

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 11999 of 2015 (Y)

PETITIONER(S):

**ABDUL NAZAR AGED 56 YEARS
S/O, MOHAMMED, PROPRIETOR,
M/S.KARAYIL SAWMILL & WOOD INDUSTRIES
RESIDING AT KARAYIL HOUSE, EDAKKARA.P.O.,
NILAMBUR, MALAPPURAM DT.**

**BY ADVS.SRI.THAMPAN THOMAS
SRI.B.V.JOY SANKER
SRI.SHAFIE THOMAS
SRI.SANEESH KUNJUKUNJU**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY SECRETARY
TO GOVERNMENT, FOREST DEPARTMENT,
THIRUVANANTHAPURAM-695001.**
- 2. THE CHIEF CONSERVATOR OF FORESTS,
NODEL OFFICER AND CONVENER, STATE LEVEL COMMITTEE,
THIRUVANANTHAPURAM-695001.**
- 3. THE DIVISIONAL FOREST OFFICER, NILAMBUR NORTH DIVISION,
MALAPPURAM-679 329.**

BY ADV.SRI.K.C.VINCENT, SR.GOVERNMENT PLEADER

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

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1:TRUE COPY OF THE D & O LICENSE FROM THE EDAKKARA GRAMA PANCHAYATH.

EXHIBIT-P2:TRUE COPY OF THE LICENSE ISSUED BY FACTORIES & BOILERS

EXHIBIT-P3:TRUE COPY OF THE SSI REGISTRATION CERTIFICATE ISSUED BY THE GENERAL MANAGER DIC, MALAPPURAM DATED 26.12.2006.

EXHIBIT-P4:TRUE COPY OF NOC ISSUED BY THE FOREST DEPARTMENT TO THE PETITIONER DATED 23.1.2003.

EXHIBIT-P5:TRUE COPY OF THE VERIFICATION REPORT DATED 30.05.2010.

EXHIBIT-P6:TRUE COPY OF THE ORDER NO.E2-6454/12 DATED 26.11.2012 REJECTING THE APPLICATION FOR LICENSE OF THE PETITIONER BY THE 3RD RESPONDENT.

EXHIBIT-P7:TRUE COPY OF THE JUDGMENT IN WPC NO.3799 OF 2013 DATED 27.1.2015.

EXHIBIT-P8:TRUE COPY OF THE APPEAL IN FORM NO.VIII FILED BEFORE THE APPELLATE AUTHORITY AND THE ACKNOWLEDGMENT ISSUED BY THE AUTHORITY.

EXHIBIT-P9:TRUE COPY OF THE ORDER OF THE DFO DATED 10.02.2009.

EXHIBIT-P10:TRUE COPY OF THE MAHAZAR FIRST REPORT IN FORM A I DATED 6.4.2005 IN O R 4/2005.

EXHIBIT-P11:TRUE COPY OF THE FOREST OFFENCE CHARGE SHEET IN FORM II DATED 2.11.2010.

EXHIBIT-P12:TRUE COPY OF THE LETTER DATED 21.08.2006.

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PATO JUDGE

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 11999 OF 2015
.....

Dated this the 10th April, 2015

J U D G M E N T

The application preferred by the petitioner for granting necessary NOC by the DFO came to be rejected on 26.11.2012 for the fact that the petitioner was convicted for the offence punishable under the relevant provisions of the Kerala Forest Act, 1961 or the Wildlife (Protection) Act, 1972 and not eligible for NOC as per Rule 8(1) of the Kerala Forest (Regulation of Saw Mills and other Wood Bases Industrial Units) Rules, 2012..

2. The petitioner had approached this court earlier by filing W.P.(C)No.37615 of 2009 challenging the proceedings. After hearing both the sides, interference was declined and the writ petition was dismissed vide Ext.P7 judgment pointing out that the earlier order which formed as the basic order was never chosen to be challenged by the petitioner. A copy of the said order was produced from the part of the Government as Ext.R2 (b). The petitioner had also not chosen to amend the writ petition. It was in the said circumstance, the writ petition was dismissed. It was thereafter that the petitioner challenged

Annexure R2(b) order by filing Ext.P8 appeal. It is stated that there is a delay of 797 days and the same is also sought to be condoned by filing a separate petition. The receipt of said appeal is acknowledged as borne by the proceedings dated 03.03.2015. The prayer is to cause the same to be considered within a reasonable time.

3. Heard the learned Government Pleader as well.

4. In the above circumstance, there will be a direction to the second respondent/Chief Conservator of Forests to consider and pass appropriate orders in the petition to condone the delay in filing the appeal and also in the appeal preferred by the petitioner, which shall be done at the earliest, at any rate within three months from the date of receipt of a copy of the judgment. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE