

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 30TH DAY OF MARCH 2017/9TH CHAITHRA, 1939

WP(C).No. 11302 of 2017 (K)

PETITIONER :

JOSE K.FRANCIS, AGED 56 YEARS,
S/O. FRANCIS, KUTTIKKADAN HOUSE,
ARISTO ROAD, EAST FORT P.O., THRISSUR DT,
MANAGING DIRECTOR M/S. CANN GRANITES OTTAPILAVU,
PERUMBILAVU, THRISSUR

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.R.ARUN KRISHNAN

RESPONDENTS :

1. KERALA STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS CHAIRMAN, PATTOM P.O.,
THIRUVANANTHAPURAM - 695001.
2. THE ENVIRONMENTAL ENGINEER KERALA STATE
POLLUTION CONTROL BOARD, DISTRICT OFFICE,
BUILDING NUMBER 27/166/13 (BEHIND BIG BAZAAR),
KOVILAKATHUMPADAM, CHEMBUKKAVU, THRISSUR - 680020.

R1 & R2 BY SRI. T.NAVEEN SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 30-03-2017, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE QUARRYING LEASE IN THE NAME OF
PETITIONER DT 31/5/2008 EXECUTED BY THE STATE
GOVERNMENT
- P2: COPY OF THE CONSENT VARIATION ORDER ISSUED BY THE R2
IN THE NAME OF PETITIONERS QUARRY DT 28/5/2016.
- P3: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
FOR RENEWAL OF CONSENT ISSUED BY THE 1/10/2016.
- P4: R2 ACKNOWLEDGED THE SAME AS WELL. TRUE COPY OF THE
ACKNOWLEDGEMENT ISSUED BY THE R2 1/10/2016.
- P5: COPY OF THE ACCOUNT PAYEECHEQUE ISSUED 30/9/2016.
- P6: COPIES OF COMMUNICATION AND ORDER ISSUED BY THE
DIRECTOR OF MINING & GEOLOGY DT 10/5/2008.
- P7: COPY OF THE D&O LICENSE ISSUED BY THE SECRETARY,
CHOWALLOR 01/04/2016.
- P8: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT WPC
NO.5456/2017 DT 28/2/2017.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.11302 of 2017

Dated this the 31st day of March, 2017

JUDGMENT

The petitioner, who is stated to have a quarrying lease, that was issued to him on 06.11.2008 and is valid up to 05.11.2018, has preferred Ext.P3 application, before the Kerala State Pollution Control Board. In the writ petition, the case of the petitioner is essentially that the Pollution Control Board did not consider the application for renewal of consent, since they are insisting on an environmental clearance certificate.

2. On a consideration of the facts and circumstances of the case, I find that, by virtue of the decision of this Court in **All Kerala River Protection Council v. State of Kerala [2015 (2) KLT 78]**, it has been clarified that, the requirement of obtaining an environmental clearance certificate, in the case of those quarrying leases that were issued prior to 18.05.2012, arises only when the lease comes up for renewal. Resultantly, the insistence by the respondent Board for an environmental clearance certificate as a pre-condition for considering Ext.P3 application preferred by the petitioner for renewal of its consent, cannot be legally sustained. I, therefore, direct the respondent Board to consider Ext.P3 application preferred by the petitioner for renewal of its consent,

independently, on merits, and without insisting on an environmental clearance certificate from the petitioner. The 2nd respondent shall pass orders on Ext.P3 application, within a period of three weeks from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall produce a copy of the writ petition, along with a copy of this judgment, before the 2nd respondent, for further action.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/