

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 18569 of 2015 (U)

PETITIONER:

**SUNEER M.K., S/O.MUHAMMED,
AGED 33 YEARS, KUTTIPARA, PAYYANAD,
MANJERI, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR.

RESPONDENTS:

- 1. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, MINI CIVIL STATION,
MANJERI, MALAPPURAM DISTRICT, PIN-676 121.**
- 2. THE DEPUTY CHIEF ENGINEER,
K.S.E.B., ELECTRICAL CIRCLE, MANJERI,
MALAPPURAM DISTRICT, PIN-676 121.**

**R1 BY GOVT. PLEADER SMT.C.K. SHERIN.
R2 BY ADV. SRI.T.R.RAJAN, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 18569 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 TRUE COPY OF THE WORK ORDER ISSUED BY THE
2ND RESPONDENT DATED 17-12-2013.

EXT.P2 TRUE COPY OF THE ORDER OF THE PRINCIPAL SECRETARY,
DEPARTMENT OF AGRICULTURE, THIRUVANANTHAPURAM
AS NO. G.O.(MS)NO.120/2014/AGRI.DATED 04-06-2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.(C) No. 18569 of 2015 (U)

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioner is a contractor who has been awarded work by the 2nd respondent Kerala State Electricity Board. The petitioner has to fill the land as permitted under Ext.P2. The petitioner seeks transportation of excavated sand, which is said to be lying in Survey nos.13/7 and 13/8 of the Pulamanthole Village, which is said to be sand removed for the construction of the basement of the building therein. The petitioner's grievance is that the 1st respondent is not issuing passes despite the 1st respondent being authorised to do so under Rule 106 of the Kerala Minor Mineral Concession Rules, 2015. Sub Rule (3) of Rule 106 reads as under:

“(3) Where in the construction of public works like roads, canals, irrigation projects, railways, as a part of the work, if extraction of minor mineral is inevitable, the

department/authority may do so without obtaining quarrying permit under these rules. If the extracted mineral is to be transported out of the work site, competent authority shall issue mineral transit passes on an application made by the authority concerned, after collecting the royalty:"

2. Admittedly, the work entrusted to the petitioner by the 2nd respondent is a public work for which extraction of minor mineral is inevitable. The K.S.E.B. has also been granted exemption as per Ext.P2 for filling up of the land. In such circumstance, the 1st respondent shall inspect the property in Survey Nos. 13/7 and 13/8 of the Pulamanthole Village and determine the amount of earth to be transported. The O(A) passes shall be issued on a proper application being made by the 2nd respondent or any officer authorised by the 2nd respondent. The Geologist shall also issue as many number of passes as there are vehicles required for transporting the earth after ensuring that the entire details required in form O(A) is filled up by the

petitioner. The petitioner shall also be liable to surrender the passes after the transport is effected. It goes without saying that the destination to which the ordinary earth is to be taken has to be specified in the passes, before it is issued by the respondent. The above exercise shall be done immediately on the petitioner approaching the Geologist.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE