

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 33047 of 2014 (E)

PETITIONER :

**ABDULLA,
S/O.KUTTOOSA, AGED 63 YEARS
LOVE HUT, KODIYATHOORE P.O.,
KODIYATHORE VILLAGE, KOZHIKODE TALUK,
KOZHIKODE DISTRICT.**

**BY ADVS.SRI.P.M.ZIRAJ
SRI.A.M.ABDULLA
SRI.O.M.SAJAYAN
SRI.K.S.DHANESHKUMAR
SRI.K.S.SREENATH
SMT.RESHMA P. JOSEPH
SRI.SUBI K.
SRI.P.MOHAMMED SABAH P.**

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST
OFFICE OF DISTRICT GEOLOGY,
KOZHIKODE DISTRICT- 673574.**
- 2. THE DIRECTOR
MINING AND GEOLOGY ,
OFFICE OF THE MINING AND GEOLOGY, KESAVADASAPURAM
PATTAM, THIRUVANANTHAPURAM-695001**
- 3. THE STATE OF KERALA
REPRESENTED BY JOINT SECRETARY TO GOVERNMENT
INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001**
- 4. KARASSERY GRAMA PANCHAYATH
KARASSERY P.O., PIN-673602, KOZHIKODE DISTRICT
REPRESENTED BY ITS SECRETARY.**

5. THE SECRETARY
KARASSERY GRAMA PANCHAYATH,
KARASSERY P.O., PIN-673602
KOZHIKODE DISTRICT.

6. THE REVENUE DIVISIONAL OFFICER
KOZHIKODE, KOZHIKODE DISTRICT, PIN-673 574.

R1 TO R3 & R6 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R4 & R5 BY ADV. SRI.B.V.JOY SANKER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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...3/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: TRUE COPY OF THE QUARRYING PERMIT DTD. 9/7/2014 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.
- EXT. P2:- TRUE COPY OF THE RENEWED CONSENT TO OPERATE DTD. 10/11/2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PETITIONER.
- EXT. P3:- TRUE COPY OF THE LICENCE DTD. 15/5/2014 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- EXT. P4:- TRUE COPY OF THE CERTIFICATE ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER DATED 13/11/2014.
- EXT. P5: TRUE COPY OF THE SHOT FIRER'S CERTIFICATE DTD. 8/5/2012 ISSUED BY THE CONTROLLER OF EXPLOSIVES FOR DEPUTY CHIEF CONTROLLER OF EXPLOSIVES, ERNAKULAM.
- EXT. P6: TRUE COPY OF THE RENEWED NO OBJECTION CERTIFICATE ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE, KOZHIKODE DTD. 31/12/2013.
- EXT. P7: TRUE COPY OF THE LICENCE ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE, KOZHIKODE TO THE PETITIONER FOR THE PURPOSE OF POSSESSING EXPLOSIVES DTD. 29/7/2011.
- EXT. P8:- TRUE COPY OF THE STOP MEMO DTD. 9/10/2014 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- EXT. P9:- TRUE COPY OF THE REPLY DTD. 13/10/2014 SUBMITTED BY THE PETITIONER TO THE STOP MEMO.
- EXT. P10:- TRUE COPY OF THE COMMUNICATION DTD. 15/11/2014 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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K. Vinod Chandran, J

W.P.(C).No.33047 of 2014-E

Dated this the 22nd day of June, 2015

JUDGMENT

The petitioner is aggrieved with the stop memo issued by the Panchayat, at Exhibit P8. The petitioner contends that he has a valid quarrying permit, issued at Exhibit P1, which is valid from 09.07.2014 to 08.07.2015. The petitioner's contention is that the stop memo has been issued without any notice and without hearing the petitioner. The petitioner had submitted an objection to Exhibit P8, at Exhibit P9, which is also not considered till date. The Panchayat merely responded to Exhibit P9, with Exhibit P10, intimating the petitioner that the Governing Committee will take a decision in the matter and if the decision is against the petitioner, then the petitioner has to approach the appellate authority. The petitioner submits that there is no basis for a complaint, since there are no residential buildings within 100 meters of the quarry.

2. The learned counsel for the Panchayat, however, would contend that stop memo was issued on the basis of complaints received from the owners of the nearby residences.

3. In any event, the Panchayat would have to consider the objection of the petitioner as also hear the complainants and if necessary, conduct an inspection by a Sub Committee or any authorised officer. The inspection could be done only in the presence of the petitioner and the complainants. The Panchayat shall take steps to conduct an inspection and the Governing committee shall take a decision within one month from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of as above. No costs.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]