

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 10064 of 2015 (G)

PETITIONER(S):

**SHERIFF A.H., AGED 50 YEARS,
S/O.HYDROSE, ETTUKATTIL VEEDU,
P.O.EDATHALA NORTH, ALUVA, ERNAKULAM DIST.,
PIN - 683 564.**

**BY ADVS.SRI.P.N.SANTHOSH
SMT.K.P.GEETHA MANI
SRI.P.N.APPUKUTTAN
SMT.ASWATHI APPUKUTTAN**

RESPONDENT(S):

- 1. THE DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM P.O.,
THIRUVANANTHAPURAM, PIN - 695 004.**
- 2. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
CIVIL STATION, KAKKANAD, ERNAKULAM,
PIN - 682 030.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 10064 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT. P1: A TRUE COPY OF THE ORDER NO.855/2007-08/178/M3/2008 DTD.27.2.2008
ISSUED BY THE FIRST RESPONDENT.**

**EXT. P2: A TRUE COPY OF THE ORDER NO.331/2014-15/8448/M3/2014 DTD.20.8.2014
ISSUED BY THE FIRST RESPONDENT.**

**EXT. P3: A TRUE COPY OF THE COMMUNICATION NO.11905//M3/2014 DTD.28.10.2014
ISSUED BY THE FIRST RESPONDENT ALONG WITH THE REGISTRATION
CERTIFICATE IN FORM S.**

**EXT. P4: A TRUE COPY OF THE CHALAN RECEIPT DTD.28.10.2014 REMITTING
RS. 2 LAKHS BY THE PETITIONER.**

**EXT. P5: A TRUE COPY OF THE DEMAND NOTICE DTD.21.2.2015 ISSUED BY THE
2ND RESPONDENT TO THE PETITIONER.**

**EXT. P6: A TRUE COPY OF THE OBJECTION/REPRESENTATION DTD.10.3.2015
SUBMITTED BY THE PETITIONER AGAINST EXT. P5 BEFORE THE
2ND RESPONDENT.**

**EXT. P: A TRUE COPY OF THE JUDGMENT DTD.18.3.2015 IN WP(C) NO.8404/2015 OF
THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 10064 of 2015

~~~~~

Dated, this the 27th 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 P5 and to quash the same;

ii) Issue a writ of mandamus or other appropriate writ direction or order declaring that the petitioner is not entitled to remit any more amounts towards the consolidated royalty for the financial year 2014 - 15 as the same was remitted by Ext. P4.

Iii) Issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to consider Exhibit P6 objection and pass appropriate order in the matter and not to take any coercive action till that time.

iv) Issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to allow the petitioner to conduct the quarry/crusher until till a final decision is taken by the respondents on Ext. P6 representation

v) Grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case including the costs. "

2. The petitioner is mainly aggrieved of the enhancement of the 'consolidated royalty', by virtue of the amendment of the Kerala Minor Mineral Concession Rules, 2015 brought into force w.e.f. 05.01.2015. The learned counsel for the petitioner submits that as per the notification dated 05.01.2015, the 'consolidated royalty' payable has been enhanced to Rs.16 lakhs. The petitioner has been served with Ext.P5 notice dated 21.02.2015 to satisfy the arrears of Rs.14 lakhs for the entire period from 01.04.2014 to 31.03.2015, 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 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 learned counsel for the petitioner submits that the petitioner has also filed an application for renewal of registration of their establishment.

The learned counsel for the petitioner submits that the petitioner is ready to satisfy the entire amount demanded vide Ext. P5 under protest.

5. In view of the willingness expressed from the part of the petitioner to meet the entire liability under protest, coercive proceedings, if any, pursuant to Ext. P5 shall be kept in abeyance, subject to satisfaction of the amount covered by Ext. P5 on or before 31.03.2015. The 1st respondent/Director of Mining and Geology is directed to consider the issue involved and pass appropriate orders on application for renewal, if any, preferred by the petitioner, 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**.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd