

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. 9152 of 2015 (T)

PETITIONER :

**M/S. J & P CONSTRUCTION AND J & P GRAQNITES,
CHOORAKODE, PATTAMBI, PALAKKAD 679 303
REPRESENTED BY ITS MANAING PARTNER
JAMES JOSEPH, AGED 44 YEARS S/O.PC JOSE,
RESIDING AT PUNCHA PUTHUSSERIL HOUSE ,
KOZHAKKAMBALAM P.O., ERNAKULAM 683 562**

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

RESPONDENTS :

- 1. STATE OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM - 695001
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**

R1 TO R3 BY GOVERNMENT PLEADER SRI. K.C. VINCENT

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

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE REGISTRATION CERTIFICATE (FORM -S)
BEARING NO. 145/2014-15 /RMCU/PKD 4744/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 1.1.2008 ISSUED BY THE 1ST RESPONDENT.
- EXT.P3: TRUE COPY OF THE NOTIFICATION DATED 5.1.2015 G.O.(P).
NO. 1/2015/ID ISSUED BY ITS 1ST RESPONDENT
- EXT.P4: TRUE COPY OF THE NOTICE DATED 4.3.2015 BEARING NO.DOP /
438/2015/A ISSUED BY THE THIRD RESPONDENT.
- EXT.P5: TRUE COPY OF THE COMMUNICATION DATED 20.2.2015 BEARING
NO.896/M3/2015 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.9152 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.16 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. It is stated that petitioner has also filed an application for renewal of registration of their establishment.

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 the application filed, if any, 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 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

/k