

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(C).No. 15226 of 2015 (C)

PETITIONER :

1. K.V.ANTONY
S/O.POULO VARGHESE, KUNNALANGADI KARINGEN VEETIL
NADUVATTOM P.O, MALAYATTOOR VILLAGE
ERNAKULAM DISTRICT.
2. M.V.ANTU
S/O.VAREETH, MANIKKATHAN HOUSE, AYYAMPUZHA P.O
ALUVA TALUK, ERNAKULAM DISTRICT.

BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.VNAIR

RESPONDENTS :

1. UNION OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
PETROLEUM AND EXPLOSIVES SAFETY ORGANISATION (PESO)
REPRESENTED BY SECRETARY 110 001.
2. THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES
PETROLEUM AND EXPLOSIVES SAFETY ORGANISATION
(PESO) BLOCK NO.C-2
3RD FLOOR, KENDRIYABHAVAN, KAKKANAD
ERNAKULAM. 682 030.
3. THE DISTRICT MAGISTRATE
COLLECTORATE, ERNAKULAM 682 030
4. THE DISTRICT MAGISTRATE
COLLECTORATE, PALAKKAD 678 601.

R1-R2 BY SRI.A.R.GANGADAS, CGC
SRI.N.NAGARESH, ASGI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE LICENSE.

EXHIBIT P2. COPY OF THE LEASE AGREEMENT ENTERED UPON BETWEEN 1ST AND 2ND PETITIONER.

EXHIBIT P3. COPY OF THE LICENSE ISSUED IN THE NAME OF THE 2ND PETITIONER.

EXHIBIT P4. COPY OF THE CONSENT LETTER ISSUED BY THE SAID KUTTAPPAN TO THE 2ND PETITIONER.

EXHIBIT P5. COPY OF THE APPLICATION DATED 30.1.15 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P6. COPY OF THE LETTERS SUBMITTED BY THE 2ND PETITIONER WHILE SUBMITTING THE REQUIRED DOCUMENTS.

EXHIBIT P6(A).COPY OF THE LETTERS SUBMITTED BY THE 2ND PETITIONER WHILE SUBMITTING THE REQUIRED DOCUMENTS.

EXHIBIT P7. COPY OF THE ORDER DATED 07.5.15 ISSUED TO THE 2ND PETITIONER.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.15226 of 2015

Dated this the 30th day of November, 2015

J U D G M E N T

The 1st petitioner is in absolute ownership and possession of the property which was purchased from one Kuttappan, the holder of an explosive licence. The said licence was issued based on a No Objection Certificate ('NOC' for short) issued by the District Magistrate, Palghat. This licence has been expired.

2. The 2nd petitioner entered into a lease agreement with the 1st petitioner for quarrying operation in the property belongs to the 1st petitioner at Palghat. At present, the 2nd petitioner is in possession of the property as well as the explosive licence. This was issued based on NOC of District Magistrate, Ernakulam. Now the 2nd petitioner wants to use the NOC issued under Section 102 of the Explosive Rules for the purpose of obtaining explosive licence at Palakkad. The petitioners submit that, under Rule 108 of the Explosive Rules, the petitioners are entitled for such transfer.

3. The learned counsel for the 2nd respondent opposed the said submission. The NOC can be issued by the District Magistrate concerned or the Director General of Mines Safety as the case may be, before commencing construction of the premises. Therefore, as per Rule 102, it is very clear that, the authority to issue NOC is with the District Magistrate within its jurisdiction and it cannot go beyond that jurisdiction.

4. From a reading of Rule 108, which refers to the transfer of licence, it has to be understood that it only would be applicable, if the NOC was issued in respect of the licence of the same District and not in respect of different Districts.

5. In that view of the matter, this Court is of the view that, the rejection of petitioners' request for NOC as per Ext.P7 by the 2nd respondent does not require any interference. The petitioners are free to move the competent authority for NOC. If the petitioners move the District Magistrate concerned under Rule 102 of Explosive Rules, such application shall be considered within a period of one month of the date of moving such application.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV