

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 12TH DAY OF MAY 2015/22ND VAISAKHA, 1937

WP(C).No. 14210 of 2015 (A)

PETITIONER :

**K.P.JOY, S/O.LATE K.P.POULO, AGED 57 YEARS,
MANAGING DIRECTOR, M/S.A-ONE SANDS PVT. LTD.,
ANNANAGAR, CHAMMANAMPATHY,
GOVINDAPURAM P.O., CHITTUR TALUK,
PALAKKAD DISTRICT-678 507.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.P.T.ABHILASH**

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF ENVIRONMENT AND FOREST,
PARIYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD,
NEW DELHI-110 003.**
- 2. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF ENVIRONMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 3. KERALA STATE BIODIVERSITY BOARD,
L-14, JAI NAGAR, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM-695 011,
REPRESENTED BY ITS MEMBER SECRETARY.**
- 4. GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT,
TOWN BUS STAND COMPLEX, PALAKKAD-678 001.**
- 5. VILLAGE OFFICER,
MUTHALAMADA 1 VILLAGE, MUTHALAMADA P.O.,
PALAKKAD DISTRICT, PIN -678 507.**

**R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
SRI.K.THYAGARAJESWARAN, CGC**

R2,R4 & R5 BY GOVERNMENT PLEADER SRI.MOHAMMED SAVAD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE QUARRYING PERMIT
NO.63/GBS/DOP/2215/2013/A1/CRPS DATED 22.7.2013 VALID UP TO
21.7.2014 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT-P1(A): TRUE COPY OF THE QUARRYIN PERMIT
NO.64/GBS/DOP/2380/2013/A1/CRPS DATED 22.7.2013 VALID UP TO
21.7.2014 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT-P1(B): TRUE COPY OF THE QUARRYIN PERMIT
NO.65/GBS/DOP/2381/2013/A1/CRPS DATED 22.7.2013 VALID UP TO
21.7.2014 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT-P1(C): TRUE COPY OF THE QUARRYING PERMIT
NO.66/GBS/DOP/2379/2013/A1/CRPS DATED 22.7.2013 VALID UP TO
21.7.2014 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT-P2: TRUE COPY OF THE PROCEEDING NO.PCB/RO/PLKD/ICO/21/2013
DATED 20.8.2013 OF THE KERALA STATE POLLUTION CONTROL
BOARD.
- EXHIBIT-P3: TRUE COPY OF THE EXPLOSIVES LICENSE DATED 22.8.2012 ISSUED
BY THE JOINT CHIEF CONTROLLER OF EXPLOSIVES, CHENNAI VALID
UP TO 31.3.2017.
- EXHIBIT-P4: TRUE COPY OF THE FINAL FITNESS CERTIFICATE DATED 23.2.2013
ISSUED BY THE DISTRICT MEDICAL OFFICER OF HEALTH, PALAKKAD.
- EXHIBIT-P5: TRUE PHOTOCOPY OF THE MINING MATE'S CERTIFICATE OF
COMPETENCY DATED 26.9.2012 ISSUED BY THE CHAIRMAN, BOARD
OF MINING EXAMINATIONS, IN FAVOUR OF MR.JOHN NORONHA.
- EXHIBIT-P6: TRUE COPY OF DIRECTION DATED 13.11.2013 ISSUED BY THE 1ST
RESPONDENT, EXCEPT THE LIST OF VILLAGES ENUMERATED
THEREIN.
- EXHIBIT-P7: TRUE COPY OF THE OFFICE MEMORANDUM DATED 4.3.2014 ISSUED
BY THE 1ST RESPONDENT.
- EXHIBIT-P8: TRUE COPY OF THE DRAFT NOTIFICATION DATED 10.3.2014 ISSUED
BY THE 1ST RESPONDENT.
- EXHIBIT-P9: TRUE COPY OF THE SKETCH DETAILING THE BOUNDARIES OF ESA
OF MUTHALAMADA 1 VILLAGE PREPARED BY THE 3RD RESPONDENT.
- EXHIBIT-P9(A): TRUE COPY OF THE CERTIFICATE DATED 14.10.2014 ISSUED BY THE
5TH RESPONDENT.

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- EXHIBIT-P10: TRUE COPY OF THE JUDGMENT DATED 1.10.2014 IN W.P.(C)
NO.21524/2014 OF THIS HON'BLE COURT.
- EXHIBIT-P11: TRUE COPY OF THE PROCEEDING DATED 7.11.2014 OF THE 3RD
RESPONDENT.
- EXHIBIT-P12: TRUE COPY OF THE PROCEEDING DATED 18.11.2014 OF THE 4TH
RESPONDENT.
- EXHIBIT-P13: TRUE COPY OF THE INTERIM ORDER DATED 21.11.2014 IN W.P.(C)
NO.31093/2014 OF THIS HON'BLE COURT.
- EXHIBIT-P14: TRUE COPY OF THE QUARRYING PERMIT BEARING
NO.191/GBS/DOP/2673/2014/A1/CRPS DATED 26.11.2014, ISSUED BY
THE 4TH RESPONDENT VALID UP TO 24.12.2014.
- EXHIBIT-P14(A): TRUE COPY OF THE QUARRYING PERMIT BEARING
NO.192/GBS/DOP/2672/2014/A1/CRPS DATED 26.11.2014, ISSUED BY
THE 4TH RESPONDENT VALID UP TO 24.12.2014.
- EXHIBIT-P14(B): TRUE COPY OF THE QUARRYING PERMIT BEARING
NO.193/GBS/DOP/2675/2014/A1/CRPS DATED 26.11.2014, ISSUED BY
THE 4TH RESPONDENT VALID UP TO 24.12.2014.
- EXHIBIT-P14(C): TRUE COPY OF THE QUARRYING PERMIT BEARING
NO.194/GBS/DOP/2674/2014/A1/CRPS DATED 26.11.2014, ISSUED BY
THE 4TH RESPONDENT VALID UP TO 24.12.2014.
- EXHIBIT-P14(D): TRUE COPY OF THE JUDGMENT DATED 10.4.2015 IN W.P.(C)
NO.31093/2014 OF THIS HON'BLE COURT.
- EXHIBIT-P15: TRUE COPY OF THE ORDER NO.D.O.P./1049/2015/A1 DATED 5.5.2015
ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A. MUHAMED MUSTAQUE, J.

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W.P.(C) No.14210 of 2015

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Dated this the 12th day of May, 2015

JUDGMENT

The petitioner approached this Court aggrieved by Ext.P15 order issued pursuant to earlier judgment in W.P.(C).No.31093 of 2014 produced as Ext.P14.

2. In Ext.P14 judgment, this Court referred to earlier interim order in the proceedings touching notification in terms of Section 5 of the Environmental (Protection) Rules 1986. In the interim order it is noted that unless and until area falls within this draft notification, the authority cannot refuse consideration of renewal of quarrying license. A Division Bench of this Court in **All Kerala River Protection Council v. State of Kerala** (2015 (2) KLT 78) held that holder of quarry permit as on 09.01.2015 are entitled for renewal in the light of new rules. However, bypassing all the directions, the impugned order is passed stating that in Ext.P14 judgment in **All Kerala River Protection Council (supra)** there is no mention regarding area referred in Kasthurirangan report. Therefore petitioner's

request cannot be considered as directed by this Court in Ext.P14 judgment,

3. This Court in Ext.P14 judgment already adverted earlier interim order in the proceedings for renewal noting that if area would not fall within the draft notification, there is no impediment in renewal. In such circumstances, it is bounden duty on the part of respondent to consider the renewal application on its merit in accordance with directions in **All Kerala River Protection Council (supra)**.

4. In that view of the matter Ext.P15 is set aside. The respondents are directed to reconsider the matter within two weeks, in the light of Ext.P14 judgment.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

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