

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 19700 of 2015 (J)

PETITIONER(S):

1. K.B.PEETHAMBARAN,
S/O.BHASKARAN, KARAYIL HOUSE,
H.NO.XIII/47 (22/229), ARACKAPADY VILLAGE,
VENGOLA KARA, PONJASSERY P.O., PERUMBAVOOR,
ERNAKULAM DISTRICT - 683 547.
2. REV. K.GEORGE JACOB,
KUNNATHU HOUSE, VENGOLA KARA, PONJASSERY P.O.,
PERUMBAVOOR, ERNAKULAM DISTRICT - 683 547.

BY ADVS.SRI.P.VIJAYAKUMAR
SRI.C.R.REGHUNATHAN
SRI.B.HARRYLAL

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY CHIEF SECRETARY, THIRUVANANTHAPURAM - 695 001.
2. SECRETARY TO LAW DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
3. AIR (PREVENTION & CONTROLLER) OF POLLUTION
APPELLATE AUTHORITY,
REP. BY ITS SECRETARY, THIRUVANANTHAPURAM.
4. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD , PERUMBAVOOR,
ERNAKULAM - 670 673.
5. SEENA ABDUL AZEEZ,
PROPRIETRIX, CHAITANYA GRANITES, KADAVIL HOUSE,
PONJASSERY P.O., PERUMBAVOOR, ERNAKULAM - 683 547.

R5 BY ADVS. SRI.V.JAYAPRADEEP
SRI.SHANE WILFRED MORRIS
SRI.V.JAYADHAR
R1 & R2 BY ADV. GOVERNMENT PLEADER SRI.S.JAMAL
R3 & R4 BY ADV. SRI. M.AJAY, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 19700 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : TRUE COPY OF THE CONSENT DATED 7-11-2014 ISSUED BY THE
4TH RESPONDENT.

P2 : TRUE COPY OF THE JUDGMENT IN WPC.NO.15686/2014.

P3 : TRUE COPY OF APPEAL MEMORANDUM DATED 19-11-2014.

P3(A) : TRUE COPY OF THE STAY PETITION.

P3(B) : TRUE COPY OF APPLICATION FOR ISSUANCE OF COMMISSION SUBMITTED
ALONG WITH EXT P3 APPEAL MEMORANDUM.

P4 : TRUE COPY OF THE JUDGMENT IN WPC.NO.11130/2015.

P5 : TRUE COPY OF THE FORWARDING LETTER DATED 6-6-2015 ADDRESSED TO
RESPONDENTS 1 TO 4.

P6 : TRUE COPY OF THE REPRESENTATION DATED 20-5-2015 SUBMITTED BEFORE
THE CHIEF ENVIRONMENTAL ENGINEER.

P7 : TRUE COPY OF THE REPRESENTATION DTD.6.7.2015 ISSUED BY THE CHIEF
ENVIRONMENTAL ENGINEER, ERNAKULAM.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

K. VINOD CHANDRAN, J

W.P(C) No. 19700 of 2015

Dated this the 04th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that 5th respondent's crusher unit is carried on even without a consent and that the earlier consent was also challenged in appeal before the 3rd respondent. However, the appeal was not considered since the 3rd respondent was not constituted. It is now admitted that the 5th respondent does not have a consent for reason of the pendency of the above writ petition. 5th respondent has also filed an application before the 4th respondent for renewal of consent. The renewal of the consent sought for is of the consent which expired and which was the subject matter of the challenge before the 3rd respondent. The said appeal was not be considered only because of the fact that the 3rd respondent was not constituted. Hence the appeal cannot be said to have been rendered infructuous for that reason alone.

2. The Government has filed a memo in pursuance to this

Court's order dated 30.06.2015 that an appellate authority has been constituted by notification produced along with the memo; bearing G.O (P) No.09/2015/Envvt. Dated 29.06.2015. In such circumstance, there shall be a direction to the appellate authority to take up the appeal filed by the petitioners herein and dispose of the same within three months from the date of receipt of certified copy of this judgment. The appellate authority shall also get a report from the Pollution Control Board as to whether a renewal is feasible as things stand now. Renewal application shall be kept in abeyance, till orders are passed in the appeal. The 5th respondent shall not carry on any quarrying operations until the appeal is disposed of and a consent has obtained from the 4th respondent. The 5th respondent shall also cooperate and the petitioner and 5th respondent shall appear before the appellate tribunal at its first sitting after the receipt of certified copy of this judgment.

Writ petition is disposed of.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge