

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 23002 of 2009 (U)

PETITIONER(S) :

K.V.MOHANAN, AGED ABOUT 50 YEARS,
S/O.VIJAYAN, KUZHIYANVELIL, OKKAL KARA,
CHELAMATTAM VILLAGE, KALADY, ERNAKULAM DISTRICT.

BY ADVS.SRI.S.VIDYASAGAR
SMT.MINI RAJ

RESPONDENT(S) :

1. THE SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. MUDAKKUZHA GRAMA PANCHAYATH REPRESENTED
BY ITS SECRETARY, MUDAKKUZHA GRAMA PANCHAYATH,
MUDAKKUZHA (PO) VIA VENGOOR, ERNAKULAM DISTRICT.

3. THE PRESIDENT, MUDAKKUZHA GRAMA PANCHAYATH,
MUDAKKUZHA P.O.

R2 & R3 BY ADV. SRI.RAJESH VIJAYAN
R2 & R3 BY ADV. SRI.K.N.ANIL KUMAR
R1 BY GOVERNMENT PLEADER SRI.V.K.RAFEEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) .No. 23002 of 2009 (U)

APPENDIX

PETITIONER'S EXHIBITS:

- P1: TRUE COPY OF SALE DEED DTD.23.10.03
- P2: TRUE COPY OF THE EXPLOSIVE LICENCE ISSUED BY THE MINISTRY
OF COMMERCE AND INDUSTRY
- P3: TRUE COPY OF QUARRYING PERMIT ISSUED BY THE KERALA
POLLUTION CONTROL BOARD VALID UPTO 10.2.2010
- P4: TRUE COPY OF THE QUARRYING PERMIT UNDER KMMC RULES
- P5: TRUE COPY OF PROCEEDINGS DT.14.11.06 OF DMO, ERNAKULAM
IMPOSING CONDITIONS FOR ISSUANCE OF D&O LICENCE BY R2
PANCHAYAT WITH REPORT OF TECHNICAL ASSISTANT.
- P6: TRUE COPY OF THE CONSENT ORDER DT.5.12.06 ISSUED BY R2
ALLOWING COMPLIANCE OF EXT.P5 CONDITIONS FOR ISSUING D&O
- P7: TRUE COPY OF NOC DT.19.1.07 ISSUED BY DMO ON COMPLIANCE OF
CONDITIONS IN P5 PROCEEDING
- P8: TRUE COPY OF REMINDER LETTER DT.18.2.09 FOR ISSUANCE OF
D&O LICENCE BY PANCHAYAT
- P9: TRUE COPY OF APPLICATION UNDER PUBLIC INFORMATION ACT TO
ISSUE A COPY OF NOTIFICATION U/S 232(1) OF KPR ACT.

RESPONDENTS' EXHIBITS: NIL

OKB

True copy

P.A. to Judge

K.HARILAL, J.

W.P.(C) No.23002 of 2009

Dated this the 16th day of December, 2015.

JUDGMENT

The petitioner is conducting a quarry in the landed property belonging to him located in Re-Sy.No.504/4 of Vengoor West Village. According to him, he has obtained all permits required under law from the competent authorities which are necessary for conducting a quarry. Exts.P2 to P5 are the statutory licences/permits issued by the Ministry of Commerce and Industry, Petroleum and Explosives Safety Organisation (PESO), Kerala State Pollution Control Board, Geologist, District Officer of the Mining and Geology, District Medical Officer, etc. On receipt of the application for D&O licence the 2nd respondent Panchayat issued Ext.P6 letter requiring the petitioner to comply with the conditions specified by the District Medical Officer by Ext.P5 consent. On receipt of Ext.P6 letter from the Panchayat, the

petitioner complied with the stipulations in Ext.P5 order and obtained Ext.P7 No Objection Certificate from DM0 for granting D&O licence from the Panchayat. The grievance of the petitioner is that from 2007 onwards, though the petitioner approached the 2nd respondent for issuance of D&O licence, the Panchayat evaded from issuing the same without assigning any reason. There is no justification or reasoning for not granting of D&O licence by the 2nd respondent Panchayat. Thus, the petitioner is aggrieved by wilful inaction on the part of the 2nd respondent Panchayat in considering the application for D&O licence.

2. Going by the averments in the writ petition and Exts.P1 to P7 documents produced and marked along with the writ petition, it is seen that the petitioner has obtained statutory consent/permit from the competent authorities under various statutes. Further, Ext.P7 shows that he has satisfactorily complied with the conditions stipulated in Ext.P5 consent granted by the District Medical Officer. In view of the statutory permission/licences acquired by

the petitioner from various Authorities, it was incumbent upon the 2nd respondent Panchayat to consider and pass orders on the application filed by the petitioner. The inaction on the part of the 2nd respondent Panchayat cannot be justified in view of Exts.P1 to P7 documents.

3. Having regard to the above view of the matter, the Secretary of the 2nd respondent Panchayat is directed to consider the application filed by the petitioner seeking D&O licence and pass orders accordingly, at the earliest, at any rate, within a period of two months from the date of receipt of a copy of this judgment, after affording an opportunity of being heard to the petitioner also.

This writ petition is disposed of.

Sd/-
K. HARILAL, JUDGE

okb.