

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 33465 of 2008 (H)

PETITIONER:

**MEHABOOB, S/O.MUHAMMAD KUNJU,
NIRAPPATHU HOUSE, VADAKARA P.O.,
THALAYOLAPARAMBU.**

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ERNAKULAM.**
- 2. STATION HOUSE OFFICER,
UDAYAMPEROOR POLICE STATION.**

BY GOVT. PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 33465 of 2008 (H)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 : A TRUE COPY OF CASH MEMORANDUM DATED 30.7.08.

**EXHIBIT P2 : A TRUE COPY OF THE ORDER DATED 18.10.2008 ISSUED BY THE
1ST RESPONDENT.**

RESPONDENT'S EXHIBITS: - **NIL**

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 33465 of 2008

Dated this the 24th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicle bearing No. KL 36/6568 which was seized by the second respondent alleging illegal transportation of river sand. The matter was referred to the 1st respondent who passed Ext.P2 order dated 18.10.2008, whereby the vehicle was ordered to be released on satisfying a sum of ₹25,000/-. This in turn is under challenge in this writ petition.

2. When the matter matter was taken up for consideration on 26.11.2008 following interim order was passed:

“Admit. Issue notice by speed post. There will be a direction to the 1st respondent to release the petitioner's vehicle bearing Reg. No. KL 36/6568 to the petitioner on depositing an amount of ₹25,000/- with the District Collector. Such deposit shall be without prejudice to the petitioner's contentions in the writ petition.”

3. The case of the petitioner is that, the maximum punishment that could be imposed upon the petitioner if at all any violation of the Rule 57 of the KMMC Rules was there, it

could have been only ₹5,000/- and as such, the order passed by the 1st respondent as per Ext.P2, ordering to pay a sum of ₹ 25,000/- with reference to the provisions of KMMC Rules is not correct or sustainable and hence it is sought to be interfered.

4. Heard the learned government Pleader as well.

5. Going by the pleadings and proceedings it is seen that, though the vehicle was seized by the 2nd respondent with reference to the illegal transportation of the river sand, the proceedings finalized by the District Collector as per Ext.P2 is with reference to the violation of the KMMC Rules. No material is established as to the disputed identity of the material concerned and if the commodity transported was actually river sand, no offence under the KMMC Rules/MMDR Act is involved and the matter ought to have been considered in terms of the Sand Act. But since the District Collector has passed Ext.P2 order with reference to the KMMC Rules, this Court thinks that the offence committed by the petitioner is in violation of the MMDR Act/KMMC Rules. The petitioner has not produced any documents to show that the transportation was being effected on

the strength of any valid pass at the time of seizure, nor has the petitioner produced any documents so as to substantiate the factum of purchase of the sand from the concerned dealer. The question to be considered is whether any interference is sought for with reference to the quantum involved.

6. After considering the facts and figures and the relevant provisions of the law, this Court finds that the offence involved with regard to the unauthorised transportation of sand, a minor mineral, is separately taken care of by virtue of Section 4(1)(A) and as such, no interference is warranted with regard to the quantum.

There is no representation for the petitioner as well. Writ petition is dismissed.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE.

kp/-