

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 15138 of 2015 (N)

PETITIONER(S):

1. NAVAS V.K,
S/O. KAREEM, AGED 36 YEARS, VEVUKADU HOUSE, ELOOR NORTH,
UDAYOGAMANDAL P.O., NORTH PARUR.
2. RAMESH M
S/O. MANI, AGED 32 YEARS, HOUSE NO. 380 (16/359), ITD NALLATHANI,
MUNNAR - 10.
3. RAJESH K.R ,
S/O. K.G.RAMANCHANDRAN, AGED 39 YEARS, KALEEL HOUSE,
HOUSE NO. 19/350A, PD ROAD, PALLURUTHY,
KOCHI - 682 006.
4. RAFEEQUE B.M
S/O. MUHAMMED, AGED 38 YEARS, KERITHAPARAMBIL HOUSE,
VAZHAKKALA, KAKKANAD, KOCHI - 682
5. MARYDASAN P.J
S/O. JOSEPH, HOUSE NO. 1/502D, PERUMGATTU HOUSE,
THUTHIYOOR, CSEZ P.O., KAKKANAD - 682 037.
6. SHAMSUDHEEN K.I,
S/O. ISMAIL, KILLIYANKAL HOUSE, PADAMUKAL,
THRIKKAKARA P.O., ERNAKULAM - 682 021.
7. SHAJI A.N.,
S/O. MAMMIC, HOUSE NO.7/962, PANDARAPARAMBIL HOUSE,
PANAYAPPALLY, KOCHI - 682 002.

BY ADV. SRI.LEO GEORGE

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001

Cont....2

2. SUB INSPECTOR OF POLICE, PALARIVATTOM POLICE STATION,
ERNAKULAM-682 020

* ADDL. R3 IMPEADED

3. SENIOR GEOLOGIST, DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, ERNAKULAM

R BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD

WP(C).No. 15138 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 - TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE FIFTH PETITIONER BY THE REGIONAL TRANSPORT AUTHORITY IN RESPECT OF VEHICLE BEARING REGISTRATION NO. KL7 BR 3845.

EXHIBIT P2 - TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE SIX PETITIONER BY THE REGIONAL TRANSPORT AUTHORITY IN RESPECT OF JCB BERAING REGISTRARION NO. KL13 M 1060.

EXHIBIT P3 - TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE SEVENTH PETITION BY THE REGIONAL TRANSPORT AUTHORITY IN RESPECT OF VEHICLE BEARING REGISTRATION NO. KL43 E 639.

EXHIBIT P4 - TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE FIFTH PETITIONER BY THE REGIONAL TRANSPORT AUTHORITY IN RESPECT OF VEHICLE BEARING REGISTRATION NO. KL7 BV 985.

EXHIBIT P5 - TRUE COPY OF THE COMPOUNDING APPLICATION SUBMITTED BY PETITIONERS 1 TO 4 BEFORE THE SECOND RESPONDENT DATED. 18.5.15.

EXHIBIT P6 - TRUE COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN WPC NO. 5224/15 DT. 24.2.15.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD

K.VINOD CHANDRAN, J.

W.P.(C).No.15138 of 2015

Dated this the 12th day of August, 2015

JUDGMENT

The petitioners in the above writ petition were aggrieved with the seizure of their vehicles for alleged commission of offence under the Kerala Minor Mineral Concession Rules 2015 (for short KMMC Rules) and Mines and Mineral (Development and Regulation) Act, 2015. The petitioners had made an application for compounding the offence under the KMMC Rules, 2015. This Court had, by way of an interim order dated 26.05.2015, directed that the petitioners' vehicles be released on payment of Rs.25,000/- each subject to further orders.

2. In a batch of writ petitions numbered as W.P (C) No.14605 of 2015 and connected cases, this Court has considered the aforesaid issue and directed the Government to bring appropriate amendments to the Rules so as to avoid the arbitrary exercise of the discretionary power, conferred on the authorities, under the compounding provision. However, for the pending

cases, this Court had directed that compounding of tipper lorries to be effected on payment of Rs.50,000/- (Rupees fifty thousand only) each as also double the amount of royalty and the price of the mineral illegally transported as determined by the Geologist on an assessment of the maximum quantity that could be transported in the goods vehicle which had been seized. The offence as against JCB's were directed to be compounded on payment of Rs.75,000/- The very same direction shall apply herein also, with respect to each of the vehicles. The petitioner shall produce the registration certificate before the Geologist-additional 3rd respondent suo motu impleaded within two weeks, and if not the vehicle shall be liable for seizure. The additional 3rd respondent shall determine the said amount and deduct the amounts paid by virtue of the interim order on production of the receipt of such payment. On payment of the aforesaid sums offence shall be compounded. The compounding made shall be marked in the registration certificate of the vehicles and communicated to the Motor Vehicle Department. If the

petitioner does not comply with the above order the vehicles shall be liable for seizure and the petitioner shall be liable to be prosecuted.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN
JUDGE

AD