

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 24386 of 2013 (W)

PETITIONERS :-

1. R.VIJAYACHANDRAN PILLAI,
S/O. RAGHAVA KURUP, AGED 56 YEARS,
LAKSHMI VILASOM, KALATHIPACHA,
VELAMANNUR P.O., PALLICKAL VILLAGE
THIRUVANANTHAPURAM - 691 574.
 2. ASOK KUMAR, S/O. JANARDHANAN PILLAI,
SANKARAMANGALAM, KALATHIPACHA,
VELAMANNUR P.O.,
THIRUVANANTHAPURAM DISTRICT.
- BY ADVS.SRI.N.SUKUMARAN (SR.)
SRI.LATHEESH SEBASTIAN

RESPONDENTS :-

1. THE DISTRICT COLLECTOR,
COLLECTORATE,
THIRUVANANTHAPURAM - 695 001.
2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE,
THIRUVANANTHAPURAM - 695 001.
(AS THE CONVENER OF DISTRICT SINGLE
WINDOW CLEARANCE BOARD, THIRUVANANTHAPURAM).
3. GEOLOGIST, DEPARTMENT OF MINING &
GEOLOGY, DISTRICT OFFICE,
THIRUVANANTHAPURAM - 695 001.

4. **PALLICKAL GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
PALLICKAL GRAMA PANCHAYAT,
PALLICKAL P.O., KILIMANOOR,
THIRUVANANTHAPURAM DISTRICT - 695 604.**
5. **M.NISARUDHEEN, S/O. MUHAMMED MUSTAFA,
THOUFEEQU, MANZIL, AMBOORI,
KIZHAKKANELA, KIZHAKKANELA P.O.,
PARIPPALLI, KOLLAM DISTRICT - 691 574.**

R1-R3 BY SRI.SAIDALAVI, GOVERNMENT PLEADER

R4 BY ADV. SRI.M.DINESH

R5 BY ADVS. SRI.NAGARAJ NARAYANAN

SRI.SAIJO HASSAN

SRI.BENOJ C AUGUSTIN

SRI.PRATHAP PILLAI

SRI.SEBIN THOMAS

SRI.VIVEK V. KANNANKERI

SMT.J.KASTHURI

SRI.VISHNU BHUVANENDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1 : TRUE COPY OF THE BASIC LAND REGISTER OF BLOCK NO.25 OF
PALLICKAL VILLAGE.**
- EXHIBIT P2 : TRUE COPY OF THE LETTER DTD.14.1.2011 OF THE 4TH
RESPONDENT.**
- EXHIBIT P3 : TRUE COPY OF THE INFORMATION DTD.30.12.2011 OF THE 4TH
RESPONDENT.**
- EXHIBIT P4 : TRUE COPY OF THE RESOLUTION NO.IV/1 DTD.13.1.2012 OF THE 4TH
RESPONDENT.**
- EXHIBIT P5 : TRUE COPY OF THE RESOLUTION NO.IV/6 DTD.13.1.2012 OF THE 4TH
RESPONDENT.**
- EXHIBIT P6 : TRUE COPY OF THE APPLICATION OF THE 5TH RESPONDENT.**
- EXHIBIT P7 : TRUE COPY OF THE RESOLUTION NO.I/1 DTD.26.5.2012 OF THE 4TH
RESPONDENT.**
- EXHIBIT P8 : TRUE COPY OF THE JUDGMENT DTD.2.7.2012 IN WP(C)
NO.14707/2012.**
- EXHIBIT P9 : TRUE COPY OF THE JUDGMENT DTD.18.12.2012 IN WP(C)
NO.29376/2012.**
- EXHIBIT P10 : TRUE COPY OF THE MINUTES OF DISTRICT BOARD DTD.22.1.2013.**
- EXHIBIT P11 : TRUE COPY OF THE CERTIFICATE OF THE 2ND RESPONDENT.**
- EXHIBIT P12 : TRUE COPY OF THE CERTIFICATE OF THE 2ND RESPONDENT.**
- EXHIBIT P13 : TRUE COPY OF THE INFORMATION GIVEN BY THE LAND REVENUE
COMMISSIONER.**
- EXHIBIT P14 : TRUE COPY OF THE INTERIM ORDER DTD.4.3.2013 IN WP(C)
NO.5857/2013.**
- EXHIBIT P15 : TRUE COPY OF THE JUDGMENT DTD.4.4.2013 IN WP(C) NO.5857/2013.**

- EXHIBIT P16 : TRUE COPY OF THE LETTER DTD.1.7.2013 OF THE 4TH RESPONDENT.**
- EXHIBIT P17 : TRUE COPY OF THE PROCEEDINGS DTD.22.7.2013 OF THE 1ST RESPONDENT.**
- EXHIBIT P18 : TRUE COPY OF THE QUARRYING PERMIT DTD.31.7.2013.**
- EXHIBIT P19 : TRUE COPY OF THE INFORMATION DTD.12.8.2013.**
- EXHIBIT P20 : TRUE COPY OF THE CIRCULAR OF THE DIRECTOR OF MINING AND GEOLOGY DTD.7.8.2012.**
- EXHIBIT P21 : TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C) NO. 5395/2005 DATED 04.02.2011.**
- EXHIBIT P22 : TRUE COPY OF THE HEARING NOTE OF THE 2ND RESPONDENT DATED 19.01.2013.**
- EXHIBIT P23 : TRUE COPY OF THE APPLICATION OF THE 5TH RESONDENT SUBMITTED BEFORE THE 1ST RESPONDENT ON 21.06.2010.**
- EXHIBIT P24 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 18.01.2006.**

RESPONDENT(S)' EXHIBITS :

- EXHIBIT R3(a) : TRUE COPY OF THE LETTER ISSUED BY THE DISTRICT INDUSTRIES CENTRE TO THE SECRETARY PANCHAYAT.**
- EXHIBIT R3(b) : THE PHOTOCOPY OF THE PERMIT ISSUED BY THE COMPETENT AUTHORITY IN FAVOUR OF 5TH RESPONDENT.**
- EXHIBIT R3(c) : TRUE COPY OF THE VIDE ORDER NO.B7-63317/2010 DATED 22.07.2013.**
- EXHIBIT R3(d) : THE PHOTOCOPY OF THE VIDE ORDER G.O.(MS.)168/13/REV DATED 29.04.2013.**
- EXHIBIT R5(a) : TRUE COPY OF REPORT DATED 04.08.2010 OF THE TAHSILDAR, CHIRAYINKEEZHU.**
- EXHIBIT R5(b) : TRUE COPY OF PROCEEDING DATED 01.10.2011 OF THE DISTRICT COLLECTOR.**

- EXHIBIT R5(c) : TRUE COPY OF CONSENT DATED 26.11.2011 ISSUED BY THE POLLUTION CONTROL BOARD TO THE PETITIONER.
- EXHIBIT R5(d) : TRUE COPY OF EXPLOSIVE LICENSE VALID UPTO 31.03.2016 ISSUED BY THE EXPLOSIVE DEPARTMENT.
- EXHIBIT R5(e) : TRUE COPY OF NOC ISSUED BY THE DISTRICT MEDICAL OFFICER, DATED 13.07.2012.
- EXHIBIT R5(f) : TRUE COPY OF APPLICATION FOR RENEWAL OF LICENSE DATED 16.05.2013 SUBMITTED BY THE PETITIONER.
- EXHIBIT R5(g) : TRUE COPY OF RECEIPT ISSUED BY THE PANCHAYAT ACKNOWLEDGING RECEIPT OF EXT.R5(f).
- EXHIBIT R5(h) : TRUE COPY OF DEMAND DRAFT DRAWN BY THE PETITIONER IN FAVOUR OF SECRETARY PALLICKAL GRAMA PANCHAYAT.
- EXHIBIT R5(i) : TRUE COPY OF COVERING LETTER ISSUED BY THE PETITIONER TO THE PANCHAYAT ALONG WITH THE D/D.
- EXHIBIT R5(j) : TRUE COPY OF LETTER DATED 10.09.2013 ISSUED BY THE DISTRICT SINGLE WINDOW CLEARANCE BOARD.
- EXHIBIT R5(k) : TRUE COPY OF FIR NO.713/2013 FOR OFFENCES PUNISHABLE U/S.447, 427, 341, 294(b), 506(1), 143 AND 147 IPC.
- EXHIBIT R5(l) : TRUE COPY OF PLAINT VIZ. O.S.NO.119/2013 DATED 18.03.2013 FILED BY THE PETITIONERS AND OTHER PERSONS AGAINST THIS RESPONDENT AND ANOTHER BEFORE THE MUNSIFF'S COURT, VARKALA.
- EXHIBIT R5(m) : TRUE COPY OF ORDER DATED 30.11.2012 OF THE DISTRICT COLLECTOR WITHDRAWING THE PROHIBITION ON NOC.
- EXHIBIT R5(n) : TRUE COPY OF INTIMATION DATED 07.11.2013 FROM THE PALLICKAL GRAMA PANCHAYAT.

rkj

//TRUE COPY//

P.A. TO JUDGE

A.V.RAMAKRISHNA PILLAI, J

W.P.(C)No.24386 of 2013

Dated this the 28th day of May, 2015

JUDGMENT

Alleging that the 5th respondent is attempting to conduct quarrying operations without obtaining license from the 4th respondent Panchayath and other authorities under the cover of license from the second respondent, the petitioners have approached this Court with this writ petition.

2. The petitioners are residents of Pallickal Village of Chirayinkeezhu Taluk of Thiruvananthapuram District. They allege that the 5th respondent obtained a certificate from the second respondent for conducting quarrying in Sy.No.241/1 of Pallickal Village of Chirayinkeezhu Taluk under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (hereinafter referred to as the Act). They allege that with that certificate the 5th respondent is attempting to conduct quarrying operations in the aforesaid property. The petitioners are also aggrieved by the decision of the second respondent to issue a certificate to conduct quarrying overruling the obstruction of the 4th respondent, Panchayath and the attempt of the 5th respondent

to conduct quarry without obtaining the required licenses from the authorities.

3. The second respondent has filed a counter affidavit contending that the Committee of the District Single Window Clearance Board, Thiruvananthapuram discussed the matter in detail and took note of the fact that the 5th respondent has obtained the clearance certificate and licenses from the concerned agencies and therefore he is entitled for D&O license from the Panchayath. The Committee decided the matter and directed the Secretary of the respondent to issue D&O license within ten days. However in the minutes, the survey number of the land was not recorded. Despite the direction of the Single Window Committee, 'NOC' was not issued to the Unit within the specific time. Therefore, the Board has decided to issue deemed license to the 5th respondent. However in the certificate, the Survey Number was wrongly mentioned as 241/1 instead of 243/1. Later, the Panchayath finally issued D&O license. Prior to that the District Collector had extended the lease period and hence the Mining and Geology Department collected loyalty for the extended period of lease. It was further contended that now the Panchayath has issued D&O License and the matter has come

to close.

4. In the counter affidavit filed by the third respondent, it was stated that the 5th respondent had obtained the certificate from the local authority as directed by the second respondent. The sixth additional respondent has authority to issue certificate for conducting quarry in the applied area and the 5th respondent has valid license and permit for conducting quarry operation. Accordingly, the Writ Petition is devoid of any merits.

5. In the counter affidavit filed by the fifth respondent it was contended that he had secured all the requisite license from the authorities concerned and the allegations raised in the Writ Petition are absolutely baseless.

6. Arguments have been heard.

7. At the very outset, the learned counsel for the petitioner submitted that the present challenge is only regarding Exts.P10, P11 & P12 as the validity period of other licenses expired. The writ petition is filed by the petitioner mainly challenging Ext.P10 proceedings of the District Single Window Clearance Board, Thiruvananthapuram dated 01.02.2013. Ext.P11 and P12 certificates were issued by the District Industries Board. The other orders under challenge are

Ext.P16 proceedings of the Pallickal Grama Panchayath and Ext.P17 proceedings of the District Collector concerned and Ext.P18 quarrying permit granted under the consolidated royalty payment system. It was argued that the 6th additional respondent had no authority to direct the Panchayath to grant permission for conducting the quarrying permit.

8. The 5th respondent is the owner in possession of 11.25 Ares of land comprised in Re.Sy.No.244/6-1 and 2 Acres of land comprised in Sy.No.198/4 in Pallickal Village. According to the 5th respondent, adjacent to the above said properties there is a barren land, predominantly rocky in nature, which is described as 'Sarkar Para Tharisu' in revenue records having an extent of 01.10609 hectares comprised under Sy.No.243/1 of Pallickal Village. The 5th respondent, desirous of conducting quarrying business, approached the District Collector for NOC for conducting quarrying operations in the aforesaid Government land. The District Collector has obtained Ext.R5 (a) report from the Tahsildar, Chirayinkeezhu and as per Ext.R5 (b) proceedings, the District Collector allowed the application subject to three conditions. According to the 5th respondent, he had complied with those conditions and permission was granted stipulating that the 5th respondent should pay the

royalty dues outstanding from the previous operator, who had quarried in the same area. The 5th respondent also relies on Ext.R5(c) consent issued by the Pollution Control Board. Ext.R5 (d) is the Explosive License. Ext.R5(e) is the NOC issued by the District Medical Officer etc in support of this case. The District Collector vide Ext.P17 has renewed the NOC for a further period of one year. On the basis of same, the Geologist as per Ext.P18 granted a permit for a period of one year w.e.f. 31.07.2013. Later, the 5th respondent filed the application for renewal of license in proper form. The application form submitted for renewal of D&O license is Ext.R5(f). The same was accepted by the Panchayath as evident from Ext.R5(g). As per Ext.R5(h) an amount of ₹6,610/- was remitted in favour of the Panchayath. The said application was neither rejected nor returned. Therefore, according to the 5th respondent, he was having a deemed license as contemplated under Section 236 (3) of the Kerala Panchayath Raj Act. The 5th respondent as well as the other official respondents would contend that in Exts. P11 and P12, the Survey Number was wrongly stated as 241/1 instead of 243/1. It was a typographical mistake. This Court finds no reason to disbelieve the same. Noticing the mistake, the 5th respondent submitted an application to correct

the survey number and the same was allowed by the District Collector. Ext.R5(j) is the copy of the letter issued to the Secretary of Pallickal Grama Panchayath to this effect from the office of the District Single Window Clearance Board, Thiruvananthapuram. Therefore, it is clear that the 5th respondent has been conducting the quarrying operations in a site which falls under Sy.No.243/1 of Pallickal Village. It appears that there was some clash between the 5th respondent and the local people which led to the registration of the Crime No.713/2013, Pallickal Police Station [Ext.R5(k)]. None of the Departments, which have issued the respective permits/consents/NOCs, have initiated or taken any action against the 5th respondent for violation of any rule.

9. In view of a letter from the 2nd respondent Panchayath, the District Collector alleging that the 5th respondent has been attempting to obtain NOC on the basis of a forged letter of Panchayath, the District Collector had issued a stop memo. However later on the explanation submitted by the 5th respondent, the same has been withdrawn by the District Collector as per order dated 30.11.2012 as evident from Ext.R5(m). The petitioners have approached the Munsiff's Court, Varkala in O.S.No.119/2013[Ext.R5(l)] seeking a

permanent prohibitory injunction from conducting unauthorised quarry operations in the disputed property. Though an application for an interim injunction has been moved, no orders have been passed by the Munsiff's Court. It is relevant to note that the writ petition was filed suppressing the pendency of the above suit.

10. Therefore, on a consideration of materials now placed on record, this Court is of the view that the petitioner is not entitled to get the reliefs as prayed for.

In the result this writ petition fails and accordingly it is dismissed.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE