

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 24811 of 2015 (S)

PETITIONER(S) :-

1. THANAL VEDI
A REGISTERED SOCIETY WITH REGISTRATION NO.1923/1999
PERUNKADAVILA, NEYYATTINKARA POST, THIRUVANANTHAPURAM
REPRESENTED BY ITS GENERAL SECRETARY, S.UNNIKRISHNAN
S/O.LATE SADASIVAN NAIR, AGED 48 YEARS
KULANTHINKARA VEEDU, PERUNKADAVILA POST, NEYYATTINKARA
THIRUVANANTHAPURAM, PIN-695 124.
2. S.UNNIKRISHNAN, AGED 48 YEARS
S/O.LATE SADASIVAN NAIR, KULANTHINKARA VEEDU
PERUNKADAVILA POST, NEYYATTINKARA, THIRUVANANTHAPURAM
PIN-695 124.

BY ADVS.SRI.K.P.RAMACHANDRAN
SRI.SANJAY THAMPI
SMT.NIVYA VALSAN

RESPONDENT(S) :-

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN-695 001.
2. THE KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS ENVIRONMENTAL ENGINEER
DISTRICT OFFICE, TC 12/96 (4, 5), PLAMOODU JUNCTION
PATOM POST, THIRUVANANTHAPURAM, PIN-695 004.
3. DIRECTOR
DIRECTORATE OF MINING AND GEOLOGY, KESAVADASARPURAM
PATOM PALACE POST, THIRUVANANTHAPURAM, PIN-695 004.
4. THE DISTRICT COLLECTOR
COLLECTORATE, KUDAPPANAKKUNNU, THIRUVANANTHAPURAM
PIN-695 043.

5. THE SUPERINTENDENT OF POLICE (RURAL) ,
THIRUVANANTHAPURAM, PIN-695 001.
 6. PERUNKADAVILA GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, PERUNKADAVILA POST
NEYATTINKARA, TRIVANDRUM, PIN-695 124
 7. DELTA M-SAND PRIVATE LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR, VATTAKULAMALA
ANAVOOR POST, NEYATTINKARA
THIRUVANANTHAPURAM-695 124.
 8. THE TAHSILDAR
TALUK OFFICE, HOSPITAL JUNCTION, NEYATTINKARA POST
THIRUVANANTHAPURAM , PIN-695 121.
 9. THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
KERALA, REPRESENTED BY ITS SECRETARY, PALLIMUKKU
PETTAH POST, THIRUVANANTHAPURAM, PIN-695 024.
 10. THE DIRECTOR,
DEPARTMENT ENVIRONMENT AND CLIMATE CHANGE
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM, PIN-695 024.
- BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS
BY SRI.M.AJAY, SC, KERALA STATE POLLUTION CONTROL BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

jvt

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APPENDIX

PETITIONER(S)' EXHIBITS :-

EXT.P1 : TRUE PHOTOSTAT COPY OF THE NOTIFICATION
NO.2320/B1/86/GAD DATED 8-9-1987 OF THE KERALA GOVERNMENT.

EXT.P2 : TRUE PHOTOSTAT COPY OF THE JUDGMENT DATED 2-8-2012 IN
WPC.NO.18249/2012.

EXT.P3 : TRUE PHOTOSTAT COPY OF THE ORDER PASSED BY THE
SECRETARY OF THE PERUMKADAVILA PANCHAYATH DATED 10-10-2012 AND
ITS ENGLISH TRANSLATION.

EXT.P3-A : TRUE PHOTOSTAT COPY OF THE JUDGMENT (WITHDRAWAL) IN
WPC.NO.8835/2015.

EXT.P4 : TRUE PHOTOSTAT COPY OF THE ORDER DATED 17-8-2011
ISSUED BY THE DIRECTOR, MINING AND GEOLOGY.

EXT.P5 : TRUE PHOTOSTAT COPY OF THE ORDER DATED 29-6-2011
ISSUED BY THE DIRECTOR, MINING AND GEOLOGY, GRANTING QUARRY
LEASE TO THE 7TH RESPONDENT.

EXT.P6 : TRUE PHOTOSTAT COPY OF THE ORDER DATED 22-11-2013
ISSUED BY THE STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
KERALA.

EXT.P7 : TRUE PHOTOSTAT COPY OF THE LICENSE DATED 27-3-2015
ISSUED BY THE PERUMKADAVILA GRAMA PANCHAYATH WITH ITS ENGLISH
TRANSLATION.

EXT.P8 : TRUE PHOTOSTAT COPY OF THE EXPLOSIVE LICENSE DATED 2-
1-2012.

EXT.P9 : TRUE PHOTOSTAT COPY OF THE INTEGRATED CONSENT DATED
30-5-2014 BY THE STATE POLLUTION CONTROL BOARD.

EXT.P10 : TRUE PHOTOSTAT COPY OF THE INTEGRATED CONSENT DATED
14-3-2013 BY THE STATE POLLUTION CONTROL BOARD.

EXT.P11 : TRUE PHOTOSTAT COPY OF THE STATEMENT DATED 29-5-2014
FILED BY THE GEOLOGIST IN THE HRMP NO.3350/2014.

EXT.P12 : TRUE PHOTOSTAT COPY OF THE REPORT DATED 28-5-2014
FILED BY THE ENVIRONMENTAL ENGINEER IN HRMP NO.3350/2014 WITH
ITS ENGLISH TRANSLATION.

EXT.P13 : TRUE PHOTOSTAT COPY OF THE STATEMENT DATED 28-5-
2014 FILED BY THE 7TH RESPONDENT IN HRMP NO.3350/2014.

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EXT.P14 : TRUE PHOTOSTAT COPY OF THE ORDERS OF THE STATE HUMAN RIGHTS COMMISSION DATED 3-6-2014 IN HRMP NO.3350/2014 WITH ITS COVERING LETTER AND ENGLISH TRANSLATION.

EXT.P15 : TRUE PHOTOSTAT COPY OF THE ORDERS PASSED BY THE DISTRICT MAGISTRATE, THIRUVANANTHAPURAM DATED 10-5-2015 WITH ITS ENGLISH TRANSLATION.

EXT.P16 : TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 31-3-2014, SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, PERUNKADAVILA PANCHAYATH WITH ITS ENGLISH TRANSLATION.

EXT.P17 : TRUE PHOTOSTAT COPY OF THE POSSESSION CERTIFICATE DATED 22-3-2014 ISSUED BY THE VILLAGE OFFICER, PERUNKADAVILA WITH ITS ENGLISH TRANSLATION.

EXT.P18 : TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 17-1-2015 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY OF PERUMKADAVILA PANCHAYATH WITH ITS ENGLISH TRANSLATION.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.24811 of 2015

Dated this the 30th day of September 2015

J U D G M E N T

Ashok Bhushan, CJ.

Heard the learned counsel for the petitioners, the learned Government Pleader as well as the learned counsel appearing for the 2nd respondent.

2. The petitioners, by this public interest litigation, challenge Ext.P4, which is an order dated 17.8.2011 issued by the Director of Mining and Geology as well as Ext.P10, which is an order dated 14.3.2013 issued by the Kerala State Pollution Control Board granting consent to operate rock quarrying.

3. The petitioners' case in the writ petition is that under the provisions of the Kerala Ancient Monuments and Archeological Sites and Remains Act, 1968, the Government by notification dated 8.9.1987 notified that 'Pandavanpara' is a protected Monument. It is submitted that the mining operations are being conducted within 600 meters from the said protected Monument. It is submitted that the residents are also suffering from hardship on account of the mining operations and operations of heavy

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lorries. On a specific query raised by us as to whether there is any statutory prohibition for running quarrying within the area of the said protected Monument, nothing could be pointed out by the learned counsel for the petitioners.

4. Learned Standing Counsel appearing for the Pollution Control Board submits that since a consent has already been granted and if the petitioners are aggrieved by the same, they ought to have approached the statutory forum for challenging the said consent. Even against the grant of lease or mining permit, there is statutory forum provided under the statutory rules for redressal of grievance.

5. In the facts of the present case, when a statutory redressal can be obtained from the competent authority, we are of the view that this writ petition cannot be entertained as a public interest litigation.

Accordingly, this writ petition is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE