

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 19564 of 2015 (U)

PETITIONER(S):

1. ASHA DEVI.D.B, W/O.PRADEEP KUMAR,
'AISHWARYA', POLYTECHNIC ROAD,
IRUMBANANGADU P.O, EZHUKONE, KOLLAM.
2. PRADEEP KUMAR.D, 'AISHWARYA',
POLYTECHNIC ROAD, IRUMBANANGADU P.O,
EZHUKONE, KOLLAM.

**BY ADVS.SMT.SREEDEVI KYLASANATH
DR.V.L.MONY
SRI.M.JAYAKRISHNAN
SRI.ACHUTH KYLAS
SMT.SHALEENA RAJAN**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
GOVT. SECRETARIAT, TRIVANDRUM-695001.
2. THE DIRECTOR,
DIRECTORATE OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM P.O,
THIRUVANANTHAPURAM, PIN - 695004.
3. GEOLOGIST,
DEPARTMENT OF MINIG AND GEOLOGY,
DISTRICT OFFICE, KOLLAM DISTRICT - 695001.
4. KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY THE ENVIRONMENTAL ENGINEER,
DISTRICT OFFICE, KOLLAM, USHAS BUILDING,
BIG BAZAR, KOLLAM, PIN - 691001.
5. EZHUKONE GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
EZHUKONE P.O, KOLLAM, PIN - 691505.

WP(C).No. 19564 of 2015 (U)

6. OMANAKUTTAN V, MURALI SADANAM,
VAKANADU P.O, KOLLAM - 691509.
7. BINU, DEEPTHI GARDEN, EZHUKONE P.O,
KOLLAM - 691505.
8. STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY KERALA, REPRESENTED BY ITS SECRETARY,
DIRECTORATE OF ENVIRONMENT AND CLIMATE CHANGE,
PALLIMUKKU, PETTAH P.O, TRIVANDRUM - 695024.

R1 TO R3 & R8 BY GOVERNMENT PLEADER
R4 BY SRI.M.R.ARUNKUMAR, SC
R5 BY ADV. SRI.M.R.SASITH
R6 BY ADVS. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G
SRI.DIPU JAMES
SRI.M.D.SASIKUMARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE REPRESENTATION DATED 05.06.2014 SUBMITTED BEFORE THE 5TH RESPONDENT.
- P2: TRUE COPY OF THE REPRESENTATION DATED 18.12.2014 SUBMITTED BEFORE THE 5TH RESPONDENT.
- P3: TRUE COPY OF THE LICENSE ISSUED BY THE 5TH RESPONDENT PANCHAYT DATED NIL.
- P4: TRUE COPY OF THE REPLY DATED 19.06.2015 ISSUED TO THE 2ND PETITIONER UNDER RIGHT TO INFORMATION ACT.
- P5: TRUE COPY OF THE CONSENT VARIATION ORDER DATED 22.05.2015 ISSUED TO THE 6TH RESPONDENT.
- P6: TRUE COPY OF THE FRESH CONSENT DATED 10.12.2014 ISSUED TO THE 6TH RESPONDENT.
- P7: TRUE COPY OF THE RENEWED/EXTENDED PERMIT DATED 19.05.2015 ISSUED BY THE 3RD RESPONDENT.
- P8: TRUE COPY OF THE OBJECTION DATED 18.06.2015 SUBMITTED TO THE 5TH RESPONDENT.
- P9: TRUE COPY OF THE LAND TAX RECEIPT DATED 6.2.2014.
- P10: TRUE COPY OF THE MINUTES OF THE PANCHAYAT COMMITTEE DATED 30.1.2015.
- P11: TRUE COPY OF THE REQUEST DATED 18.6.2015.
- P12: TRUE COPY OF THE APPLICATION FOR LICENSE SUBMITTED BY THE 6TH RESPONDENT DATED 1.6.2015.
- P13: TRUE COPY OF THE SITE LOCATION PLAN OBTAINED UNDER RIGHT TO INFORMATION ACT, 2005.
- P14: PHOTOGRAPHS OF THE CRACKS FORMED IN THE PETITIONERS' HOUSE DUE TO THE MINING ACTIVITIES OF THE 6TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

- EXT.R5(1): TRUE COPY OF REPORT OF THE SUB COMMITTEE BEFORE THIS RESPONDENT.
- EXT.R5(2): TRUE COPY OF REPORT OF THE SITE INSPECTION CONDUCTED BY THIS RESPONDENT.

WP(C).No. 19564 of 2015 (U)

-
- EXT.R5(3): TRUE COPY OF SKETCH PREPARED BY THE VILLAGE OFFICER, EZHUKONE GRAMA PANCHAYAT.
- EXT.R5(4): TRUE COPY OF NOTICE ISSUED BY THIS RESPONDENT.
- EXT.R5(5): TRUE COPY OF MINUTES OF THIS PANCHAYAT COMMITTEE HELD ON 26.6.2015.
- EXT.R5(6): TRUE COPY OF MINUTES OF THIS STEERING COMMITTEE HELD ON 27.6.2015.
- EXT.R5(7): TRUE COPY OF LICENSE ISSUED BY THIS RESPONDENT TO THE 6TH RESPONDENT.
- EXT.R6(A): TRUE COPY OF THE PERMIT DATED 8.12.2014 ISSUED BY THE GEOLOGIST IN FAVOUR OF THE 6TH RESPONDENT.
- EXT.R6(B): TRUE COPY OF THE CHELLAN RECEIPT EVIDENCING THE PAYMENT OF ADVANCE ROYALTY OF RS.1 LAKH
- EXT.R6(C): TRUE COPY OF INTEGRATED CONSENT TO OPERATE ISSUED FROM POLLUTION CONTROL BOARD.
- EXT.R6(D): TRUE COPY OF LICENCE ISSUED FROM EZHUKONE GRAMA PANCHAYAT.
- EXT.R6(E): TRUE COPY OF THE COMMUNICATION DATED 16.4.2015 OF THE DIRECTORATE OF MINING & GEOLOGY.
- EXT.R6(F): TRUE COPY OF THE RENEWAL PERMIT DATED 19.5.2015 ISSUED BY THE GEOLOGIST, KOLLAM.
- EXT.R6(G): TRUE COPY OF CHELLAN RECEIPT EVIDENCING THE PAYMENT OF ENHANCED ARREARS OF ROYALTY.
- EXT.R6(H): TRUE COPY OF CONSENT VARIATION ORDER DATED 22.5.2015 ISSUED BY POLLUTION CONTROL BOARD.
- EXT.R6(I): TRUE COPY OF LICENCE DATED 27.6.15 ISSUED BY EZHUKONE GRAMA PANCHAYAT.
- EXT.R6(J): TRUE COPY OF TAX RECEIPT ISSUED IN FAVOUR OF 7TH RESPONDENT.
- EXT.R6(K): TRUE COPY OF TAX RECEIPT ISSUED IN FAVOUR OF 7TH RESPONDENT.
- EXT.R6(L): TRUE COPY OF TAX RECEIPT ISSUED IN FAVOUR OF 7TH RESPONDENT.
- EXT.R6(M): TRUE COPY OF SHOT FIRER'S CERTIFICATE ISSUED BY THE CONTROLLER OF EXPLOSIVES.

WP(C).No. 19564 of 2015 (U)

**EXT.R6(N): TRUE COPY OF EXPLOSIVE LICENCE ISSUED BY CONTROLLER OF
EXPLOSIVES.**

**EXT.R6(O): TRUE COPY OF THE INTERIM ORDER DATED 3.7.2015 IN
WP(C)NO.19564/2015 OF THIS HON'BLE COURT.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No. 19564 of 2015

=====

Dated this the 17th day of November, 2015

J U D G M E N T

The petitioner approached this Court challenging illegal quarrying operation by the 6th and 7th respondent without obtaining environmental clearance.

2. The learned counsel for the respondents 6 and 7 submits that they have all the requisite licence to operate quarry except environmental clearance. It is further submitted that in view of the Government order No. 144/2015, they do not require Environmental clearance.

3. This Court is of the view that the Geologist shall take a decision whether the Government order 144/15 would apply to the quarrying operation of the respondents 6 and 7. If the Geologist is the view that the Government order 144/15 would apply, appropriate decision shall be taken within three weeks after hearing the petitioners as well as the respondents 6 and 7. Till the decision is taken by the Geologist as above quarrying operation by the respondents shall be stopped.

4. The learned counsel for the respondents 6th and 7th submits that the quarrying permit would expire on 7.12.2015. If

the respondents are entitled for the benefit of the Government order as above, necessarily the renewal application shall be considered without insisting for environmental clearance.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE