

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 37782 of 2008 (W)

PETITIONER:

**MANJARODAN ASHRAF, S/O. HASSANKUTTY,
KUNNUMMEL HOUSE, CHENAKALANGADI, THENJIPALAM P.O.
MALAPPURAM DIST.**

BY ADV. SRI.THOMAS ANTONY

RESPONDENTS:

- 1. STATE OF KERALA, REP. BY
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DISTRICT COLLECTOR, MALAPPURAM DIST.**

BY GOVERNMENT PLEADER SRI. S. JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 37782 of 2008 (W)

APPENDIX

PETITIONER'S EXHIBITS

**EXHIBIT P1 : TRUE PHOTOCOPY OF THE JUDGMENT OF THIS HON'BLE
COURT IN WRIT PETITION (CIVIL) NO.27919 OF 2006 DATED
25.07.2008**

**EXHIBIT P2 : TRUE PHOTOCOPY OF THE ORDER OF THE 2ND RESPONDENT
BEARING NO.P-5/41927/06 DATED 04-12-2008**

**EXHIBIT P3 : TRUE PHOTOCOPY OF THE ORDER OF THE 2ND RESPONDENT
BEARING NO.P-5/41927/06 DATED 19.10.2006**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 37782 of 2008 (W)

Dated this the 10th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P2 order passed by the District Collector under the Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001.

2. The petitioner is concerned with two vehicles bearing registration nos. KL-10 W 9593 and KL-10 V 8818. Ext.P2 imposed a fine of Rs.1,50,000/- on the first vehicle and Rs.1,25,000/- on the second vehicle above referred. The petitioner was also granted release of the vehicles on payment of 50% of the amounts so mulcted in Ext.P2.

3. The petitioner's specific contention is that both the petitioner's vehicles had passes issued by the Panchayath. The petitioner's vehicles along with the other vehicles were said to have been waiting at the Kadavu for

loading the lorries as per the passes issued by the Local Self Government Institution, when the revenue authorities seized the vehicles.

4. Ext.P3 was the order passed first by the District Collector under the Act. The vehicle owners were before this Court, which writ petition was disposed of by Ext.P1, directing the District Collector to consider the matter afresh. Ext.P2 does not show any consideration, as is reflected in Ext.P3. In Ext.P3 the District Collector has specifically found that the vehicle owners had produced the passes before the District Collector, but, however, the same was not produced at the time of seizure.

5. This Court does not find any reason to interfere with Ext.P2 order also, since the petitioner is unable to demonstrate that the passes were issued at the time when the seizure was effected. The certificate of the Panchayath,

produced along with a memo, would only indicate that passes were issued between 8.00 a.m. and 4.00 p.m. on 16.10.2006, when the seizure itself was effected at around 9.25 am. If the passes were issued at the premises of the Kadavu, between 8.00 a.m. and 4.00 p.m., then necessarily the Panchayath officials would have been available there when the seizure was effected. There can be no interference to Ext.P2 on the facts, as disclosed from the records.

6. However, it is to be noticed that Ext.P3 mulcted a fine of Rs.50,000/- on each of the vehicles, while in Ext.P2 the same was enhanced; in the case of the petitioner to Rs.1,50,000/- and Rs.1,25,000/- for the two vehicles respectively. It is to be specifically noticed that the reconsideration was at the instance of the vehicle owners and it was not proper for the District Collector to have imposed higher fine than that which was imposed in Ext.P3.

7. In such circumstance, the fine imposed in Ext.P2 with respect to both the vehicles is reduced to Rs.50,000/- each. The amounts remitted as per the interim order, if in excess of the said amount, shall be refunded to the petitioner, if the petitioner makes an application within a period of three months from the date of receipt of the certified copy of this judgment.

Writ petition is disposed of as above.

Sd/-
K.VINOD CHANDRAN,
JUDGE