

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 36078 of 2015 (H)

PETITIONER :

**ABDUL JAVAD, AGED 36 YEARS,
S/O. MOOSA, PATTANMAR THODIYIL, PALLIPPURAM.P.O.,
PARUTHOOR VILLAGE, PATTAMBI TALUK, PALAKKAD DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. THE DISTRICT GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PALAKKAD DISTRICT 649533.**
- 2. THE DISTRICT COLLECTOR, PALAKKAD DISTRICT-649533.**
- 3. STATE POLICE CHEIF, PALAKKAD DISTRICT-649533.**
- 4. THE DIRECTOR, MINING AND GEOLOGY,
OFFICE OF THE MINING AND GEOLOGY,
KESAVADASAPURAM, PATTAM, THIRUVANANTHAPURAM-695001.**
- 5. THE STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVERNMENT, INDUSTRIES DEPARTMENT,
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-6905001.**

BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE LICENCE ISSUED BY THE SECRETARY,
ONGALLUR GRAMA PANCHAYATH DATED 13/03/2015 TO THE
PETITIONER.
- EXT.P2: TRUE COPY OF REGISTRATION UNDER KERALA VALUE ADDED TAX
RULES, 2005 ISSUED BY THE COMMERCIAL TAXES DEPARTMENT,
GOVERNMENT OF KERALA DATED 30/06/2015.
- EXT.P3: TRUE COPY OF SPECIMEN OF TRANSIT PASS ISSUED BY THE
DEPARTMENT OF MINING AND GEOLOGY, ANDRA PRADESH ALONG
WITH SPECIMEN OF INVOICE OF SAND DEALER OF ANDRA PRADESH
BY NAME M/S. NAGESWARA SAND SUPPLIERS DATED 13/03/2015.
- EXT.P4: TRUE COPY OF SPECIMEN OF WAY BILL ISSUED BY THE
COMMERCIAL TAX OFFICER-II, TADIPATRI DATED 13.3.2015.
- EXT.P5: TRUE COPY OF THE INTERIM ORDER DATED 29/10/2015 IN WPC
NO.32887/2015 OF THIS HONOURABLE COURT.
- EXT.P6: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT DATED 06/11/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 36078 of 2015

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Dated this the 7th day of December, 2015

J U D G M E N T

The petitioner is doing the business of river sand by bringing the same from other states than Kerala. The petitioner approached the Geologist, first respondent to issue necessary OA forms and dealers licence to stock and sale of river sand imported from other State. The petitioner submits that in the light of Rule 107 of Kerala Minor mineral Concession Rule, he is entitled for dealers licence and OA forms.

2. The Rule 107 of the Kerala Minor Mineral Concession Rules provides as follows:

107. Import of minerals.– A person who brings minerals to the State of Kerala from other countries or other States in India by means of ship or rail shall be considered as a producer under these rules. On production of sufficient documentary proof of import from outside the country, or documents in proof of payment of royalty in case of import from another State of India by such person, he may be given sanction to obtain movement permit under Kerala Minerals (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015 without payment of royalty for transportation of minerals from the place of unloading.

3. In the light of above Rules the importer would be entitled for OA forms if there is sufficient proof as to the

payment of royalty and proof of transportation of minerals from other place and also payment of VAT.

4. However Rules do not speak about granting dealers licence for stocking and sale of river sand. Therefore this Court is of the view that the petitioner should be entitled for movement permit and OA forms, if there is a proof of bringing sand from other States. If the petitioner produce necessary proof to payment as royalty in other State, a proof of transportation from other State and payment of VAT, necessarily movement permit and OA forms shall be issued to the petitioner, whenever it is required.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE