

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 20681 of 2015 (I)

PETITIONER(S):

**V.M.SASIDHARAN
S/O.LAT MADHAVAN NAIR, EARATHU PALATHU HOUSE
MANIMALA PO, KOTHALAPADY, PIN 686 543
KOTTAYAM 07**

BY ADV. SRI.K.R.SUNIL

RESPONDENT(S):

- 1. ADDL. DISTRICT MAGISTRATE KOTTAYAM
OFFICE OF THE ADDITIONAL DISTRICT MAGISTRATE
KOTTAYAM 686 001.**
- 2. THE SECRETARY, MANIMALA GRAMA PANCHAYATH
MANIMALA KARIKATTOOR, PO, KOTTAYAM DISTRICT 686 543.**
- 3. M.MATHEW, PANTHALIL BHAVAN, PAZHAYIDOM PO
MANIMALA, KOTTAYAM DISTRICT 686 543.**
- 4. SANEESH BABU
MULAKKAL KUNNEL HOUSE, PAZHAYIDOM PO , MANIMALA
KOTTAYAM DISTRICT 686 543.**

R1 BY GOVERNMENT PLEADER E.M.ABDUL KHADIR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

avk

APPENDIX

PETITIONER(S)' EXHIBITS

P1- THE COPY OF THE JUDGMENT DATED 1.10.2014 INWP(C) NO.25644/2014

**P2- THE COPY OF THE ORDER NO.H4/9370/2014 DATED 27.11.2014 PASSED BY
THE 1ST RESPONDENT**

**P3- THE COPY OF THE JUDGMENT DATED 20.12.2014 IN WP(C) NO.33771 OF
2014**

**P4- THE COPY OF HT EORDER DATED 2.2.2015 ISSUED BY THE 1ST
RESPONDENT**

**P5- THE LETTER DATED 19.2.2014 SEND BY THE TALUK OFFICE
KANJIRAPPALLY TO THE DISTRICT COLLECTOR, KOTTAYAM.**

**P6- A TRUE COPYOF THE LETTER ISSUED BY THE 2ND RESPONDENT DATED
16.4.2014**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

A.M.SHAFIQUE, J.

W.P.(C).No. 20681 of 2015

Dated this the 12th day of November, 2015

JUDGMENT

The petitioner challenges Ext.P4, an order dated 2.2.2015 issued by the Additional District Magistrate by which his request for explosive license was rejected. The learned counsel for the petitioner submits that the reasons stated for rejecting the explosive license is absolutely baseless. According to the petitioner, when he applied for license, it was not considered by the authority and accordingly he approached this Court by filing W.P.(C).No.25644 of 2014 and a direction was issued to consider and pass appropriate orders within a specified time. On that basis the application was considered and rejected in terms of proceedings dated 27.11.2014 which is produced as Ext.P2. In Ext.P2 the following is the reason stated by the Additional District Magistrate to reject the license.

“ A hearing was conducted on 06.11.2014. The Secretary, Manimala Grama Panchayath, The petitioner Sri.P.M.Mathew, Licensee, Deputy Tahasildar Kanjirappally were attended the hearing. At the time of hearing the secretary

Manimala Grama Panchayath stated that the Panchayath authorities convinced that the quarry operation causes damages and injury to the residential houses of the petitioners and public road. He also stated that he has issued notice to the licensee for rectifying defects pointed out in the mass petition.

The petitioner Sri.P.M.Mathew stated that there are two houses in 100 meter circumference of the quarry. Moreover the Licensee extracted granite stones outside the permitted area. He also stated that the Licensee is a nominee actually the operation of the quarry was conducted by somebody else as binami.

Subsequently I have inspected the site on 13.11.2014 and convinced that there is some merit in the allegations raised against the quarry. In the circumstances application filed by Sri.V.M.Sasidharan Nair, Erath Palath, Manimala, is hereby rejected and LE.3 License No.24/2012 issued in favour of him is canceled. Thus the directions of the Hon'ble High Court of Kerala in Judgment dated 01.10.2014 in W.P.(C). 25644/2014 (E) is complied."

2. The petitioner challenged Ext.P2 proceedings by filing W.P.(C).No.33771/2014 which was disposed of by the judgment dated 20.12.2014 directing the Additional District Magistrate to re-consider the matter in accordance with the procedure prescribed. Pursuant to the same, the Ext.P4 order had been passed on 2.2.2015, which is now under challenge. In Ext.P4 order, it is stated

that a detailed enquiry was conducted in the matter relating to grant of explosive license to the petitioner. The Additional District Magistrate has heard the petitioner and certain persons in the locality, the Village Officer, the Secretary, Grama Panchayat, the Geologist, Mining and Geology, Kottayam and the Environmental Engineer. It is indicated that large scale complaints were received from the people in the locality which has been informed to the petitioner also. It is observed that a stop memo have been issued to the licensee on 22.4.2014 and it was understood that he was carrying on quarrying operations over and above the permitted quantity. Even after issuing the stop memo, he continued quarrying and Police had to interfere in the matter to stop the quarrying activity. It was therefore observed that while the permit was granted for quarrying only 15 tonnes of granite, he had quarried about 300 tonnes on a day to day basis and even during the school hours. Large vehicles were being plied, from morning 5 a.m. to 8 p.m. It is also mentioned that the granite pieces had caused damage to the tappers

who were working in the locality and has also caused damage to the nearby buildings. It is also mentioned that the quarry is causing depletion of water sources in the nearby wells and it is being polluted.

3. It is having regard to the aforesaid factual findings that the Additional District Magistrate decided to reject the application of the petitioner.

4. The Panchayath as well as the 2nd and 3rd respondents have filed separate counter affidavits supporting the stand taken by the Additional District Magistrate. It is interalia contended that the quarrying operation is causing substantial environmental imbalance and pollution to the nearby residences.

5. Be that as it may, having regard to the fact that the Additional District Magistrate had rejected the license on specific grounds, it is not possible for this Court to interfere with the said finding of fact and it is not expected of this Court to exercise the power of judicial review to revisit the grounds on which the Additional District Magistrate had rejected the license. It is apparent

from the provisions of Section 6F of the Explosives Act,1884 that an appeal is maintainable in terms of Section 6 F. If the petitioner is aggrieved by Ext.P4 , his remedy is to approach the Appellate authority. In the said circumstance, I do not think that this Court will be justified in issuing any directions as sought for. Accordingly this writ petition is dismissed reserving right to the petitioner if so, advised to prefer an appeal under Section 6 F of the Explosives Act,1884.

Sd/-
A.M.SHAFFIQUE
JUDGE

//TRUE COPY//

PA TO JUDGE

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