

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11898 of 2015 (J)

PETITIONER:

AARAMAM ROCK PVT. LTD., NELLANADU P.O.,
KEEZHAYIKONAM, VENJARAMOODU,
THIRUVANANTHAPURAM - 695 606 REP. BY
ITS MANAGING DIRECTOR SRI.ABDUL SALAM.

BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN

RESPONDENTS:

1. NELLANADU GRAMA PANCHAYAT, NELLANADU,
VENJARAMOODU, THIRUVANANTHAPURAM
REP. BY ITS SECRETARY.
2. SECRETARY, NELLANADU GRAMA PANCHAYAT,
NELLANADU, VENJARAMOODU,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.H.HANILKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 11898/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE CONSENT TO OPERATE DATED 28.10.2011
VALID TILL 30.04.2014 ISSUED BY THE POLLUTION CONTROL BOARD

EXT.P1(a) TRUE COPY OF THE ORDER DATED 05.11.2014 ISSUED BY THE
POLLUTION CONTROL BOARD RENEWING EXT. P1 CONSENT TILL 30.04.2017

EXT. P2 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT

EXT. P2(a) TRUE ENGLISH TRANSLATION OF EXT. P2

EXT. P3 TRUE COPY OF THE LETTER DATED 28.03.2015 9WRONGLY SHOWN
AS 28.03.2014) ISDSUED BY THE SECOND RESPONDENT TO THE
PETITIONER

EXT. P3(a) TRUE ENGLISH TRANSLATION OF EXT. P3

EXT. P4 TRUE DECISION NUMBERED AS V(2) TAKEN AT THE PANCHAYAT
COMMITTEE MEETING HELD ON 27.03.2015

EXT. P4(a) TRUE ENGLISH TRANSLATION OF EXT. P4

EXT. P5 TRUE COPY OF THE NOC DATED 16.09.2003 ISSUED BY THE
DISTRICT MEDICAL OFFICER TO THE SECOND RESPONDENT IN RESPECT
OF THE CRUSHER UNIT

EXT. P6 TRUE COPY OF THE NOC DATED 27.08.2003 ISSUED BY THE
INSPECTOR OF FACTORIES AND BOILERS TO THE SECOND RESPONDENT IN
RESPECT OF THE CRUSHER UNIT

EXT. P6(a) TRUE ENGLISH TRANSLATION OF EXT. P6

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.11898 of 2015 J

Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, which runs a metal crusher unit, applied for what is said to be renewal of licence. It was rejected through Exhibit P4 by the Committee of the respondent Grama Panchayat by listing out certain objections. Aggrieved thereby, the petitioner has filed the present writ petition.

2. The singular grievance of the petitioner, as has been urged by the learned counsel, is that before passing Exhibit P4 the Committee of the respondent Grama Panchayat ought to have provided an opportunity of hearing to the petitioner. According to him, all the defects are curable and given an opportunity the petitioner could have cured the same at the earliest point of time.

3. The learned counsel for the respondent Grama Panchayat has submitted that in the first place the petitioner's application for renewal is not maintainable. According to him, the initial licence came to an end in 2013. Thereafter, it was not renewed. Though the petitioner filed a statutory appeal against the refusal of the respondent Grama Panchayat to renew the licence way back in 2013, the said appeal, according to the learned counsel, was rejected by the Tribunal for Local Self Government Institutions, Thiruvananthapuram.

4. The learned counsel for the respondent Grama Panchayat has further submitted that very recently the National Green Tribunal in related proceedings issued directions to the petitioner to close down the unit. At any rate, he has submitted that if the petitioner submits an application after curing the defects, without having any conflict with the direction given by the learned Green

Tribunal, the respondent Grama Panchayat is willing to re-consider the same.

5. It is evident that Exhibit P4 order of rejection does not contain any objection with regard to the non-maintainability of the application for 'renewal'. It has only listed out certain defects which the petitioner is willing to cure. It is also pertinent to note that going by the submission of the learned counsel for the petitioner that the formats for fresh licence and renewal of licence are one and the same, there cannot be any impediment for the Committee of the respondent Grama Panchayat to consider the petitioner's application, if it desires, for issuance of a fresh licence instead of renewal, given the fact that the licence granted earlier came to an end way back in 2013.

6. In the facts and circumstances, if the petitioner re-submits its application after curing the defects pointed out in Exhibit P4, the respondent Grama Panchayat shall

consider the same treating that as if it were an application for fresh licence, if it is of the said opinion, and pass appropriate orders thereon, at any rate, within thirty days from the date of re-submission of the application.

With the above observation, the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

tkv