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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 29005 of 2014 (A)

PETITIONER:

SADANANDAN,  
AMBADIYIL NEW BUNGLOW, ADOOR P.O.,  
PATHANAMTHITTA-689 656.

BY ADVS.SRI.BECHU KURIAN THOMAS,  
SRI.ENOCH DAVID SIMON JOEL.

RESPONDENT:

1. STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,  
PALLIMUKKU, PETTAH P.O., THIRUVANANTHAPURAM-695 024,  
REPRESENTED BY ITS MEMBER SECRETARY.

\* ADDL. R2 IMPEADED

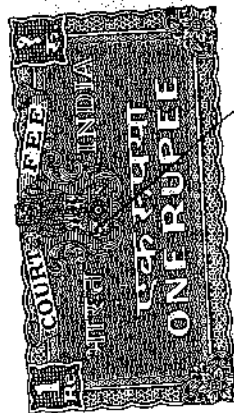
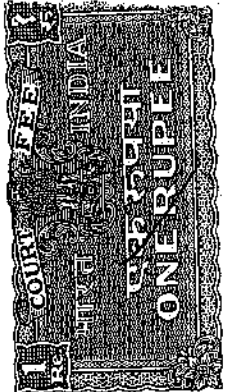
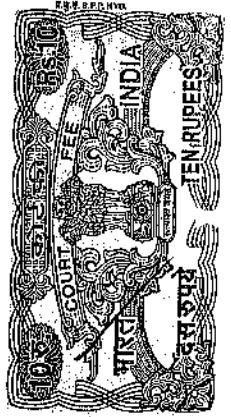
2. GOVERNMENT OF INDIA,  
REPRESENTED BY SECRETARY,  
MINISTRY OF ENVIRONMENT AND FORESTS.

\* IS IMPEADED AS PER ORDER DATED 22/11/2014 IN I.A. NO.15990/2014.

R1 BY GOVT. PLEADER SRI.JOSEPH GEORGE.  
R2 BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 23-02-2015, ALONG WITH WP(C). NO. 33208 OF 2014 AND  
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

rs.



**P.R. RAMACHANDRA MENON, J.**

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**W.P.(C) Nos.29005, 33208, 33209**  
**&**  
**33540 of 2014**  
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**Dated this the 23<sup>rd</sup> day of February, 2015**

**JUDGMENT**

The petitioner in WP(C) No.33540 of 2014 is a Company, who has obtained Ext.P1 quarrying lease on 28.07.2004 and was doing the quarrying operation in the concerned property situated in the Trivandrum District, for quite long. By virtue of the expiry of the lease, the petitioner sought to have the same renewed by filing necessary application. The petitioner was let known as per Ext.P3 issued by the 3<sup>rd</sup> respondent on 05.12.2014 that the application preferred by the petitioner could be considered only subject to production of 'environmental clearance' by the State Environmental Impact Assessment Committee. This made the petitioner to approach this Court, seeking for a direction to be given to the 3<sup>rd</sup> respondent to consider Ext.P2 application for renewal of the quarrying lease, without insisting for the environmental clearance.

2. The other three cases are preferred, more or less by the very same party. WP(C) No.29005 of 2014 is filed by the person who appears to be the Managing Partner of the firm M/s.J & S Granite Company [petitioner in WP(C) No.33209 of 2014] and he himself is the petitioner in WP(C) No.33208 of 2014. The petitioner in these cases wants to have a fresh quarrying lease, for which necessity to obtain 'environmental clearance' was pointed out. Accordingly, an application was filed before the sole respondent in WP(C) No.29005 of 2014 for issuance of environmental clearance. Despite the pendency of the matter for quite long, the application is still to be considered, which is stated as causing irreparable losses and hardships to the petitioner and hence the writ petition.

3. After filing the above writ petition, the firm as such approached this Court by filing WP(C) No.33209 of 2014, seeking for a direction to be given to the 3<sup>rd</sup> respondent to consider Ext.P1 application for granting the quarrying lease, without insisting for Environmental Clearance Certificate. The prayer of

W.P.(C) Nos.29005, 33208, 33209  
&  
33540 of 2014

3

the petitioner in the other case, ie. WP(C) No.33208 of 2014, preferred by the very same person, who happens to be the Managing Partner of the firm, is for a similar direction in respect of a similar establishment as involved in WP(c) No.33209 of 2014.

4. Heard all these matters together.

5. The learned counsel for the petitioner points out that, by virtue of the relevant provisions of law and the mandate given by the Apex Court, Environmental Clearance Committee has to be constituted within '30 days' from the date when the Office becomes vacant, particularly in view of Clause 3(5) of the State Environmental Impact Assessment Notification, 2006. It is stated that, though a Committee was constituted in the State earlier, the Office became vacant on 02.11.2014 and the same is still to be re-constituted. There is callous inaction/lapses on the part of the State/Central Government in this regard and the petitioner has been put to suffer quite a lot. By virtue of the laxity on the part of the concerned respondents, the entire operations have

come to a stand still, which have very much adversely affected the on-going projects and also the developmental measures althrough out.

6. The learned Government Pleader points out that, necessary steps have already been taken by the State to reconstitute the Committee and a proposal was forwarded to the Central Government, who is the notifying authority, much before expiry of the term of the former Committee. Some clarifications were sought for, which were also furnished to the Central Government in the 2<sup>nd</sup> week of January, 2015.

7. It is stated by the learned Assistant Solicitor General of India appearing on behalf of the Central Government that, clarification was sought for as to the credentials of the proposed members of the Committee. After getting the clarifications as above, the proposal of the State Government has been accepted and further steps are being taken to have the Committee notified by issuing necessary Gazette Notification. The learned Assistant Solicitor General of India also points out that, some more time is

required to complete the process in this regard, particularly in view of the fact that, it is on the eve of the Budget for the year 2015.

8. After hearing both the sides, this Court finds that there cannot be any doubt or objection with regard to the necessity to constitute a Committee in the manner as prescribed and it is for the Committee to consider the application to be preferred by the persons like the petitioners herein.

9. In the said circumstances, there will be a direction to the addl. 2<sup>nd</sup> respondent in WP(C) 29005 of 2014 to complete necessary steps in this regard for constituting the Committee and notifying the same in accordance with law. This exercise shall be completed at the earliest, at any rate, within 'one month' from the date of receipt of a copy of this judgment. Once the Committee is constituted as above, the applications preferred by the petitioners herein shall be considered by the State Environmental Impact Assessment Authority as constituted above and appropriate orders shall be passed in accordance with law,

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W.P.(C) Nos.29005, 33208, 33209  
&  
33540 of 2014

6

after affording an opportunity of hearing to the petitioner/ party concerned, which exercise shall be completed within a further period of 'one month'.

These matters stand disposed of accordingly.

The petitioners shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondent, for further steps.

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

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BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(C) NO. 29005 OF 2014

Sadanandan

– Petitioner

Vs.

State Environment Impact Assessment Authority

– Respondent

SYNOPSIS

Petitioner seeks for a time bound disposal of his application for environmental clearance pending before the Respondent. In spite of the lapse of more than a year, no orders have been passed on the same. Unless Petitioner's application for environmental clearance is directed to be considered in the next meeting of the Respondent, Petitioner will be put to great loss and hardships. Hence this writ petition.

Dated this the 3<sup>rd</sup> day of November 2014.

Counsel for the Petitioner



BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P. (C). NO. 29005 OF 2014

Sadanandan,  
Ambadiyil New Bungalow,  
Adoor P.O.,  
Pathanamthitta- 689656.

- Petitioner

Vs.

State Environment Impact Assessment Authority,  
Pallimukku, Pettah P.O.,  
Thiruvananthapuram-695024  
Represented by its Member Secretary.

- Respondent

*(All processes to the Petitioner may be served on their counsel Sri. Bechu Kurian Thomas, Paul Jacob (P), Enoch David Simon Joel, S. Sreedev & Rony Jose, Advocates, 3<sup>rd</sup> Floor, Lipids House, Plot No: G-285, Main Avenue, Panampilly Nagar, Cochin-36)*

*(All processes to the respondents may be served on their above-mentioned addresses)*

MEMORANDUM OF WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF  
THE CONSTITUTION OF INDIA

1. Through this writ petition, Petitioner seeks for an early disposal of his application for environmental clearance pending before the Respondent. The application has been pending since 12.09.2013. Unless Petitioner's application for environmental clearance is directed to be considered in next meeting of the Respondent, Petitioner will be put to great loss and hardships.

2. For the purpose of obtaining an environmental clearance for the quarrying unit conducted in Petitioner's property, Petitioner submitted an application before the Respondent on 12.09.2013. The application was submitted in the name of two establishments namely. M/s. Ampadiyil Granites and M/s. J & S Granites. The application was numbered as 170/SEIAA/KL/3500/2013.
3. After receipt of the application, certain defects were pointed out and accordingly Petitioner cured all the defects. Petitioner's application was grated a fresh number after clearing all defects, as 200/SEIAA/KL/86/14.
4. Thereafter the application was considered at the meeting of the Respondent held on 14 and 15<sup>th</sup> February 2014 as Item No. 25.11. True copy of the relevant portion of the Minutes of the Meeting of the Respondent held on 14 and 15<sup>th</sup> February 2014 is produced and marked as Exhibit P1.
5. In the meeting held on 14 and 15<sup>th</sup> February 2014, Petitioner was required to provide some more documents. Accordingly Petitioner submitted all documents as required, and the application was thereafter considered in the meeting held on 12<sup>th</sup> and 13<sup>th</sup> August 2014 as Item No. 32.14. True copy of the relevant portion of the Minutes of the Meeting of the Respondent held on 12<sup>th</sup> and 13<sup>th</sup> August 2014 is produced and marked as Exhibit P2.
6. In the meeting held on 12<sup>th</sup> and 13<sup>th</sup> August 2014, Petitioner was directed to produce some more documents and was also directed to make the application showing both M/s. Ampadiyil Granites and M/s. J & S Granites as a single unit without boundaries between them. Accordingly Petitioner submitted the documents as required, as per their letter dtd. 13.10.2014. True copy of the letter dtd. 13.10.2014 submitted by the Petitioner to the Respondent is produced and marked as Exhibit P3.

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7. In spite of submission of all documents as required, no orders are being passed by the Respondent. All the other licenses and permits required under law for running a quarrying unit are available to the Petitioner.
  8. Even after the lapse of more than a year from the date of submission of application, no orders have been passed on the same. Respondent is duty bound to dispose off the application as expeditiously as possible. There is no impediment whatsoever in Petitioner's application being considered in the next meeting of the Respondent itself.
  9. Failure to dispose off the application is causing immense hardships to the Petitioner. Petitioner has invested several crores of rupees for the project and has also expended a huge amount as application fees. Unless this Hon'ble Court interferes and directs disposal of Petitioner's application in the next meeting of the Respondent, Petitioner will be put to irreparable loss and hardships.
  10. Aggrieved by the inaction on the part of the Respondent in disposing off the application for environmental clearance submitted by the Petitioner and having no other alternative or efficacious remedy, petitioner prefers this Memorandum of Civil Writ Petition under Article 226 of the Constitution of India on the following among other;

#### GROUNDS

- A. The inaction on the part of Respondent in disposing the application for environmental clearance submitted by the Petitioner is bad in law and on the facts and circumstances of the case.
- B. Even after the lapse of more than a year from the date of submission of application, no orders have been passed on the same. The application was considered on two meetings of the Respondent, in which Petitioner was required to produce certain documents. In spite of producing all documents,

Page 538

no orders are being passed. Petitioner is put to immense hardships due to failure of Respondent dispose off the application. Petitioner has invested several crores of rupees for the project and has also expended a huge amount as application fees.

- C. Respondent is duty bound to dispose of the application as expeditiously as possible in a time bound manner. Authorities such as Respondent who have been vested with powers are expected to act in a manner so as to advance justice. Failure to do so is a gross violation of the duties cast upon them.
- D. There is no impediment whatsoever in Petitioner's application being considered in the next meeting of the Respondent itself. Unless, this Hon'ble Court interferes and directs disposal of Petitioner's application in the next meeting of the Respondent itself, Petitioner will be put to irreparable loss and hardships.

Hence it is humbly prayed that this Hon'ble Court may be pleased to pass an order allowing the following;

#### RELIEFS

- i. Issue a writ of mandamus or other appropriate writ order or direction directing the Respondent to dispose off the application for environmental clearance submitted by the Petitioner in the next meeting of the Respondent itself.
- ii. Issue such other appropriate writ order or direction that may be deemed to be just and equitable in the facts and circumstances of the case.

For which relief the petitioner as in duty bound shall ever pray.

Dated this the 3<sup>rd</sup> day of November 2014.