

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 18021 of 2015 (C)

PETITIONER :

**P.A.ROSAMMA
M/S. ROSE GRANITE,
MOOPATTIL HOUSE, EDAVAKA P.O.
KALLODY, MANANTHAWADY,
WAYANAD DISTRICT.**

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S) :

- 1. DISTRICT COLLECTOR,
WAYANAD-673 121.**
- 2. DIRECTOR,
VIGILANCE AND ANTICORRUPTION BUREAU
THIRUVANANTHAPURAM - 695 033.**
- 3. SUPERINTENDENT OF POLICE
VIGILANCE AND ANTICORRUPTION BUREAU, NORTHERN RANGE
KOZHIKODE - 673 001.**
- 4. STATE OF KERALA
REPRESENTED BY ADDITIONAL CHIEF SECRETARY TO GOVERNMENT
VIGILANCE (D) DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**

**R1 TO R4 BY ADDL. ADVOCATE GENERAL SRI.K.A.JALEEL
BY GOVT. PLEADER SRI. T.P. SAJID**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 - TRUE COPY OF THE LICENCE FORM LE3 DATED 26.02.2011 ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE, WAYANAD.
- EXT. P2 - TRUE COPY OF THE QUARRYING PERMIT DATED 12.02.2014 ISSUED TO THE PETITIONER BY THE MINING AND GEOLOGY DEPARTMENT.
- EXT. P3 - TRUE COPY OF THE CONSENT TO OPERATE DATED 07.05.2015 ISSUED TO THE PETITIONER BY THE KERALA STATE POLLUTION CONTROL BOARD.
- EXT. P4 - TRUE COPY OF THE LICENCE ISSUED BY THE GRAMA PANCHAYATH DATED 14.01.2015.
- EXT. P5 - TRUE COPY OF THE REPORT SUBMITTED BY THE GEOLOGIST DATED 02.04.2014.
- EXT. P6 - TRUE COPY OF THE ORDER DATED 25.06.2014 OF THE ADDITIONAL DISTRICT MAGISTRATE, WAYANAD, RENEWING THE EXPLOSIVES LICENCE OF THE PETITIONER.
- EXT. P7 - TRUE COPY OF THE SURPRISE CHECK REPORT PREPARED BY THE INSPECTOR OF POLICE, VIGILANCE AND ANTICORRUPTION BUREAU, OBTAINED UNDER RTI ACT.
- EXT. P8 - TRUE COPY OF THE TITLE DEED DATED 23.02.2015.
- EXT. P9 - TRUE COPY OF THE COMMUNICATION DATED 05.01.2015 ISSUED BY THE DIRECTOR OF VIGILANCE.
- EXT. P10 - TRUE COPY OF THE COMMUNICATION DATED 16.02.2015 ISSUED BY THE 4TH RESPONDENT TO THE DISTRICT COLLECTOR.
- EXT. P11 - TRUE COPY OF THE COMMUNICATION DATED 02.05.2015 ISSUED BY THE GEOLOGIST.

RESPONDENT(S)' EXHIBITS :

- EXT. R3(a) COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER TO ED AVAKA PANCHAYAT DATED 7.5.2013.

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 18021 of 2015

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Dated this the 15th day of September, 2015

J U D G M E N T

The petitioner is having quarrying permit. The petitioner's quarrying unit was inspected by the 3rd respondent by a surprise check. Ext.P7 is the surprise check report.

2. In the surprise check the following irregularities were noticed.

“The Pollution Control Board has issued the consent to operate ignoring a residential building that is within 100 meters to the south west side of the active quarry. Hence the officials who extended consent are responsible Machinery is being used for quarrying purpose. Panchayath officials has failed in monitoring the use of machinery. The Panchayath officials has ignored to obtain the consent letter of the nearby residents before allowing permit.”

3. The petitioner apprehends action based on surprise check including cancellation of the permit. Accordingly, he has approached this Court. This Court is of the view that before taking any decision based on Ext.P7, the petitioner should be given an opportunity to explain the irregularities noticed by the third respondent. In that view of the matter this Court is of the view that

4th respondent shall hear the petitioner. Though the third respondent filed a counter justifying the reporting irregularities, this Court is of the view that necessarily this is a matter has to be adverted by the authority who has to rely upon Ext.P7. Therefore following directions are issued.

The petitioner shall raise their objection to Ext.P7 before the 4th respondent within 2 weeks from the date of receipt of the copy of this judgment. Thereafter, the 4th respondent after hearing the petitioner, shall take appropriate decision based on the objection raised by the petitioner. The decision shall be communicated to the petitioner. Till the decision is taken by the 4th respondent, no coercive steps shall be taken against the petitioner. It appears that the 4th respondent accepted Ext.P7 as against the petitioner without conducting an enquiry. Ext.P7 is the check report of the 3rd respondent.

In view of the above, Ext.P10 is set aside. The further action against him would depend upon the decision of the 4th respondent after hearing.

The writ petition is disposed of, as above.

sab

sd/-

A.MUHAMED MUSTAQUE, JUDGE

//TRUE COPY//

P.A. TO JUDGE