

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 22903 of 2015 (K)

PETITIONER:

SUBHASH KUMAR, SUBASH BHAVANAM,
THANNITHODU P.O., KOZHENCHERI,
PATHANAMTHITTA - 689 699.

BY ADVS.SRI.THAMPAN THOMAS
SRI.B.V.JOY SANKER
SRI.SHAFFIE THOMAS
SRI.SANEESH KUNJUKUNJU

RESPONDENT:

1. PRAMADOM GRAMA PANCHAYATH COMMITTEE,
LAKKOOR, MALLASERRY P.O., PATHANAMTHITTA DISTRICT
PIN - 689 646, REPRESENTED BY ITS PRESIDENT.
2. PRAMADOM GRAMA PANCHAYATH, LAKKOOR,
MALLASERRY P.O., PATHANAMTHITTA DISTRICT
PIN - 689 646, REPRESENTED BY ITS SECRETARY.
3. SECRETARY, PRAMADOM GRAMA PANCHAYATH,
LAKKOOR, MALLASERRY P.O.,
PATHANAMTHITTA DISTRICT, PIN - 689 646.
4. PRESIDENT, PRAMADAM GRAMA PANCHAYATH,
LAKKOOR, MALLASERRY P.O.,
PATHANAMTHITTA DISTRICT, PIN - 689 646.
5. THE SENIOR GEOLOGIST, DEPARTMENT OF MINING &
GEOLOGY, DISTRICT OFFICE, MINI CIVIL STATION,
ARANMULA P.O., PATHANAMTHITTA DISTRICT - 689 553.

BY SENIOR GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PERMIT DATED 23.05.2015 ISSUED BY THE 5TH RESPONDENT, WHICH WAS VALID UPTO 24.06.2015.
- EXHIBIT P2 TRUE COPY OF THE RECEIPT OF LICENSE FEE PAID DURING 2010-11 FOR D & O LICENSES ISSUED BY THE SECRETARY OF PRAMADAM PANCHAYATH DATED 20.12.2010.
- EXHIBIT P3 TRUE COPY OF THE CONSENT RENEWAL ORDER TO OPERATE ISSUED BY THE POLLUTION CONTROL BOARD DATED 17.09.2014.
- EXHIBIT P4 TRUE COPY OF THE LICENSE OF POSSESS EXPLOSIVES DATED 19.07.12, WHICH IS VALID UPTO 31.03.2017, ISSUED BY JOINT CONTROLLER OF EXPLOSIVE.
- EXHIBIT P5 TRUE COPY OF THE SHOTFIRER'S CERTIFICATE DATED 22.04.2013, WHICH VALID UPTO 22.04.2018, ISSUED BY THE CHIEF CONTROLLER OF EXPLOSIVE.
- EXHIBIT P6 TRUE COPY OF THE GOODS CARRIAGE PERMIT DATED 27.09.2013, WHICH IS VALID UPTO 26.09.2018, OF THE HAZARDOUS GOODS TANKER BELONGS TO THE PETITIONER.
- EXHIBIT P7 TRUE COPY OF THE LETTER DATED 16.04.2015 ISSUED BY THE DIRECTOR OF MINING AND GEOLOGY.
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.34588 OF 2014 DATED 29.05.2015.
- EXHIBIT P9 TRUE COPY OF THE RECEIPT DATED 05.06.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXHIBIT P10 TRUE COPY OF THE REMIJNDER LETTER DATED 'NIL' SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.
- EXHIBIT P11 TRUE COPY OF THE DECISION OF THE GRAMA PANCHAYATH COMMITTEE DATED 24.06.2015 WITH THE COVERING LETTER OF THE 3RD RESPONDENT.
- EXHIBIT P12 TRUE COPY OF THE 'LETTER OF INTENT' DATED 22.07.2015 ISSUED BY THE 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 26th day of October, 2015

JUDGMENT

It is only the Secretary of Panchayat who is empowered to pass orders on an application for renewal of D&O licence. It has been so held by this court in **Kadaplamattom Grama Panchayat, Kottayam and another Vs. Johny Roy [2013 (3) KHC 857]**. Ext.P11 communication in the instant case refers to the decision of the Panchayat Committee on the renewal of licence. The Secretary of the panchayat has obviously abdicated his duty in issuing Ext.P11 order. I quash Ext.P11 order and direct the third respondent Secretary to pass orders anew.

2. There is yet another reason why an interference by this court is warranted. Ext.P8 judgment specifically directs the petitioner to be heard before passing orders. It is stated that the petitioner was neither put on notice nor heard before passing orders on the application. The order rejecting the application for renewal of licence therefore requires to be annulled.

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3. It however remains to be seen whether the petitioner has an environmental clearance. Such clearance is necessary not only for fresh licence but also for renewal of licence. It has been so held in **Najeeb Vs. Shoukathali [2015(3) KLT 396]**. The third respondent shall bear this in mind while passing fresh orders on the application for renewal of licence. Exts.P1 to P7 licences/orders relied on by the petitioner shall also be adverted.

4. Final orders in this regard shall be passed after notice to the petitioner. The same shall be done within a period of six weeks from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd