 50 YEARS
S/O. JOSEPH, KANJIRAKKATTUKUNNEL HOUSE,
MARIYAPURAM P.O., IDUKKI 685 602.

BY ADV. SRI.M.C.JOHN

RESPONDENTS:

1. STATE OF KERALA
REP. BY PRINCIPAL SECRETARY
LOCAL ADMINISTRATION DEPARTMENT
THIRUVANANTHAPURAM 695 001.
2. THE MARIYAPURAM GRAMA PANCHAYAT
REPRESENTED BY SECRETARY
MARIYAPURAM GRAMA PANCHAYAT, MARIYAPURAM P.O.
IDUKKI 685 602.

ADDL.R3 SUO MOTO IMPEADED:

ADDL.R3: THE DIVISIONAL FOREST OFFICER,
KOTTAYAM.

(SUO MOTO IMPEADED AS PER JUDGMENT DATED 26.10.2015)

R1 & R3 BY SR. GOVERNMENT PLEADER SRI SHYSON P.MANGUZHA
R2 BY ADV. SRI.MURALI PURUSHOTHAMAN
ADV. SRI.DEEPU LAL MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

- EXHIBIT P1. TRUE COPY OF LICENCE NO.5/2011-12 DATED 16.05.2011 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P2. TRUE COPY OF THE CERTIFICATE DATED 20.05.2010 ISSUED BY THE PRESIDENT OF THE PANCHAYAT.
- EXHIBIT P2(a).TRUE COPY OF THE CERTIFICATE DATED 11.01.2011 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P2(b).TRUE COPY OF THE LETTER DATED 16.05.2011 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P3. TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DATED 04.11.2009 ISSUED BY THE CHIEF CONSERVATOR OF FORESTS.
- EXHIBIT P4. TRUE COPY OF THE JUDGMENT DATED 24.01.2011 IN WPC NO.672/2011.
- EXHIBIT P5. TRUE COPY OF THE LETTER DATED 03.04.2011 ISSUED BY THE CHIEF CONSERVATOR OF FORESTS.
- EXHIBIT P6. TRUE COPY OF THE RECEIPT DATED 11.05.2012 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P7. TRUE COPY OF THE LETTER NO.B2-718/12 DATED 14.05.2012 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P8. TRUE COPY OF THE LETTER NO.2184/RC3/10/LAD DT.02.03.2010 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS

- EXT.R2(A): COPY OF APPLICATION DT.27.3.2012 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY OF THE 2ND RESPONDENT PANCHAYAT.

TRUE COPY

P.S.TO JUDGE

ANIL K.NARENDRA, J

W.P.(C.)No.11545 Of 2012

DATED THIS THE 26th DAY OF OCTOBER, 2015

JUDGMENT

The petitioner who is the Proprietor of a furniture workshop named "St.Joseph's Furniture Works" at Mariyapuram has filed this Writ Petition seeking a writ of certiorari to quash Exts.P7 and P8 and seeking a writ of mandamus commanding the 2nd respondent Grama Panchayat to renew Ext.P1 licence for the period 2012-2013 based on Exts.P4 and P6. The petitioner has also sought for an order restraining the respondents from initiating any coercive steps to close down his furniture unit.

2. By Ext.P4 judgment in W.P.(C)No.672/2011, this Court, taking note of the fact that the issue relating to grant of NOC is pending consideration before the Central Empowered Committee, ordered that until a decision is taken and communicated to the petitioner, status quo as on date shall be maintained insofar as the functioning of the industrial unit of the petitioner is concerned.

3. Today when this case was taken up for further consideration, the learned counsel for the petitioner submitted that, in view of the Kerala Forest (Regulation of Sawmills and other

Wood-based Industrial Units) Rules, 2012, the authorised Officer to grant NOC is the Divisional Forest Officer concerned and as such the petitioner's application for NOC has already been transferred to the said authority and the matter is now pending consideration. The learned counsel for the petitioner would also submit that once NOC is granted by the Divisional Forest Officer, the petitioner shall produce the same before the 2nd respondent Grama Panchayat, in which event the 2nd respondent may be directed to consider his application for renewal of licence.

4. Since the request for NOC filed by the petitioner is pending before the Divisional Forest Officer, Kottayam, the said authority is suo moto impleaded as additional 3rd respondent in the Writ Petition. The Registry to carry out necessary amendment in the cause title.

5. Learned Government Pleader takes notice for the additional 3rd respondent. Service complete.

6. I heard arguments of the learned counsel for the petitioner, learned Government Pleader appearing for respondents 1 and 3 and also the learned Standing Counsel for the 2nd respondent Grama Panchayat.

7. Considering the fact that the request made by the petitioner for NOC is now pending consideration before the additional 3rd respondent, the Writ Petition is disposed of with the following directions:

- (i) The additional 3rd respondent shall consider the application for NOC submitted by the petitioner in respect of St.Joseph Furniture Works, Mariyapuram and take a decision thereon as expeditiously as possible.
- (ii) On receipt of NOC from the additional 3rd respondent, the petitioner shall produce it before the 2nd respondent, in which event, the 2nd respondent shall consider the petitioner's application for renewal of licence and pass appropriate orders thereon, with notice to the petitioner, as expeditiously as possible.
- (iii) In case the request for NOC is rejected, the additional 3rd respondent shall forthwith communicate the same to the petitioner as well as to the 2nd respondent Grama Panchayat.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn