

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 38912 of 2015 (L)

PETITIONER:

**K.A. SIVAN, S/O.AYYAPPANKUTTY,
AGED 60 YEARS, MANAGING PARTNER,
M/S.AMAR CRUSHER METALS - QUARRY,
KIZHAKKENCHERRY, KORANCHIRA P.O.,
WADAKKANCHERY, PALAKKAD DISTRICT, PIN - 678684.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.N.SHAMSUL HUDA**

RESPONDENT(S):

- 1. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF INDUSTRIES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT,
TOWN BUS STAND COMPLEX, PALAKKAD-678014.**
- 3. VILLAGE OFFICER,
KIZHAKKENCHERRY VILLAGE, ALATHUR TALUK,
PALAKKAD DISTRICT, PIN 678541.**
- 4. KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, NEAR DISTRICT PANCHAYAT OFFICE,
PALAKKAD-678001, REPRESENTED BY ITS
SENIOR ENVIRONMENTAL ENGINEER.**

**R1 TO R 3 BY GOVT. PLEADER SRI.BIJU MEENATTOOR
R4 BY SRI. M.AJAY, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT-P1: TRUE COPY OF THE QUARRYING PERMIT DATED 23.3.2011 VALID UP TO 22.3.2012 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P2: TRUE COPY OF THE QUARRYING PERMIT DATED 30.5.2012 VALID UP TO 29.5.2013 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P3: TRUE COPY OF THE LICENCE DATED 11.5.2011 ISSUED BY THE SPECIAL GRADE SECRETARY, KIZHAKKENCHERRY GRAMA PANCHAYAT.
- EXHIBIT-P4: TRUE COPY OF THE LICENCE DATED 22.2.2012 ISSUED BY THE SPECIAL GRADE SECRETARY, KIZHAKKENCHERRY GRAMA PANCHAYAT.
- EXHIBIT-P5: TRUE COPY OF THE LICENCE DATED 28.2.2013 ISSUED BY THE SPECIAL GRADE SECRETARY, KIZHAKKENCHERRY GRAMA PANCHAYAT.
- EXHIBIT-P6: TRUE COPY OF THE CONSENT NO.PCB/PLKD/IC/CO/F/835/2011 DATED 5.4.2011 VALID UP TO 31.3.2014 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD.
- EXHIBIT-P7: TRUE COPY OF THE PROCEEDING DATED 20.1.2006 OF THE JOINT CHIEF CONTROLLER OF EXPLOSIVES, SOUTH CIRCLE, CHENNAI.
- EXHIBIT-P8: TRUE COPY OF THE LIST OF ECOLOGICALLY SENSITIVE AREA LANDS IN KIZHAKKENCHERRY 1 VILLAGE AND KIZHAKKENCHERRY OF ALATHUR TALUK OF PALAKKAD DISTRICT PUBLISHED BY THE BIODIVERSITY BOARD UNDER THE GOVERNMENT OF KERALA.
- EXHIBIT-P9: TRUE COPY OF THE NOTIFICATION NO.G.O.(P) 144/2015/ID DATED 5.10.2015 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P10: TRUE COPY OF THE PROCEEDING DATED 23.6.2014 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P11: TRUE COPY OF THE JUDGMENT DATED 16.11.2015 IN W.P.(C) NO.33565/2015 OF THIS HON'BLE COURT.
- EXT-P11(A): TRUE COPY OF THE ORDER DATED 23.11.2015 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P12: TRUE COPY OF THE ORDER DATED 14.12.2015 ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.38912 of 2015

Dated this the 22nd day of December, 2015

JUDGMENT

The petitioner, challenges Ext.P12 communication issued by the Senior Environmental Engineer, Kerala State Pollution Control Board. By Ext.P12, the petitioner has been communicated that request for renewal of his consent to operate a quarry cannot be considered as the area falls within the Ecologically Sensitive Area (ESA). According to the petitioner, the area is outside the ESA notification.

This Court is of the view that the petitioner's application for renewal shall be reconsidered by the fourth respondent after calling for a report from Tahsildar of the competent jurisdiction. The Tahsildar also shall provide necessary assistance to the fourth respondent. On such enquiry, if it is found that the petitioner's area falls outside the ESA, necessary

action shall be taken to renew the consent in accordance with law. Needful shall be done within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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