

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 23828 of 2015 (C)

PETITIONER:

**ABDULLA, AGED 56 YEARS
S/O.SULAIMAN, PADINJAREPURAKKAL, THIRUVATHRA.P.O
MANATHALA VILLAGE, CHAVAKKAD TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY
THRISSUR DISTRICT-680001.**
- 2. THE DIRECTOR,
MINING AND GEOLOGY, OFFICE OF THE MINING AND GEOLOGY
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM-695001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**

BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 TRUE COPY OF THE BUILDING PERMIT 30.4.2014 ISSUED BY THE
SECRETARY,CHAVAKKAD MUNICIPAL COUNCIL.**
- P2 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE
THE FIRST RESPONDENT DATED 25.5.2015**
- P3 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED
21.5.2015 IN WP(C)14427/2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 23828 of 2015 (C)

Dated this the 13th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with the non-consideration of Ext.P2 application filed under the Kerala Minor Mineral Concession Rules, 2015 (for brevity 'Minor Mineral Rules of 2015') and the Kerala Minerals Prevention (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015 (for brevity 'Prevention Rules of 2015'). The petitioner had obtained a building permit from Chavakkad Municipal Council for construction of a residential building as evidenced at Ext.P1.

2. 'Ordinary sand' being a 'minor mineral', quarrying permit had to be obtained under Section 4 of the Kerala Minor Mineral Concession Rules, 1967 (for brevity 'Minor Mineral Rules of 1967'). Obviously, the petitioner had not applied for such a mining permit as per the Minor Mineral Rules of 1967. The petitioner, however, has subsequently

carried on extraction of sand from the property and has now claimed for an exemption under the Minor Mineral Rules of 2015 and issuance of a transportation pass under the Prevention Rules of 2015.

3. The claim of exemption of the petitioner is under Rule 106 of the Minor Mineral Rules of 2015, which speaks of extraction of minerals for specific purposes, inter alia, construction of residential buildings, wherein, before extraction of minor minerals the person concerned has to intimate the competent authority of the intention to carry out such work and on his satisfying the royalty as determined under the Rules.

4. The petitioner expresses his inability to have made such a prior intimation, to the competent authority, since no officer has been notified as the competent authority under the Rules of 2015. However, it is the admitted case that the 1st respondent, the District Geologist, was the notified officer as per the earlier Rules, who was

competent to determine the royalty and issue transport passes as per the Minor Mineral Rules of 1967 under Form P.

5. In the context of bringing into force of the Minor Mineral Rules of 2015 on 07.02.2015, the quarrying of sand for residential purposes is exempted under Rule 106 of the Minor Mineral Rules of 2015. But however, a person intending to carry on such construction activity has to inform the competent authority under the Rules as to the construction to be carried on in the land and also satisfy the royalty as determined under the Rules. There is an obvious stalemate as of now, since the Competent Authority under the Minor Mineral Rules of 2015 has not been notified by the State.

6. Considering the entire circumstances, the 1st respondent, Geologist, who was the notified officer as per the Minor Mineral Rules of 1967, shall conduct a site inspection and fix royalty; on satisfaction of which the

petitioner shall be granted exemption under the Minor Mineral Rules of 2015. The transit pass in Form O(A) under the Prevention Rules of 2015 shall be issued, if a separate application is made to that effect. It is also made clear that since exemption is available to the petitioner herein, there can be no insistence for a clearance certificate from the State Environmental Impact Assessment Authority (Kerala).

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE