

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 22ND DAY OF SEPTEMBER 2014/31ST BHADRA, 1936

WP(C).No. 19767 of 2014 (U)

PETITIONER(S):

SUNIL KUMAR, AGED 44 YEARS,
S/O. NADESAN, MANAGING DIRECTOR,
S.K.G GRANITES AND QUARRIES (P) LTD., OOTTUPURA, KONNI,
PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.M.MANOJKUMAR (CHELAKKADAN)
SMT.ASHA BABU
SMT.AMMU CHARLES

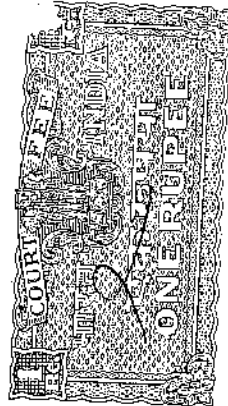
RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE DIRECTOR,
MINING AND GEOLOGY, MINING AND GEOLOGY DIRECTORATE,
KESAVADASAPURAM, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM -695 004.
3. THE SENIOR GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT, DISTRICT OFFICE,
PATHANAMTHITTA, MINI CIVIL STATION, ARANMULA P.O.,
PATHANAMTHITTA - 689 533.

BY GOVERNMENT PLEADER SRI.T.P.SAJID

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-09-2014 ALONG WITH WPC.19430/2014 AND CONNECTED CASE
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/



A. MUHAMED MUSTAQUE, J.

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W.P.(C) Nos.19430, 19471, 19475, 19476,
19519, 19767, 20636, 20637,
20773, 20774, 20775, 20835,
21202, 21204, 21219, 21229,
21291, 21292 & 21293 OF 2014

= = = = =
Dated this the 22nd day of September, 2014

J U D G M E N T

Read the interim order dated 06-08-2014 in W.P.(C)
No.19430 and connected matters.

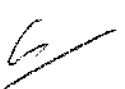
2. These are Writ Petitions filed by the holders for quarrying permit granted for extraction of granite and also laterite. They approached this court feeling aggrieved by the order passed by the Respondents to revoke the permit for want of environmental clearances, citing that the Hon'ble Green Tribunal, New Delhi has passed an interim order in O.A. No.171/2013, interdicting the mining activity without obtaining environmental clearances. The sole reason stated in the impugned order is with reference to the order passed by the Green Tribunal in the above matter. The order passed by the Green Tribunal is placed before this Court. In fact, it is an interim order.

3. I have perused the orders of the Green Tribunal. The Green Tribunal is seized of the issue regarding illegal and impermissible mining activities going on in the banks of rivers Yamuna, Ganga, Champel, Gaunti and Revathi amongst others. The illegal removal of minerals from the river beds is causing serious threat to the flow of the river, forests upon river bank and most seriously to the environment of these areas. As revealed from the order itself, the matter seized by the Tribunal is regarding the river sand mining. States have appeared before the Tribunal. Based on the direction of the Tribunal States were directed to file reply. The State of Kerala also appeared before the Tribunal and sought time to file reply. In the meanwhile, the State of Kerala has been interdicted from granting any mining licence unless the applicant for such licence possessed environmental clearance and clearance from the Pollution Control Board in accordance with law. It is also ordered that in all places where permission has been granted after the passing of the order of the Green Tribunal, the

department shall take action for revocation of licences. It appears that based on such direction, the official respondent took the decision to revoke the licence/permission granted to the petitioners for quarrying operations.

4. This court by an interim order, after perusing the order passed by the National Green Tribunal, stayed the operation of the order revoking licence/permission.

5. Today, when the matter posted, the learned Senior Government Pleader sought time for filing counter affidavit. It is also submitted by the learned counsel that the Government has withdrawn the order revoking the permission, in view of the order passed by this Court. The Government have no other reason other than the one mentioned in the order to justify the action of revoking the licence/permission. The reason resulting the action is derived from the order passed by the Green Tribunal in regard to the mining of the river sand. In context of the issue before the Tribunal, an order has been passed by the Tribunal to revoke the licences which have been




issued after the order of the Tribunal, without obtaining environmental clearances. This can only be referred to sand mining operations.

6. In view of the same, the impugned orders are not sustainable and accordingly the impugned orders are set aside.

The Writ Petitions are disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE,
JUDGE.

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P.S. to Judge

St/-



APPENDIX


PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE QUARRYING PERMIT DATED 23/10/2013 GRANTED TO THE PETITIONER BY R3.
- EXHIBIT-P2- TRUE COPY OF THE LICENCE ISSUED BY THE ARUVAPPULAM GRAMA PANCHAYATH DATED 24/03/2014.
- EXHIBIT-P3- TRUE COPY OF THE COMMUNICATION DATED 14/03/2014 FROM THE EXPLOSIVE DEPARTMENT.
- EXHIBIT-P4- TRUE COPY OF THE ORDER DATED 15/07/2014 ISSUED BY R2.
- EXHIBIT-P5- TRUE COPY OF THE ORDER DATED 21/07/2014 ISSUED BY R3.

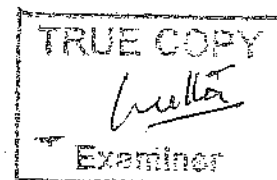
RESPONDENT(S)' EXHIBITS

NIL

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P.S. TO JUDGE

msv/



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 8TH DAY OF OCTOBER 2014/16TH ASWINA, 1936

WP(C).No. 25948 of 2014 (P)

PETITIONER(S):

SUNILKUMAR, S/O.NADESHAN,
AGED 48 YEARS, THEKKEDATHU HOUSE,
GOVINDAMUTTOM P.O., KAYAMKULAM.

BY ADVS.SRI.MATHEW A KUZHALANADAN,
SMT.VINEETHA V.KUMAR.

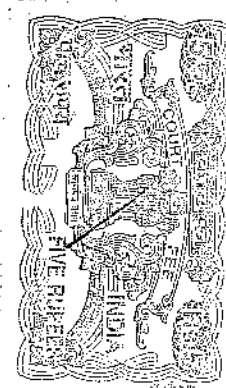
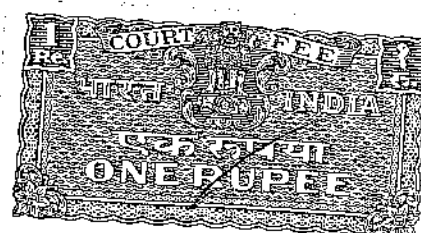
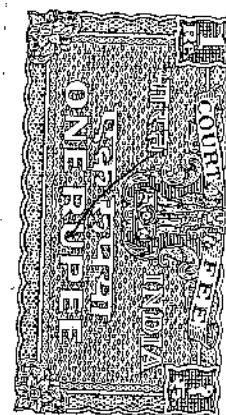
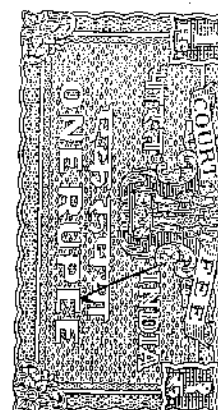
RESPONDENT(S):

1. GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
DISTRICT OFFICE, PATHANAMTHITTA-695 001.
2. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
KERALA, THIRUVANANTHAPURAM-695 001.
3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.

BY GOVT. PLEADER MR.K.C. VINCENT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

RS.



A.MUHAMED MUSTAQUE, J.


= = = = =
WP(C).No.25948 of 2014-P.
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Dated this the 8th day of October, 2014.

J U D G M E N T

The petitioner has applied for renewal of quarry. This has not been considered for the reason that the National Green Tribunal in OA.No.171/2013 has interdicted granting quarrying permit without obtaining environmental clearance and also for the reason that property falls within ecologically sensitive area.

2. This Court as per Ext.P8 judgment has interdicted the order revoking quarrying permit based on the order passed by the National Green Tribunal in OA.No.171/2013 on the premise that the above order is related to sand mining and not related to quarrying operation. Therefore, the objection raised on the basis of the order passed by the National Green Tribunal is liable to be set aside. In regard to the objection relating to the ecologically sensitive area, I am of the view, the matter has to be enquired into by the Geologist. According to the learned Government Pleader,



this area falls within the ecologically sensitive area as per the order passed on 25.9.2014 in OA.No.26/2012. However, the learned counsel for the petitioner submits that as per the above judgment this area will not fall within the notified area of ecologically sensitive area as per Ext.P7. I am of the view, these are the matters to be considered after adverting to the petitioner's objection. If ultimately found that this property is not falling in ecologically sensitive area necessarily quarrying permit shall be granted without insisting environmental clearance. Therefore, before passing final orders, the Geologist shall consider Ext.P7 as well as the order passed by the National Green Tribunal. Appropriate orders shall be passed within a period of three weeks from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE,
(Judge)

Kvs/-

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APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE REFERRED QUARRYING PERMIT NO. 57/12-13/QP/CRPS/GBS/1731/DOPTA/M/2012, DATED 17/12/2012.
- EXHIBIT P2 TRUE COPY OF THE LICENCE NO A4-1187/14 DATED 24/3/2014.
- EXHIBIT P2(A) TRUE COPY OF EXPLOSIVE LICENCE, DATED 14/03/2014.
- EXHIBIT P2(B) TRUE COPY OF THE CONSENT NO.QCO/PTA/48/R1/2012.
- EXHIBIT P3 TRUE COPY OF THE RENEWAL APPLICATION DATED 29/08/2014 SUBMITTED BY THE PETITIONER.
- EXHIBIT P4 TRUE COPY OF THE INTERIM DIRECTION DATED 05-08-2013 ISSUED BY THE HON'BLE NGT IN O.A 171/13.
- EXHIBIT P5 TRUE COPY OF THE ORDER DATED 08-07-2014 PASSED BY THE NATIONAL GREEN TRIBUNAL.
- EXHIBIT P6 TRUE COPY OF THE ORDER DATED 06/08/2014 PASSED BY THIS HON'BLE COURT IN WP(C).NO.19430/2014.
- EXHIBIT P7 TRUE COPY OF THE DRAFT NOTIFICATION ISSUED BY THE UNION OF INDIA ON 10-03-2014.
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT DATED 18/09/2014 IN WP(C).NO.24180/2014 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P9 TRUE COPY OF THE REPORT NO. 2605/14, DATED 20/09/2014 BY THE VILLAGE OFFICER, ARUVAPPULAM.

RESPONDENT'S EXHIBITS:-

NIL.

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P.A. TO JUDGE

rs.

