

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. 9359 of 2015 (T)

PETITIONER(S):

**M/S. PERIYAR GRANITES (P) LTD.,
AIRAPURAM P.O., PERUMBAVOOR,
ERNAKULAM-683 541, REPRESENTED BY
ITS DIRECTOR P. JACOB, S/O.PAULOUSE,
AGED 58 YEARS, RESIDING AT PARATHUVAYALIL HOUSE,
VALAYANCHIRANGARA P.O., PERUMBAVOOR-683 556.**

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

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
INDUSTRIES (A) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM P.O.,
THIRUVANANTHAPURAM-695 004.**
- 3. GEOLOGIST, DISTRICT OFFICE,
MINING & GEOLOGY, KAKKANAD,
KOCHI-682 030.**

BY SR. GOVT. 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:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE REGISTRATION CERTIFICATE (FORM-S) BEARING NO.162/2014-15/RMCU/EKM/4551/M3/2014 DATED 05/04/2014 ALONG WITH PAYMENT OF CONSOLIDATED ROYALTY FOR THE PERIOD 2014-2015 ISSUED BY THE 2ND RESPONDENT.
- EXT.P2 COPY OF THE NOTIFICATION BEARING NO.GO(P) NO.1/2008/ID DATED 01/01/2008 ISSUED BY THE 1ST RESPONDENT.
- EXT.P3 COPY OF THE AMENDMENT MADE TO THE KERALA MINOR MINERAL CONCESSION (AMENDMENT) RULES 2015 BEARING NO.GO(P) NO.1/2015/ID DATED 05/01/2015 ISSUED BY THE 1ST RESPONDENT.
- EXT.P4 COPY OF THE NOTICE DATED 21/02/2015 BEARING NO.DEO/899/E2/15 ISSUED BY THE 3RD RESPONDENT.
- EXT.P5 COPY OF THE COMMUNICATION DATED 20/02/2015 BEARING NO.896/M3/2015 ISSUED BY THE 2ND RESPONDENT.
- EXT.P6 COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 20/03/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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Dated, this the 24th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- "i) Issue a writ of Certiorari or other appropriate writ order or directions to call for the records leading to Exhibit P4 and to quash the same;
- ii) Issue a writ of mandamus or other appropriate writ order or direction to the respondents to 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 Ext. P3
- iii) Such other relief's which this Hon'ble Court deems fit and necessary in the circumstances of the case and the cost of this case "

2. The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty' as per Ext.P3 notification dated 05.01.2015. The learned counsel for the petitioner points out that, by virtue of the amendment of the Kerala Minor Mineral Concession 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.4 lakhs. The petitioner has been served with Ext.P4 notice dated 21.02.2015 to satisfy the arrears of Rs.3 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 05.01.2015 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

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: 3 :

of a sum of **Rs.75000/-** 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.

Sd/-

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

kmd