

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 29005 of 2014 (A)

PETITIONER:

**SADANANDAN,
AMBADIYIL NEW BUNGLOW, ADOOR P.O.,
PATHANAMTHITTA-689 656.**

**BY ADVS.SRI.BECHU KURIAN THOMAS,
SRI.ENOCH DAVID SIMON JOEL.**

RESPONDENT:

**1. STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM-695 024,
REPRESENTED BY ITS MEMBER SECRETARY.**

*** ADDL. R2 IMPEADED**

**2. GOVERNMENT OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF ENVIRONMENT AND FORESTS.**

*** IS IMPEADED AS PER ORDER DATED 22/11/2014 IN I.A. NO.15990/2014.**

**R1 BY GOVT. PLEADER SRI.JOSEPH GEORGE.
R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-02-2015, ALONG WITH WP(C). NO. 33208 OF 2014 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1- TRUE COPY OF THE RELEVANT PORTION OF THE MINUTES OF THE MEETING OF THE RESPONDENT HELD ON 14TH AND 15TH FEBRUARY 2014.

EXHIBIT P2- TRUE COPY OF THE RELEVANT PORTION OF THE MINUTES OF THE MEETING OF RESPONDENT HELD ON 12TH AND 13TH AUGUST 2014.

EXHIBIT P3- TRUE COPY OF THE LETTER DTD. 13-10-2014 SUBMITTED BY THE PETITIONER TO THE RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) Nos.29005, 33208, 33209
&
33540 of 2014

Dated this the 23rd day of February, 2015

JUDGMENT

The petitioner in WP(C) No.33540 of 2014 is a Company, who has obtained Ext.P1 quarrying lease on 28.07.2004 and was doing the quarrying operation in the concerned property situated in the Trivandrum District, for quite long. By virtue of the expiry of the lease, the petitioner sought to have the same renewed by filing necessary application. The petitioner was let known as per Ext.P3 issued by the 3rd respondent on 05.12.2014 that the application preferred by the petitioner could be considered only subject to production of 'environmental clearance' by the State Environmental Impact Assessment Committee. This made the petitioner to approach this Court, seeking for a direction to be given to the 3rd respondent to consider Ext.P2 application for renewal of the quarrying lease, without insisting for the environmental clearance.

2. The other three cases are preferred, more or less by the very same party. WP(C) No.29005 of 2014 is filed by the person who appears to be the Managing Partner of the firm M/s.J & S Granite Company [petitioner in WP(C) No.33209 of 2014] and he himself is the petitioner in WP(C) No.33208 of 2014. The petitioner in these cases wants to have a fresh quarrying lease, for which necessity to obtain 'environmental clearance' was pointed out. Accordingly, an application was filed before the sole respondent in WP(C) No.29005 of 2014 for issuance of environmental clearance. Despite the pendency of the matter for quite long, the application is still to be considered, which is stated as causing irreparable losses and hardships to the petitioner and hence the writ petition.

3. After filing the above writ petition, the firm as such approached this Court by filing WP(C) No.33209 of 2014, seeking for a direction to be given to the 3rd respondent to consider Ext.P1 application for granting the quarrying lease, without insisting for Environmental Clearance Certificate. The prayer of

the petitioner in the other case, ie. WP(C) No.33208 of 2014, preferred by the very same person, who happens to be the Managing Partner of the firm, is for a similar direction in respect of a similar establishment as involved in WP(c) No.33209 of 2014.

4. Heard all these matters together.

5. The learned counsel for the petitioner points out that, by virtue of the relevant provisions of law and the mandate given by the Apex Court, Environmental Clearance Committee has to be constituted within '30 days' from the date when the Office becomes vacant, particularly in view of Clause 3(5) of the State Environmental Impact Assessment Notification, 2006. It is stated that, though a Committee was constituted in the State earlier, the Office became vacant on 02.11.2014 and the same is still to be re-constituted. There is callous inaction/lapses on the part of the State/Central Government in this regard and the petitioner has been put to suffer quite a lot. By virtue of the laxity on the part of the concerned respondents, the entire operations have

come to a stand still, which have very much adversely affected the on-going projects and also the developmental measures althrough out.

6. The learned Government Pleader points out that, necessary steps have already been taken by the State to reconstitute the Committee and a proposal was forwarded to the Central Government, who is the notifying authority, much before expiry of the term of the former Committee. Some clarifications were sought for, which were also furnished to the Central Government in the 2nd week of January, 2015.

7. It is stated by the learned Assistant Solicitor General of India appearing on behalf of the Central Government that, clarification was sought for as to the credentials of the proposed members of the Committee. After getting the clarifications as above, the proposal of the State Government has been accepted and further steps are being taken to have the Committee notified by issuing necessary Gazette Notification. The learned Assistant Solicitor General of India also points out that, some more time is

required to complete the process in this regard, particularly in view of the fact that, it is on the eve of the Budget for the year 2015.

8. After hearing both the sides, this Court finds that there cannot be any doubt or objection with regard to the necessity to constitute a Committee in the manner as prescribed and it is for the Committee to consider the application to be preferred by the persons like the petitioners herein.

9. In the said circumstances, there will be a direction to the addl. 2nd respondent in WP(C) 29005 of 2014 to complete necessary steps in this regard for constituting the Committee and notifying the same in accordance with law. This exercise shall be completed at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. Once the Committee is constituted as above, the applications preferred by the petitioners herein shall be considered by the State Environmental Impact Assessment Authority as constituted above and appropriate orders shall be passed in accordance with law,

after affording an opportunity of hearing to the petitioner/ party concerned, which exercise shall be completed within a further period of 'one month'.

These matters stand disposed of accordingly.

The petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondent, for further steps.

**P.R. RAMACHANDRA MENON,
JUDGE**

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