

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 33511 of 2014 (L)

PETITIONER :

**DASAN PHILIP M., AGED 66 YEARS,
S/O.RV.K.P.PHILIP, MUNDAPPALLIL HOUSE,
THUKALASSERY, TIRUVALLA-689 101.**

**BY ADVS.SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
SRI.ARUN THOMAS
SRI.JENNIS STEPHEN**

RESPONDENTS :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF MINING AND GEOLOGY, SECRETARIAT
THIRUVANANTHAPURAM-689 101**
- 2. THE DISTRICT COLLECTOR,
PATHANAMTHITTA-689 533.**
- 3. STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY(SEIAA),
KERALA DIRECTORATE OF ENVIRONMENT AND CLIMATE
CHANGE,PALLIMUKKU,PETTAH, THIRUVANANTHAPURAM-695 024.**
- 4. THE GEOLOGIST,
DISTRICT OFFICE, DEPARTMENT OF MINING & GEOLOGY
MINI CIVIL STATION, ARANMULA
PATHANAMTHITTA DISTRICT-689 533**
- 5. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL, TIRUVALLA, PIN**

***ADDL. R6 IMPEADED :**

- 6. MINISTRY OF ENVIRONMENT,
FORESTS & CLIMATE CHANGE, INDIRA PARYAVARAN BHAVAN
JOR BAGH ROAD, NEW DELHI - 110 003
REPRESENTED BY ITS SECRETARY.**

ADDL.R6 IMPEADED AS PER ORDER DATED 20.12.2014 IN IA 17453/14.

**R1 TO R5 BY GOVERNMENT PLEADER SRI. JOSEPH GEORGE
R6 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C).No. 33511 of 2014 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: COPY OF THE BUILDING PERMIT NO.BP 308/11-12 DATED 8/5/2012
ISSUED BY THE TIRUVALLA MUNICIPALITY IN FAVOUR OF THE
PETITIONER.

EXT.P2: COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE 5TH
RESPONDENT FOR REMOVAL OF EARTH FROM THE PETITIONER'S
PROPERTY.

EXT.P3: COPY OF THE APPLICATION DATED 20/11/2014 SUBMITTED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P4: COPY OF THE ACKNOWLEDGMENT RECEIVED FROM THE THIRD
RESPONDENT BY THE PETITIONER SHOWING ACCEPTANCE OF
EXHIBIT P3 APPLICATION

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 33511 of 2014

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner has obtained Ext.P1 'Building Permit' on 08.05.2012 for construction of a commercial building. So as to affect the construction, the petitioner wants to remove earth from the property. The petitioner submitted Ext.P3 application before the respondents 4 & 5. The 5th respondent granted NOC to the petitioner. But the 4th respondent informed the petitioner that for removal of the earth, permit is to be granted 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 or 4th respondent to consider Ext.P3 application. 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.

2. Heard the learned Government Pleader as well.

3. 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, but 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 quite adversely affected the on-going projects and also the developmental measures althrough out.

4. 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.

5. 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.

6. 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 petitioner herein.

7. In the said circumstances, there will be a direction to the addl. 6th respondent 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 application preferred by the petitioner 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, which exercise shall be completed within a further period of 'one month'.

The writ petition stands disposed of accordingly.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.