

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
FRIDAY, THE 08TH DAY OF MAY 2020 / 18TH VAISAKHA, 1942

WP(C) NO.9713 OF 2020

PETITIONERS

1. KANNUR JILLA CRUSHER QUARRY ASSOCIATION,
SREEKANDAPURAM MEGHALA, SREEKANDAPURAM P.O,
SREEKANDAPURAM, KANNUR- 670631
REPRESENTED BY ITS PRESIDENT, ANIL K.JOSEPH,
S/O JOSEPH, KUZHITHODU HOUSE, CHEMBAMTHODI,
KARAYATHUMCHAL, KANNUR, PIN- 670 631.
2. M.P HASSAN, SAJNAR HOUSE,
S/O ABOOBACKER, AGED 58 YEARS,
MALAPPATTAM P.O, SREEKANDAPURAM, KANNUR- 670631.
3. M.PRAZAD,
S/O M KUNJIRAMAN, AGED 59 YEARS,
LAKSHMI, KOLATHUVAYAL, ANCHAMPEEDIKA,
KANNUR- 670631.
4. T.V KRISHNAN,
S/O KRISHNAN MANIYANI, AGED 67 YEARS,
THAZHATHUVEETIL HOUSE, KARINGALKUZHI,
KOLACHERI P.O, KANNUR - 670601.
5. JAVID E P,
AGEDS 38 YEARS, S/O MOIDEEN V.P,
SHANTHI MAHAL, CHEKKIKULAM P O,
KANNUR DISTRICT-670 592.

BY ADVS.

SRI.GEORGE POONTHOTTAM (SR)
SRI.ALEX M. SCARIA
SMT.SARITHA THOMAS

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO DEPARTMENT OF LOCAL SELF
GOVERNMENT INSTITUTION, SECRETARIAT,
GOVERNMENT PRESS P O, THIRUVANANTHAPURAM- 695 001.
2. SECRETARY TO LAW DEPARTMENT, GOVERNMENT SECRETARIAT,
GOVERNMENT PRESS P O, THIRUVANANTHAPURAM- 695 001.
3. THE SREEKANDAPURAM MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
KANNUR -670631.
4. THE SECRETARY, SREEKANDAPURAM MUNICIPALITY,
KANNUR - 670631.

R1 & R2 BY SRI.C.S.HRITHWIK, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.05.2020, THE COURT ON THE SAME DAY ORDERED THE FOLLOWING:

O R D E R

The petitioners are crusher operators and seek to quash Exts.P1 and P2 and to declare that the provisions in the Kerala Municipalities Act, 1994 to regulate the mineral development activities in Kerala and the Rules framed thereunder especially under Section 414 of the Municipalities Act, 1994 and Rule 18 of the D&O Licence Rules, 2011 are *ultra vires* and to declare that the mining activities for the extraction and development of minerals as per the provisions of the Minor Mineral Concession Rules cannot be regulated by imposing the conditions for obtaining D&O Licence from the 3rd respondent within its area, and that the respondents cannot impose any fees on the activity otherwise than as per the provisions formulated under the MMDR Act.

It is submitted by the learned Senior Counsel Sri.George Poonthottam that the quarry operators had earlier filed W.P.(C) Temp.No.195/2020. By order dated

05.05.2020 this Court has granted interim relief in favour of the petitioners therein by staying the operation of Ext.P1 and Clauses 13 and 14 of Ext.P2 for a period of two months on being convinced *prima facie* that Section 567 of the Kerala Municipality Act does not empower the 3rd respondent-Municipality to frame bye-laws in the nature of Ext.P1 and take consequent decision as in Ext.P2. The petitioners herein are similarly placed as the petitioners in W.P.(C) Temp.No.195/2020 and the relief sought is also similar. Under the circumstances, I find that the petitioners herein are also entitled to the interim order as made by this Court in W.P.(C) Temp.No.195/2020 and the operation of Ext.P1 and Clauses 13 and 14 of Ext.P2 shall stand stayed for a period of two months.

ASHOK MENON
Judge

APPENDIX

EXHIBITS OF THE PETITIONER:

EXHIBIT-P1- TRUE COPY OF THE ADVERTISEMENT APPEARED IN PART IV OF THE GAZETTE IN THE KERALA GAZETTE DATED 05/09/2012

EXHIBIT-P2-TRUE COPY OF THE RELEVANT PAGE IN RESPECT OF THE MEETING OF THE MUNICIPALITY COUNCIL HELD ON 29/01/2019.

EXHIBIT-P3- TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF APPLICATIONS BY THE 2 ND PETITIONER

EXHIBIT-P3 (A) - TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF APPLICATIONS BY THE 3 RD PETITIONER

EXHIBIT-P3 (B) - TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF APPLICATIONS BY THE 4 TH PETITIONER

EXHIBIT-P3(C) - TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE SENDING OF APPLICATIONS BY THE 5 TH PETITIONER

EXHIBIT-P4- TRUE COPY OF THE PROOF OF PAYMENT BY BANKERS CHEQUE SUBMITTED ALONG WITH THE RENEWAL APPLICATION BY THE 2 ND PETITIONER

EXHIBIT-P4(A) - TRUE COPY OF THE PROOF OF PAYMENT BY BANKERS CHEQUE SUBMITTED ALONG WITH THE RENEWAL APPLICATION BY THE 3 RD PETITIONER

EXHIBIT-P4(B) - TRUE COPY OF THE PROOF OF PAYMENT BY BANKERS CHEQUE SUBMITTED ALONG WITH THE RENEWAL APPLICATION BY THE 4 TH PETITIONER

EXHIBIT-P4(C) - TRUE COPY OF THE PROOF OF PAYMENT BY BANKERS CHEQUE SUBMITTED ALONG WITH THE RENEWAL APPLICATION BY THE 5 TH PETITIONER