

9 CR 03
14/04/2017

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR JUSTICE A.K. JAYASANKARAN NAMBIAR

THURSDAY, THE 6TH DAY OF APRIL 2017/16TH CHAITHRA, 1939

WP(C) No. 12168 of 2017 (U)

PETITIONER

B. SREEKANDAN, PROPRIETOR,
N/S. AVANI METALS CRUSHER,
KOTAKKAL, PALIYODE,
THIRUVANANTHAPURAM - 695124.

BY ADVS. SRI. BECHU KURIAN THOMAS (SR.)
SRI. ENOCH DAVID SIMON JOEL
SRI. GEORGE A. CHERIAN

RESPONDENT

KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, PATTOM P.O.,
THIRUVANANTHAPURAM - 695004.
REPRESENTED BY THE ENVIRONMENTAL ENGINEER.

BY SRI. T. NAVEEN SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 06-04-2017, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:



A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.12168 of 2017(U)

Dated this the 6th day of April, 2017

JUDGMENT

The petitioner is stated to be conducting a quarry pursuant to a quarrying lease, issued to him in year 2011 and the validity period of which expires only in the year 2023. In the writ petition, the grievance of the petitioner is essentially that the respondent is insisting on a prior environmental clearance certificate from the petitioner for renewing the consent issued in connection with the activities carried on by the petitioner.

2. I have heard the learned Counsel for the petitioner and the learned standing counsel for the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, 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 the applications preferred by the petitioner for renewal of its consent, cannot be legally sustained. Accordingly, I direct the respondent to consider the application preferred by the petitioner for renewal of the consent, on merits, and without insisting on an environmental clearance certificate from the petitioner. The respondent shall pass orders on the application submitted by the petitioner within a period of two 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 respondent, for further action.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

SIT/

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE QUARRYING LEASE DT 31/3/2011 VALID
TILL 30/3/2023 ISSUED TO THE PETITIONER.
- P2: COPY OF THE CONSENT TO OPERATE DTD.2/3/2016
VALID TILL 28/2/2017 ISSUED BY THE RESPONDENT.
- P3: COPY OF THE RECEIPT DT 7/2/2017 SUBMITTED BY
THE PETITIONER TO THE RESPONDENT FOR RENEWING
EXT.P2.

RESPONDENT'S EXHIBITS :

NIL.

//TRUE COPY//

h
P.A. TO JUDGE

bp

Chakrabarti



HIGH COURT OF KERALA
AT ERNAKULAM

Year and Number of Suit or other Proceedings	WPC 12168 / 2017
Name of Applicant/Advocate	SRI. BECHU KURIAN THOMAS (SR.)
Application Number	A 18143/2017
Application Date	04-04-2017
Date of Calling for Stamp	19-04-2017
Date of Production of Stamp	19-04-2017
Date When copy was Ready	19-04-2017
Date Notified for appearance in person/copy	25-04-2017
Date when copy was delivered	10/4/17

Registrar