

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).No. 30850 of 2014 (E)

PETITIONER(S) :

M.J. JAMES,
AGED 69 YEARS, S/O JOSEPH,
MANAGING PARTNER, KURISUMUDY M-SAND UNIT,
NADUVATTOM P.O, ERNAKULAM,
RESIDING AT MANJALI HOUSE,
KIDANGOOR P.O, ANGAMALY.

BY ADV. DR.GEORGE ABRAHAM.

RESPONDENT(S) :

1. CHIEF TOWN PLANNER,
THIRUVANANTHAPURAM-695 001.
2. MALAYATTOOR-NEELESWARAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
NEELESWARAM P.O.,
(VIA)ANGAMALY, PIN-683 584.
3. THE SECRETARY,
MALAYATTOOR-NEELESWARAM GRAMA PANCHAYATH,
NEELESWARAM P.O., (VIA)ANGAMALY, PIN-683 584.

R2,R3 BY ADV. DR.K.P.SATHEESAN (SR.)
R2,R3 BY ADV. SRI.M.R.JAYAPRASAD
R2,R3 BY ADV. SRI.P.MOHANDAS (ERNAKULAM)
R2,R3 BY ADV. SRI.ANOOP.V.NAIR
R2,R3 BY ADV. SRI.S.VIBHEESHANAN
R2&3 BY ADV. SRI.N.MANU THAMPI
BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P1 TRUE COPY OF THE ACKNOWLEDGMENT DATED 24-8-2012 ISSUED BY THE DISTRICT INDUSTRIES DEPARTMENT, ERNAKULAM.
- EXT.P2 COPY OF THE TITLE DEED NO.1218/05 DATED 28-3-2005 OF S.R.O,ANGAMALY.
- EXT.P3 COPY OF THE CONSENT TO OPERATE ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD VALID UP TO 30-6-2015.
- EXT.P4 COPY OF THE LOCATION SKETCH ISSUED BY THE VILLAGE OFFICER, MALAYATOOR.
- EXT.P5 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE SECRETARY OF THE PANCHAYATH, DATED 25-12-2012.
- EXT.P6 COPY OF THE RECEIPT ISSUED BY THE REGIONAL TOWN PLANNING DEPARTMENT, ERNAKULAM.
- EXT.P7 COPY OF THE ORDER PASSED BY THE CHIEF TOWN PLANNER DATED 3-9-2014.
- EXT.P8 COPY OF THE GOVERNMENT ORDER, G.O(MS)2/14/ENVT.DATED 21-2-2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.30850 of 2014

Dated this the 8th day of June, 2015.

JUDGMENT

Aggrieved by the insistence in Ext.P7 by the third respondent for an approval from the State Level Environment Impact Assessment Authority, the petitioner has come up before this Court.

2. The petitioner wanted to set up an M-Sand processing unit on 4 Acres, 70 cents of land owned by him in Malayattoor Village. He obtained registration from the Industries Department and consent to establish and also consent to operate the unit upto 30.6.2015 from the Kerala State Pollution Control Board. The petitioner alleges that he wanted to start the civil construction for the unit and submitted the necessary application, plan and the lay out of the building proposed to be constructed to the third respondent. At the same time, the third respondent referred

the matter to the Regional Town Planning Office, who in turn, placed the matter before the third respondent Chief Town Planner and the third respondent insisted on production of an NOC from the State Level Environment Impact Assessment Authority. The petitioner alleges that when he had already obtained consent to establish and also consent to operate the M-Sand unit, it was not necessary for the third respondent to refer the matter to any other authority, instead he ought to have approved the same if the same was in conformity with the relevant Building Rules.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. The learned Government Pleader on instructions submitted that the raw materials used in the petitioner's unit is taken from the surrounding quarries and that is the reason why the clearance from the State Level Environment Impact Assessment Authority was insisted while approving lay-out. However, it has to be noted that the clearance from the said

authority is required in the case of quarrying. As admittedly the petitioner is not conducting any quarrying operation and it is only the raw-material extracted by other quarrying operators the insistence for the production of the certificate from the State Level Environment Impact Assessment Authority is quite unnecessary.

5. Therefore, this Court is of the view that the matter requires a reconsideration by the third respondent, who issued Ext.P7.

In the result, Condition No.7 stated in Ext.P7 is quashed and the matter is remitted back to the third respondent to consider and issue afresh in the light of what has been stated above and to issue a clearance certificate. It shall be open to the third respondent to impose necessary conditions to avoid environmental pollution. The petitioner shall be given an opportunity of being heard. The entire exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment. To facilitate an early

action, it shall be open to the petitioner to produce a copy of the writ petition as well as the copy of this judgment before the third respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.