

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 17462 of 2015 (G)

PETITIONER(S):

**R. MADHU,
ASHWIN NIVAS, VENGODE P.O.,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.SUMAN CHAKRAVARTHY,
SMT.K.R.RIJA.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY ,
DEPARTMENT OF INDUSTRIES AND COMMERCE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE DIRECTOR, MINING AND GEOLOGY,
DIRECTORATE OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM -695 004.**
- 3. THE DISTRICT GEOLOGIST,
DIRECTORATE OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM-695 004.**

BY SR. GOVT. PLEADER SRI.BIJU MEENATTOOR.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 17462 of 2015 (G)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE CONSENT TO OPERATE ISSUED FROM THE PCB DATED 20.02.2009.

EXHIBIT P2: TRUE COPY OF THE QUARRYING PERMIT DATED 08.02.2012.

EXHIBIT P3: TRUE COPY OF THE TAHSILDAR'S REPORT DATED 04.01.2012.

EXHIBIT P4: TRUE COPY OF THE LETTER DATED 24.01.2012 BY THE THIRUVANANTHAPURAM CORPORATION.

EXHIBIT P5: TRUE COPY OF THE CERTIFICATE ISSUED BY THE APPROVED ENGINEER ALONG WITH THE DRAWING.

EXHIBIT P6: TRUE COPY OF THE JUDGMENT DATED 03.12.2014 IN WP(C).NO.897/2014.

EXHIBIT P7: TRUE COPY OF THE NOC DATED 19.02.2015 BY ADM.

EXHIBIT P8: TRUE COPY OF THE COMMUNICATION DATED 08.04.2015 BY THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No. 17462 of 2015

Dated this the 18th day of June, 2015

J U D G M E N T

The petitioner admittedly was an existing quarry operator, who had a licence as per Ext.P1 which was valid between 08.02.2012 to 07.02.2013. The petitioner could not get renewal of the quarrying permit since the District Collector refused to issue a No Objection Certificate for reason of the petitioner being involved in a criminal case. The petitioner being aggrieved of such a decision taken, by the District Collector, was before this Court, contending that the reason cited for non-issuance of No Objection Certificate cannot be sustained as per the enactment regulating the issuance of quarrying permit. This Court by Ext.P6 directed issuance of a No Objection Certificate, which is said to have been issued at Ext.P7. The petitioner's present grievance is that, despite that, the petitioners application is not being considered. The petitioner not having been issued with a Form A,

which he has to now apply in, for issuance of a quarrying permit under Rule 4 of the Kerala Minor Mineral Concession Rules, 2015.

2. The learned Government Pleader points out that the petitioner cannot be seeking any renewal of the earlier permit since for whatever reasons, the earlier permit expired on 07.02.2013, and no renewal was granted at that point of time. Further with respect to the contention that Form A was not issued, the learned Government Pleader submits that the necessary fees could be paid and the application itself could be downloaded from the site of the Department.

3. As contended by the learned Government Pleader, the petitioner cannot seek any renewal of the earlier quarrying permit. The learned Government Pleader also submits that with respect to renewal of permit, there should be an environmental Clearance Certificate. The learned counsel asserts that he is not seeking any renewal and is only seeking for a fresh permit under

the Kerala Minor Mineral Concession Rules, 2015.

4. With respect to the stand of the Department that the environmental clearance certificate is required for making an application, the learned counsel appearing for the petitioner rightly refers to Rule 9 of the Rules of 2015, which mandates an environmental clearance certificate only after the authority under the Rules of 2015 makes a site inspection, on an application made under Rule 4 and takes a decision regarding the area to be granted for quarrying. Hence going by the provision, an application presented before the appropriate authority would have to be first processed by a site inspection and a decision taken on the exact area to be granted for such purpose, if the authorities decide in favour of such grant. Then the question of submitting an approved mining plan along with environmental clearance certificate arises. Undoubtedly, without the environmental clearance certificate there can be no quarrying permit issued. The

petitioner necessarily would have to satisfy that mandate at the stage when it is required. At this point of time, the petitioner could definitely make an application which has to be considered by the authority under the provisions of Rules of 2015. In such circumstance, if an application is presented by the petitioner it should be considered by the 3rd respondent expeditiously; which application, the petitioner shall ensure will be complete in all respects. Nothing has been observed or found on the merits of the claim for permit, which is within the exclusive authority of the officer conferred with such power.

Writ petition is disposed of. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge