

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 9151 of 2015 (T)

PETITIONER(S):

**M/S.BLUE CHIP MINES AND INDUSTRIES,
VEMBALATHUPADAM, KALLIYAD P.O., OTTAPPALAM,
PALAKKAD-679 122, REPRESENTED BY ITS MANAGING PARTNER,
T. BABURAJ, S/O. C. THOMAS, AGED 75 YEARS,
RESIDING AT THOTTATHIL HOUSE, DEDUMBASSERY P.O.,
ALUVA-683 585.**

**BY ADVS.SRI.RAAJESH S.SUBRAHMANIAN
SRI.V.R.RAJESH**

RESPONDENT(S):

- 1. STATE OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS PRINCIPAL SECRETARY ,
INDUSTRIES (A) DEPARTMENT.**
- 2. DIRECTOR OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM P.O.,
THIRUVANANTHAPURAM - 695 004,**
- 3. GEOLOGIST,DISTRICT OFFICE,
MINING & GEOLOGY, PALAKKAD - 678 001.**

BY GOVERNMENT PLEADER SRI.JOSPEH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 9151 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE (FORM-S) BEARING NO.146/2014-15 /RMCU/PKD 4745/M3/2014 DATED.04.04.2014 ALONG WITH PAYMENT OF CONSOLIDATED ROYALTY FOR THE PERIOD 2014-15 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE NOTIFICATION BEARING NO.GO(P) NO.1/2008/ID DATED 1.10.2008 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF THE NOTIFICATION DATED 5.1.2015 NO.GO(P) NO.01/2015/ID ISSUED BY THE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF THE NOTICE DATED 4.3.2015 BEARING NO. DOP/436/2015/ A ISSUED BY THE 3RD RESPONDENT.

EXT.P5: TRUE COPY OF THE COMMUNICATION DATED 20.2.2015 BEARING NO.896/M3/2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P6: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 16.3.2015 ALONG WITH THE CHALLAN EVIDENCING PAYMENT DATED 19.3.2015.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.9151 OF 2015
.....

Dated this the 23rd March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- "i) issue a writ of certiorari or other appropriate writ order or direction to call for the records leading to Exhibit P4 and to quash the same;*
- ii) issue a writ or mandamus or other appropriate writ, order or direction to the respondents 2 and 3 to declare that the petitioner is only entitled to pay the enhanced consolidated Royalty from the date of coming into force of notification of Exhibit P3;*
- iii) such other reliefs which this Hon'ble Court deems fit and necessary in the circumstances of the case and the costs of this case."*

2. The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' as per Ext.P3 dated 5.01.2015. The learned counsel for the petitioner points out that, by virtue of the amendment of the KMMC Rules, 2015 brought into force from the date of said notification as given in Ext.P3, the 'consolidated royalty' payable has been enhanced to Rs.16 lakhs. The

petitioner has been served with Ext.P4 notice dated 04.3.2015 to satisfy the arrears of Rs.14 lakhs, which according to the petitioner is per se wrong and illegal. Hence this writ petition.

3. Heard the learned Government Pleader as well.

4. During the course of hearing, the learned counsel for the petitioner submits that Ext.P3 amendment does not have any retrospective effect and that the same will come into effect only after the date of notification; and as such, the liability of the petitioner can only be from 5.1.2015 to 31.3.2015. The petitioner has also filed an application for renewal of registration of their establishment, as borne by Ext. P6.

5. After hearing both the sides, the writ petition is disposed of directing the 2nd respondent/Director of Mining and Geology to consider the issue involved and pass appropriate orders on Ext.P6, in accordance with law, at the earliest, at any rate within 'six weeks' from the date of receipt of a copy of the judgment; subject to satisfaction of **25%** of the consolidated Royalty payable for the year **2015-'16**. Coercive proceedings, if any, pursuant to Ext.P4 (**for 2014-15**) shall be kept in abeyance , subject to satisfaction of a sum of **Rs.3.5 lakhs** within 'ten days'

from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 2nd respondent for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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