

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 33757 of 2014 (T)

PETITIONER:

T.S.PRAKASHAN, AGED 45 YEARS
S/O.SUKUMARAN, THANNICKAL HOUSE, ANYARTHOLU.P.O
VANDANMEDU VILLAGE, IDUKKI DISTRICT.

BY ADV. SRI.A.C.DEVASIA

RESPONDENTS:

1. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY, THODUPUZHA
IDUKKI DISTRICT-688002.
2. DIRECTOR OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM-KERALA STATE-695001.
3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, MINING AND GEOLOGY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

R BY GOVERNMENT PLEADER SRI. K.C. VINCENT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-04-2015, ALONG WITH WPC. 34008/2014, WPC. 34023/2014, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33757 of 2014 (T)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 TRUE COPY OF THE QUARRYING LEASE DATED 26.03.2012.

EXT.P2 TRUE COPY OF THE EXPLOSIVE LICENCE DATED 21.09.2011.

EXT.P3 TRUE COPY OF THE LICENCE ISSUED BY THE POLLUTION CONTROL BOARD DATED 03.02.2011.

EXT.P4 TRUE COPY OF THE LAST LICENCE ISSUED BY THE PAMPADUMPARA PANCHAYATH DATED 16.04.2012.

EXT.P5 TRUE COPY OF THE LAST RENEWED PERMIT ISSUED BY THE IST RESPONDENT IN FAVOUR OF THE PETITIONER DATED 05.9.2011.

EXT.P6 TRUE COPY OF THE RENEWAL APPLICATION DATED-05.12.2014 FILED BEFORE THE IST RESPONDENT.

EXT.P7 TRUE COPY OF THE ABOVE REFERRED INTERIM DIRECTION DATED 05.08.2013 ISSUED BY THE HON'BLE NGT IN O.A.171/2013.

EXT.P8 TRUE COPY OF THE ORDER DATED 08.07.2014 IN THE TRIBUNAL.

EXT.P9 TRUE COPY OF THE INTERIM ORDER PASSED BY THE HON'BLE COURT IN WP(C)19430/2014.

EXT.P10 TRUE COPY OF THE DRAFT NOTIFICATION ISSUED BY THE UNION OF INDIA ON 10.03.2014.

EXT.P11 TRUE COPY OF THE ORDER IN W.P(C)NO.26247/2014 DATED 24.10.2014.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)Nos.33757, 34008 & 34023 OF 2014
.....

Dated this the 7th day of April, 2015

J U D G M E N T

The issue involved in all these cases is almost similar and hence these cases are dealt with together. For the purpose of convenience, the prayers made by the petitioner in W.P.(C) No.33757/2014 are extracted below:

"i) *To call for the records leading to Exts.P1 to P11 and to issue a writ of mandamus or any other appropriate writ, order or directions commanding the 1st respondent, to accept the Exhibit P6 application of the petitioner and process the same in accordance with law;*

ii) *To issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to consider Ext.P6 application of the petitioner in accordance with law notwithstanding Ext.P8 order passed by Hon'ble National Green Tribunal;*

iii) *To declare that the restrictions imposed by the Kasturi Rangan Report is only applicable to Ecologically Sensitive Area as identified and marked by Ext.P10 Notification and not to the area for which the quarrying permit is sought for under*

Ext.P6 renewal application;

iv) To issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to renew the quarrying permit on the basis of Ext.P6 application without insisting the environmental clearance;

v) To declare that the petitioner is eligible to continue the quarrying operations in the strength of Exhibit P1 to P5 and other relevant documents;

vi) To issue any other appropriate writ, order or direction as this Hon'ble Court may deem fit and proper as per the facts and circumstances of the case."

2. Heard the learned counsel appearing for the petitioners and also the learned Senior Government Pleader appearing for the respondents.

3. The grievance is with regard to the granting of renewal of the permits for conducting quarrying operations by the petitioners, in terms of the relevant provisions of the Kerala Minor Mineral Concession Rules, 2015. The learned counsel appearing for the petitioners submits that applications were preferred by the petitioners well in time and as such, delay was only with reference to environmental clearance, which is not applicable in the case of the petitioners herein.

4. The learned Government Pleader appearing for the respondents submits that the petitioners herein were not having valid permits as on 09.01.2015, so as to have the same renewed as envisaged under the Kerala Minor Mineral Concession Rules, 2015 and also as made clear by a Division Bench of this Court as per the decision reported in [2015 (2) KLT 78]. This is a matter which requires to be considered by the competent authority, i.e. the Geologist, as to whether it comes within the purview of Ecologically Sensitive Area and whether the petitioners are entitled to have the benefit flowing from the judgment delivered by this Court which is cited herein before.

5. In the above circumstances, there will be a direction to the Geologist to consider the cases of the petitioners and pass appropriate orders in accordance with law, also taking note of the observations in the aforesaid judgment and also the mandate of the new Rules, Kerala Minor Mineral Concession Rules, 2015, after affording an opportunity of hearing to the petitioners, which shall be done at the earliest, at any rate, within 'six weeks' from the date of receipt of a copy of this judgment.

6. The petitioners shall produce a copy of this judgment along with a copy of the writ petition before the Geologist for further steps.

These writ petitions are disposed of accordingly.

Sd/-

P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. to Judge

St/-