

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 36980 of 2015 ()

PETITIONER :

**M/S. SOORYA GRANITE, A PARTNERSHIP FIRM
REP. BY ITS MANAGING PARTNER C. RAJEEV, AGED 45, S/O.VIJAYAN
CHANNATHODI HOUSE, VRINDAVANAM, EDAYUR NORTH POST
MALAPPURAM - 676 552.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S) :

- 1. THE STATE OF KERALA
REP. BY THE SECRETARY TO THE GOVERNMENT
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY
PETTAH P.O., THIRUVANANTHAPURAM - 695 001.**
- 3. THE GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE
PALAKKAD - 678 001.**

R1 TO R3 BY SR. GOVT. PLEADER SRI. C.S. MANILAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-12-2015, ALONG WITH WP(C) NO. 35515/2015 & WP(C) NO. 37139/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 36980 of 2015 ()

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- A TRUE COPY OF THE EXPLOSIVE LICENSE ISSUED TO THE
 PETITIONER DATED 14.8.2013.
- EXT. P2- A TRUE COPY OF THE PANCHAYATH LICENSE ISSUED DATED 25.4.2015
 OF THE KUTHANNUR II VILLAGE.
- EXT. P3- A TRUE COPY OF THE QUARRYING PERMIT ISSUED DATED 1.10.2014.
- EXT. P4- A TRUE COPY OF THE ORDER PASSED BY THE THIRD RESPONDENT
 DATED 6.5.2015.
- EXT. P5- A TRUE COPY OF REPLY TO THE APPLICATION SUBMITTED THE
 PETITIONER DATED 6.3.2015.
- EXT. P6- A TRUE COPY OF THE RECEIPT ISSUED DATED 7.3.2015.
- EXT. P7- A TRUE COPY OF THE RECIPT ISSUED DATED 23.9.2015 BY THE THIRD
 RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).Nos.35515/2015, 36980/2015 & 37139/2015**  
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Dated this the 14th Day of December, 2015

J U D G M E N T

The petitioners have approached this Court on account of the fact that the Geologist refused to consider their applications in the light of the amended Rule 12 of the Kerala Minor Mineral Concession Rules, 2015 and on the ground that the petitioners did not possess environmental clearance as on 09/01/2015.

2. The petitioners submit that in terms of the first proviso to Rule 12 of Kerala Minor Mineral Concession Rules, 1967, they are entitled for renewal as they were holding valid permit as on 09/01/2015. A Division Bench of this Court in **Paristhithy Samrakshana Janakeeya Samithy v. State of Kerala [2015 (4) KLT 278]**, held that the benefit of the first proviso to Rule 12 is only available to persons who are holding permits with environmental clearance. The above judgment has been challenged before the Hon'ble Supreme Court in SLP No.30103 of 2015 and connected matters. Therein, the Hon'ble Supreme Court initially granted an order of status quo and thereafter, a further order has been passed on 07/12/2015 as follows:

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“Heard.

Mr.Ramesh Babu M.R., learned counsel appearing for respondents no.1 to 4, accepts notice in SLP (C) No.33130 of 2015. He prays for and is granted six weeks to file a counter affidavit. Fresh notice shall issue for the service of the unserved respondents. Post along with SLP (C).No.30103 of 2015 and connected matters.

Status quo shall be maintained by the parties as it exists today in SLP(C).Nos.33130 of 2015 and 32072 of 2015.

At this stage, Mr.Ramesh Babu submits on instructions that the State of Kerala shall, pending further orders from this Court, renew all existing permits for a further period of one year and the status quo order shall not be interpreted to mean that the same is an impediment for such renewal. That submission is recorded.”

3. Therefore, it is submitted by all the petitioners that their applications have to be considered in the light of the above order, recording the submission of the State before the Hon'ble Supreme Court to renew all existing permits in respect of the holders of the permits, who have permits either with environmental clearance or not, as on 09/01/2015. It appears that the petitioners have approached this Court apprehending that their applications will not be considered in the light of the declaration of the Division Bench of this Court in WP(C).No.34463 of 2015 dated 07/12/2015

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striking down the subsequent amendment to Rule 12 as per Government Order No.144 of 2015. By the above judgment, the substitution to the first and second provisos have been struck down. The substitution is to the effect that environmental clearance required under Rule 9 shall not be insisted in respect of renewal of quarrying permits which had quarrying permits as per the KMMC, 1967 on or before 26/2/2012.

4. The learned Senior Government Pleader Shri Manilal submits that in the light of the undertaking by the State before the Hon'ble Supreme Court, the respondents cannot refuse to consider the applications in respect of the holders of permits having existing permits as on 09/1/2015 unless the Hon'ble Supreme Court otherwise orders. Therefore, in the light of the above submission, this Court is of the view that the petitioners' applications shall be considered if otherwise they are in order and unless otherwise ordered by the Hon'ble Supreme Court.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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