

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 35204 of 2014 (A)

PETITIONER(S):

**SURESH KUMAR M., S/O.MATHAVAN PILLAI,
RETHNALAYAM, PUTHENCHANDA P.O.,
VALLIKUNNAM-690 501, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT-688 001.**
- 2. THE GEOLOGIST,
MINING & GEOLOGY DEPARTMENT,
DISTRICT OFFICE, ALAPPUZHA AT
CHERTHALA-688 524.**

BY GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE CERTIFICATE DATED 07/03/2014 ISSUED BY THE
TAHSILDAR, MAVELIKKARA.
- EXT.P2 COPY OF THE CERTIFICATE DATED 19/02/2014 ISSUED BY THE
VILLAGE OFFICER, THAMARAKULAM.
- EXT.P3 COPY OF THE COMMUNICATION DATED 17/10/2014 ISSUED BY
THE 2ND RESPONDENT ADDRESSED TO THE PETITIONER.
- EXT.P4 COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) NO.02/14/ENVT.
DATED 21/02/2014 ISSUED BY THE GOVERNMENT OF KERALA.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 35204 of 2014

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Dated, this the 7th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) Issue a writ of mandamus or any other appropriate writ or order commanding the 2nd respondent to consider the application for the issuance of quarrying permit filed by the petitioner on 24.09.2014 referred to in Ext.P3 communication without insisting for production of Environmental Clearance.

(ii) Issue a writ of mandamus or any other appropriate writ or order commanding the 2nd respondent to consider the application for the issuance of quarrying permit filed by the petitioner on 24.09.2014 following the guidelines prescribed in Exhibit P4 Government Order.

And

(iii) To pass such other orders or reliefs as this Hon'ble Court deems fit in the interest of justice.

2. The learned counsel for the petitioner submits that the petitioner has made an application before the second respondent for issuance of quarrying permit on 24.09.2014 and that the same is refused to be acted upon, stating that the petitioner will have to produce environmental clearance certificate. According to the petitioner no such certificate is necessary as the area concerned is less than 5 hectars. This hence is sought to be intercepted by filing the present writ petition.

3. Heard the learned Government Pleader as well, who points out that the idea and understanding of the petitioner is per se wrong and misconceived. Even Ext. P4 Government Order sought to be relied on by the petitioner stipulates that such a certificate is necessary, though it could be obtained by simplified procedure prescribed in this regard. The relevant paragraph (contained in page Nos. 4 and 5 of Ext. P4) is as follows :

"For area less than 5ha the State Environmental Impact Assessment Authority has prescribed a simplified procedure and application form in Malayalam (available in the website of SEIAA). The District Collectors will designate an authorized officer in each District who will be approached by the owner of the land, or contractor having NOC from the owner with the above said application and the officer will forward the application

to the Member Secretary, State Expert Appraisal committee (Director of Environment & Climate Change, 'Devi Kripa', Pallimukku, Petta (P.O.), Thiruvananthapuram - 24) who in will take expeditious action to consider the application for Environmental Clearance"

4. That apart, the issue had come for consideration before a Division Bench of this Court in W.P.(C) Nos. 4662 of 2014 and connected cases. Referring to the mandate given by the Apex Court in **Deepak Kumar and Ors. Vs. State of Haryana and Ors. [(2012) 4 SCC 626]**, it was submitted by the learned Advocate General that steps were being taken to frame the Rules, which was almost in the last stage and that the same was proposed to be completed by 21st of January, 2015. The said cases have been adjourned to be considered by the last week of this month; however making it clear that, without obtaining environmental clearance under the notification dated 14.09.2006, no fresh permit/lease or its renewal shall be granted henceforth. In the said circumstance, interference is declined and the writ petition is dismissed.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd