

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 22990 of 2015 (W)

PETITIONER(S)/PETITIONER:

**KURIAKOSE SABU AGED 50 YEARS
S/O. UTHAPPEN KURIAKOSE, KAVUMKAL GRANITES, CHEMBANOLI
VECHOOCHIRA.**

BY ADV. SRI.MATHEW A KUZHALANADAN

RESPONDENT(S)/RESPONDENTS:

**1. GRAMA PANCHAYAT NARANAMOOZHY
ATHIKAYAM VILLAGE, RANNI
REPRESENTED BY ITS SECRETARY-689711.**

**2. THE SECRETARY
NARANAMOOZHY GRAMA PANCHAYATH, ATHIKAYAM VILLAGE
RANNI-689711.**

**R1&2 BY ADV. SRI.JACOB P.ALEX
R1&2 BY ADV. SRI.JOSEPH P.ALEX**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE DECISION DT. 31.11.2004 TAKEN BY THE 1ST RESPONDENT.**
- P2 - TRUE COPY OF THE RECEIPT ISSUED BY THE RESPONDENTS FOR THE PAYMENTS.**
- P3 - TRUE COPY OF THE NOTICE DT. 17.3.2006 ISSUED BY THE 2ND RESPONDENT.**
- P4 - TRUE COPY OF THE ORDER DT. 21.7.2006 OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN APPEAL NO. 180/2006.**
- P5 - TRUE COPY OF THE JUDGMENT DT. 02.11.2009 IN WPC NO. 29452/2009 ON THE FILE OF THIS HON'BLE COURT.**
- P6 - TRUE COPY OF THE LETTER DT. 02.1.2010 ISSUED BY THE 2ND RESPONDENT AND THE SUBSEQUENT IICENSE ISSUED BY THE RESPONDENTS AND THE RECEIPT OF THE FEES PAID BY THE PETITIONER.**
- P6(A) - TRUE COPY OF THE LICENSE DT. 09.09.2010 ISSUED TO THE PETITIONER.**
- P6(B) - TRUE COPY OF THE RECEIPTS OF THE FEES PAID BY THE PETITIONER.**
- P7 - TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT AND THE INTERIM STAY GRANTED BY THIS HON'BLE COURT AGAINST THE ABOVE NOTICE IN WPC NO. 22102/2011 WHICH WAS SUBSEQUENTLY EXTENDED TILL FURTHER ORDERS.**
- P8 - TRUE COPY OF THE DEICISION OF THE 1ST RESPONDENT DT. 19.2.2013.**
- P8(A) - TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT DT. 13.2.2013.**
- P8(B) - TRUE COPY OF THE REPLY DT. 23.3.2013 SUBMITTED BY THE PETITIONER**
- P9 - TRUE COPY OF THE GEOLOGICAL SURVEY REPORT DT. 20.5.2013.**
- P10 - TRUE COPY OF THE PROCEEDINGS INITIATED BY THE REVENUE DIVISIONAL OFFICER, THIRUVALLA UNDER CR.P.C 133 DT. 09.5.2013.**
- P10(A) - TRUE COPY OF THE PROCEEDINGS DT. 04.6.2014 INITIATED BY THE REVENUE DIVISIONAL OFFICER, THIRUVALLA.**
- P11 - TRUE COPY OF THE DECISION DT. 26.8.2013 OF THE 1ST RESPONDENT.**
- P12 - TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO. 17594/2013, DT. 03.01.2014.**
- P13 - TRUE COPY OF THE WITHDRAWAL ORDER DT. 30.6.2015 ALONG WITH THE REPORT OF THE CONCERNED TAHSILDAR AND VILLAGE OFFICER.**

**P14 - TRUE COPY OF THE JUDGMENT IN WPC NO. 4523/2014 DT. 26.11.2014
PASSED BY THIS HON'BLE COURT.**

**P15 - TRUE COPY OF THE APPLICATION OF THE PETITIONER AND PURSUANT
DECISION DT. 11.12.2014 TAKEN BY THE 1ST RESPONDENT.**

**P16 - TRUE COPY OF THE LEGAL OPINION DT. 16.12.2014 ISSUED BY THE
GOVERNMENT PLEADER.**

**P17(A) - TRUE COPY OF THE ORDER DT. 17.12.2014 ISSUED BY THE
2NDRESPONDENT.**

**P18 - TRUE COPY OF THE ORDER DT. 23.12.2014 ISSUED BY THE 2ND
RESPONDENT.**

**P19 - TRUE COPY OF THE JUDGMENT IN APPEAL NO. 30/2015 DT. 24.6.2015
PASSED BY THE TRIBUNAL FOR LOCAL SELF GOVERNMENT
INSTITUTIONS, THIRUVANANTHAPURAM.**

**P20 - TRUE COPY OF THE QUARRY LICENSE DT. 07.8.2010 ISSUED BY THE
DEPARTMENT OF MINING AND GEOLOGY.**

**P20(A) - TRUE COPY OF THE POLLUTION CONSENT ISSUED BY THE KERALA
STATE POLLUTION CONTROL BOARD VALID UP TO 30/06/2016.**

**P20(B) - TRUE COPY OF THE EXPLOSIVE LICENSE DT. 11.2.2014 ISSUED BY THE
GOVERNMENT OF INDIA, MINISRY OF COMMERCE AND INDUSTRY PESO
VALID UP TO 31.03.2009.**

**P20(C) - TRUE COPY OF THE FACTORIES AND BOILERS REGISTRATION
CERTIFICATE DT. 27.2.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

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V.CHITAMBARESH, J.

W.P.(C) No.22990 of 2015

Dated this the 27th day of October, 2015

JUDGMENT

The secretary of the Panchayat by Ext.P16 order in tune with Ext.P15 decision of the Panchayat Committee granted the license to the petitioner. But it appears that the Panchayat Committee soon after by Ext.P17 decision annulled its earlier decision and declined license to the petitioner. This was the subject matter of appeal before the Tribunal for Local Self Government Institutions. The Tribunal by Ext.P19 order has set at naught Exts.P15 and P17 decisions as also Ext.P16 order. But nothing precludes the Panchayat Committee from passing fresh orders on the application put in by the petitioner for license to conduct a quarry,crusher and M-sand unit.

2. A decision has to be taken by Panchayat Committee in the instant case in the light of Section 233 of Kerala Panchayat Raj Act. This is in view of the escalated power sought by the petitioner to operate the units on a large scale. I direct the Panchayat Committee

to take a decision and new which shall be followed up by the Secretary within a period of two months. The Panchayat Committee shall advert to the necessity for obtaining an environmental clearance as held in **Najeeb V.Shoukath Ali [(2015) 3 KLT 396]**. The judgment in the earlier round of litigation between the parties shall also be adverted to in the exercise.

3. The existing license if any to operate the units at a pre-escalated scale shall be taken note of by the Panchayat Committee. It is made clear that this judgment pertains only to the permission to operate on an escalated power and does not affect the license already granted (if any) on pre-escalated scale. The incidental question as to whether the existing license pertains only to crusher unit which does not require the nod of the Panchayat Committee shall be borne in mind. Whether the nod of the Panchayat Committee is necessary to obtain a license in continuation of Ext.P6(a) license issued by the Secretary shall also be considered.

The writ petition is disposed of. No costs.

**Sd/-
V.CHITAMBARESH
JUDGE**

//TRUE COPY//

PA TO JUDGE

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