

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No. 18789 of 2015 (W)

PETITIONER:

**SUKUMARAN, S/O.KRISHNANKUTTY,
AGED 55 YEARS, KOTTAPPADY HOUSE,
ONGALLUR VILLAGE, VADANAMKURISSI P.O.,
PATTAMBI TALUK, PALAKKAD DISTRICT,
PRESIDENT, M/SO.OTTAPPALAM TALUK KARINGAL
QUARRY OPERATORS INDUSTRIAL
CO-OPERATIVE SOCIETY LTD.NO.SIND (P), 176,
VADANAMKURISI (P.O.), PALAKKAD.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. ONGALLUR GRAMA PANCHAYATH,
KALLADIPATTA P.O., PALAKKAD DISTRICT-679421,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
ONGALLUR GRAMA PANCHAYATH,
KALLADIPATTA P.O., PALAKKAD DISTRICT-679421.**

BY ADV. SRI.A.HAROON RASHEED

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1: TRUE COPY OF THE QUARRYING PERMIT DATED 10.11.2014 ISSUED BY THE DEPARTMENT OF MINING AND GEOLOGY, PALAKKAD DISTRICT.
- EXHIBIT-P2: TRUE COPY OF THE LICENCE ISSUED BY THE CHIEF CONTROLLER OF EXPLOSIVES, SOUTH CIRCLE, CHENNAI TO THE PETITIONER DATED 15.4.2014.
- EXHIBIT-P3: TRUE COPY OF THE NO OBJECTION CETIFICATE DATED 29.11.2014 ISSUED BY THE ASSISTANT DIVISIONAL OFFICER, FIRST AND RESCUE SERVICES, PALAKKAD.
- EXHIBIT-P4: TRUE COPY OF THE COMMUNICATION DATED 27.4.2015 ISSUED FROM THE OFFICE OF THE DEPARTMENT OF MINING AND GEOLOGY, PALAKKAD.
- EXHIBIT-P5: TRUE COPY OF CONSENT VARIATION ORDER DATED 5.5.2015 ISSUED FROM THE KERALA STATE POLLUTION CONTROL BOARD, PALAKKAD.
- EXHIBIT-P6: TRUE COPY OF THE APPLICATION DATED 7.5.2015 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXHIBIT-P7: TRUE COPY OF THE RECEIPT DATED 8.5.2015 ISSUED BY THE SECOND RESPONDENT.
- EXHIBIT-P8: TRUE COPY OF THE EARLIER APPLICATION DATED 3.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.
- EXHIBIT-P9: TRUE COPY OF THE RECEIPT DATED 3.12.2014 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER REGARDING THE RECEIPT OF EARLIER APPLICATION.
- EXHIBIT-P10: TRUE COPY OF THE SAID CIRCULAR ISSUED BY THE DIRECTOR OF PANCHAYAT DATED 17.04.2015.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.18789 of 2015

Dated this the 30th day of June, 2015.

JUDGMENT

Aggrieved by the non-consideration of the petitioner's application for the grant of quarrying permit, the petitioner has come up before this Court.

2. The petitioner is operating a granite quarry with all the licence and permits from all the concerned authorities. The petitioner alleges that there was a condition in Ext.P1 quarrying permit that the permit will be invalid without production of environmental clearance certificate from the Kerala State Environment Impact Assessment Authority on or before 9.2.2015. Facts being so, the Kerala Minor Mineral Concession Rules 2015 has been introduced by the State and as per Rule 12 of the said rules, the environmental clearance certificate has been exempted if the quarry holder had a valid licence as on 9.1.2015. Hence the petitioner approached the department of mining and geology, Palakkad to issue sufficient

O(A) forms to him for the transportation of granite aggregates on the basis of Ext.P1 permit since the same has been valid up to 9.11.2015. Then from the office of the department of mining and geology, Palakkad issued Ext.P4 communication directing the petitioner to produce no objection certificate from the Pollution Control Board, Explosives licence from the authority concerned and D & O licence from the local self government department authority concerned. Thereafter, the petitioner submitted Ext.P6 application before the first respondent and requested to issue and D & O licence. After receipt of Ext.P6 application, the first respondent informed the petitioner that he will consider the application for D & O licence only after production of clearance certificate from the Kerala State Environment Impact Assessment Authority. The petitioner was told that he would get benefit of Rule 12 of the Kerala Minor Mineral Concession Rules 2015 only for the renewal of panchayath licence; it is alleged.

3. I have heard the learned counsel for the petitioner

and the learned counsel for the respondent panchayat in the matter.

4. The learned counsel for the petitioner submitted that there was a condition in Ext.P1 permit that the quarrying permit would be invalid without production of Environmental Clearance Certificate from the Kerala State Environment Impact Assessment Authority on or before 9.1.2015. It was pointed out that the Kerala Minor Mineral Concession Rules 2015 has been introduced by the State and as per Rule 12 of the said rules, the environmental clearance certificate has been exempted if the quarry holder had a valid licence as on 9.1.2015. Therefore, the petitioner approached the department of mining and geology, Palakkad to issue sufficient O(A) forms to him for the transportation of granite aggregates on the basis of Ext.P1 permit since the same has been valid upto 9.11.2015. The office of the department of mining and geology, Palakkad issued a communication dated 27.4.2015 and directed the petitioner to produce no objection certificate

from the pollution control board, Explosives licence from the authority concerned and D & O licence from the local self government department authority concerned. The petitioner has produced Ext.P5 consent variation order of the Pollution Control Board and Ext.P6 which is the copy of the application by the petitioner before the first respondent. The petitioner's grievance is that after the receipt of Ext.P6 application, the respondent informed the petitioner that the application for D&O licence would be considered only after the production of clearance certificate from the Kerala State Environment Impact Assessment Authority.

5. The learned counsel invited my attention to Ext.P10 circular issued by the Director of Panchayat dated 17.4.2015 in connection with the above subject matter which clarified that the holders of permit valid as on 9.1.2015 have been exempted from production of environment clearance. As per Section 12 of the Kerala Minor Mineral Concession Rules, 2015, environmental clearance has been exempted to the permit

holder who had valid permit as on 9.1.2015. Therefore, the petitioner is entitled to the said benefit. Moreover, as per the provisions of law, the environmental clearance is not required for the existing quarries till the validity of licence but the same is required only for renewal of the same before the department of mining and geology.

6. Considering the nature of the submissions made in the writ petition, this Court is of the view that the petitioner is entitled to the relief as prayed for.

In the result, the writ petition is disposed of directing the second respondent to issue D & O licence to the petitioner without insisting environmental clearance certificate within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.