

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 18710 of 2014 (K)

PETITIONER:

**VIKAS, AGED 25 YEARS,
THIRUVONAM, MANAPPALLY NORTH P.O,
KOLLAM.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENTS:

- 1. DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA-688 001**
- 2. INSPECTOR OF POLICE,
C.I OFFICE, MAVELIKKARA-690 101**
- 3. SUB INSPECTOR OF POLICE,
NOORNADU POLICE STATION,
NOORNADU-690 504**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 18710 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:- COPY OF THE RC BOOK LORRY BEARING NO.KL-23-F-4351

P2:- COPY OF THE PERMIT ISSUED BY THE GEOLOGIST.

P3:- COPY OF THE CASH BILL FROM SPARE PART SHOP

P4:- PHOTOCOPY OF THE P FORM ISSUED BY THE GEOLOGIST.

P5:- COPY OF THE SEIZURE MAHAZAR.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

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W.P.(C)No.18710 OF 2014
.....

Dated this the 4th March, 2015

J U D G M E N T

The vehicle bearing No. **KL.23-F 4351** was seized by the third **respondent/Sub Inspector** alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules.

2. Heard both the sides.

3. The authority of the third respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala [2014(1) KLT 536]**. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala [2008 (4) KLT 909]**. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **21.07.2014**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/-`**. In the said circumstance, the further course of action required is to surrender the vehicle before the third respondent/Sub Inspector, so as to enable the said respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have the offence compounded on satisfying the compounding fee of **Rs.25,000/-**. The amount ordered to be paid as per the interim order dated **21.07.2014** shall be treated as compounding fee and offence shall be treated as compounded. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported.

If there is any failure in satisfying the compounding fee, the third respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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