

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 22001 of 2015 (A)

PETITIONER(S):

**DR. ANOOP SHANKAR, SREESHYLAM,
OPP. KSRTC BUS STATION, ETTUMANUR,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER ARUN SHANKAR, SREESAILAM,
OPP. KSRTC BUS STATION, ETTUMANUR,
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.K.B.GANGESH,
SMT.SMITHA CHATHANARAMBATH,
SMT.ATHIRA A.MENON.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
INDUSTRIES (A) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE SENIOR GEOLOGIST,
DEPARTMENT OF MINING & GEOLOGY,
DISTRICT OFFICE, KOTTAYAM-686 001.**
- 3. THE VILLAGE OFFICER,
VILLAGE OFFICE, ETTUMANUR-686 631.**
- 4. TAHSILDAR, TALUK OFFICE, KOTTAYAM-686 001.**
- 5. THE DISTRICT COLLECTOR,
KOTTAYAM, PIN-686 001.**

BY GOVT. PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 22001 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:-

**P1 : TRUE COPY OF LETTER DATED 07-01-2015 ISSUED BY THE
4TH RESPONDENT TO THE 1ST RESPONDENT.**

**P2 : TRUE COPY OF INSPECTION REPORT DATED 05-02-2015 SUBMITTED BY
THE OFFICE OF 1ST RESPONDENT.**

P3 : TRUE COPY OF ORDER DATED 27-03-2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P.(C).No.22001 of 2015-A

Dated this the 22nd day of June, 2015

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner is not being issued with O(A) forms as provided under the Kerala Minor Mineral Concession Rules 2015 for transportation of sand from the property. The petitioner's contention is that the sand collected in his property is not by way of any quarrying operation and it had been so collected from the land slide thereon. The petitioner also refers to Ext.P2, which is the report of the Geologist, which indicates a land slide having occurred in the area.

2. Ext.P3 is the rejection order on the ground that there is no building permit issued to the petitioner. True, the exemption as per the Rules of 2015 is only when there is a building permit for construction of building having area of less than 300

sq.meters. However, this is a case in which there is no quarrying at all conducted but the sand was collected by reason of a land slide, which is also evidenced by Ext.P2 report.

2. In such circumstance, it is only proper that the O(A) forms be issued for transportation of sand, which has been collected in the petitioner's property for reason of a land slide.

3. In the above facts and circumstances, the 1st respondent/District Geologist is directed to issue 'Mineral Transit Pass' in Form O(A) of the Kerala Minerals (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015 (for brevity "Prevention Act"], without insisting for 'NOC'/Mining permit. It is made clear that the mining passes shall be issued only after the sand collected in the property, is physically inspected by the Geologist. The Geologist shall also issue as many number of passes as there are vehicles required for transporting the collected quantity of sand after ensuring

that the entire details required in Form O(A) is filled up by the petitioner. The petitioner shall also be liable to surrender the passes after the period expires. It goes without saying that the destination to which the sand is to be taken has to be specified in the passes, before it is issued by the 2nd respondent. The above exercise shall be done immediately on the petitioner approaching the Geologist, at any rate, within a period of two weeks from the date of such application being filed.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN
Judge

jma

//true copy//

P.A to Judge