

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

ORIGINAL APPLICATION NO. 147 OF 2024(SZ)

Sam P Issac

-VS-

...Applicant

Kerala State Pollution Control Board *KS*

Ors

.....Respondent(s)

**REPORT FILED BY THE DIRECTOR OF MINING AND GEOLOGY
DEPARTMENT**

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Dated at Chennai on this the 15th day of March, 2025.

*For. A.K.K. Kumaresan
15/3/25*

M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench

**REPORT SUBMITTED BY THE DIRECTOR OF MINING AND
GEOLOGY BEFORE THE HONORABLE GREEN TRIBUNAL IN
THE OA NO. 147/2024 FILED BY SRI. SAM.P ISSAC.**

The Hon'ble NGT, SZ Chennai in the interim order dated 5/9/2024 in OA 147/2024 has directed the department to file a report in respect of the above referred O.A .The letter petition of Sri.Sam P Issac was preferred against the quarry of M/s Mankombu Granites Moonilavu P.O which was operational till 2024 February with valid quarrying lease.

A quarrying lease vide order no. 384/2017- 18/6880/M3/2017/DMG dated 28/9/2017 was granted to Sri . Nalinakshan Nair. M.A, Managing Partner, M/s Mankombu Granites Moonilavu P.O, Kottayam for extracting Granite (Building Stone) from an area of 4.4760 Hectares of land comprised in Block 56 ,Re. Survey No. 46/1, 46/1-1, 46/1-2, 46/1-3 of Moonilavu Village, Meenachal Taluk of Kottayam District. The said quarrying lease was granted as per the Kerala Minor Mineral Concession Rules 2015 by this office for a period of 12 years with validity upto 4.11.2029. Movement permits were granted to the lessee ensuring the procurement of all statutory licenses such as explosive licence, consent from Kerala State Pollution Control Board, Panchayath License and Environmental Clearance from State Environmental Impact Assessment Authority.

Prior to the grant of quarrying lease, short term quarrying permits were granted over the said area as per the Kerala Minor mineral Concession Rules 1967 and Kerala Minor Mineral Concession Rules 2015. As per the lease order no. 384/2017- 18/6880/M3/2017/DMG dated 28/9/2017 and Scheme of mining the lessee is permitted to quarry 54000 MT of Granite (building stone) per year. On expiry of the Environmental clearance No.76/EC4/171/2013/SEIAA dated 09/03/2016 on 8/03/2021, M/s.Mankombu Granites filed WP(C) No. 14635/2022 before the Hon.High Court of Kerala and in the order dated 8/6/2022 the Hon Court has directed "the additional 5th respondent, Kottayam Geologist to consider the application submitted by the petitioner for issuance of transit passes and issue the same after verifying the quantities that have been extracted. It shall be ensured that no transit pass is issued for removal of any quantity in excess of what has been permitted in Ext, P2 mining plan. Necessary orders shall be issued within two weeks from the date of receipt of the copy of this order".

In compliance with the order of the Hon'ble Court the site was inspected the district office on 17/6/2022 and on 11/7/2022. Based on the quantification made as per the inspections conducted in the aforesaid site and relying on




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the report of RQP (Recognised Qualified Person) the quantity of 93997.75 MT (excess extraction) has been compounded as per Rule 108(2) of the Kerala Minor mineral concession Rules 2015 on remittance of Rs 68,67,838/- vide chalan No. KL017499979202223M dated, 3/10/2022.

Details of survey conducted on 11/07/2022

Survey Date	Total quantity removed in MT (1)	Overburden in MT (2)	Previous permissions (3)	Quantity previously compounded (4)	Estimated Quantity removed as illicit (1)-(2+3+4)	Survey report prepared by
11/7/2022	6,67,873	3,82,916	1,77,470.5 MT + 9,120 MT	5200 MT (on 23/6/2020)	93,166.5 MT	Recognised Qualified Person

Accordingly the Scheme of Mining submitted by the lessee was approved by the District Geologist on 12/10/2022 for the next 5 years. Hence movement permit was granted for quarrying on submission of all other statutory licenses.

The statutory licences include-Panchayath license (with validity upto 31/3/2028) , Explosive license (validity upto 31/03/2025) and Consent from Kerala State Pollution Control Board (validity upto 28/02/2027). Even though the environment clearance from the State Environmental Impact Assessment Authority was upto 8/03/2021, the transit passes were issued in compliance with the order of the Hon'ble Court dated 8/6/2022 in WP(C) No. 14635/2022. For the further issuance of movement permit in the absence of valid EC , reserve estimation was essential. Hence total station survey was again conducted on 25/1/2024 by the Draftsman cum Surveyor attached with the Directorate of Mining and Geology as requested by district office and the report was made available on 16/2/2024. The details of the survey conducted on 25/1/2024 in connection with the quantity estimation is as follows. As per the survey report total pit volume= volume of Granite (Building Stone) removed from the lease area, buffer and outside the lease area + overburden/quarry waste.

Pit volume	Inside lease area	Outside lease area	Buffer area	Total
	456327.510 m3	17379.320m3	12392.310m3	486099.14m3

On perusal of the survey report based on the survey conducted on 25/1/2024 it is learnt that there is illicit extraction from the buffer zone (12392.310 m3)

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and from outside the lease area (17379.320 m³) whereas no such extraction was reported during the previous survey dated 11/7/2022 except for 831.25 MT from outside the lease.

Total Pit volume as per the survey report dated 25/1/2024 (A) = 486099.14 m³

Overburden/ quarry waste reported by the surveyor (B) = 409619.38m³

Total Quantity of Granite(Building Stone) removed = (A)-(B) = 79479.76 m³

The overburden stocked in the quarry was 3,82,916 MT only on 11/7/2022 whereas the same is at present reported as 8,19,238.76 MT (409619.38 m³). Hence it is seen that there is drastic increase in overburden quantity from 3,82,916 MT to 8,19,238.76 MT from 11/7/2022 to 25/1/2024 which seems unrealistic and it was assumed that there might have been some error occurred in the survey report while estimating the quantity of overburden. Hence the matter was reported by district office to this office on 23/2/2024. In the meanwhile an interim order of the Hon'ble High Court dated, 18/3/2024 in IA No.2/2023 in wp (c) No. 36908/2022 WP(C) filed by Sri Feby Chacko, appointed an advocate commissioner to submit report on the allegation raised by the petitioner The Director of Mining and Geology has been impleaded as addl. respondent in the case and the case is still pending. Against the said interim order the quarry operator, filed WA 478/2024 and in its judgment dtd 2/4/24 the Hon'ble High Court modified the interim order dated 18/03/2024 as "Adv. Prasanth A.G, who is appointed as Advocate Commissioner shall inspect the site along with the District Collector, the Taluk Surveyor, the Geologist(3rd respondent in the writ petition), the Secretary of the Panchayath (4th respondent), the Director of Mining and Geology(Additional 6th respondent) and shall prepare a report and submit the same before the learned Single Judge at the earliest."

Abiding the instructions of the Hon'ble High Court a joint inspection was conducted by the Director of Mining and Geology, District Collector and other designated officials along with the advocate commissioner and counsels of the petitioner and the quarry operator and it was decided to conduct a detailed survey in the alleged quarry. Accordingly the revenue department has constituted a survey team and survey was conducted from 14/10/24 onwards. The report of the same is yet to be received from the Tahsildar Meenachil. On receipt of the survey report joint committee shall prepare the report and submit the same before the Hon'ble High Court .

23/10
Signed by Kishor M C

Date: 23-10-2024 06:40:10

Dr. K Harikumar IAS



IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

Tuesday, the 26th day of April 2022 / 6th Vaisakha, 1944

WP(C) NO. 14635 OF 2022 (D)

PETITIONER:

M/S. MANKOMBU GRANITES, BUILDING NO. 4/194, VELLARA, MOONNILAVU
P.O., KOTTAYAM DISTRICT 686 586, REPRESENTED BY ITS MANAGING
PARTNER, M.A. NALINAKSHAN NAIR.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, PARYAVARAN BHAVAN, CGO COMPLEX, LODI ROAD, NEW DELHI 110 003.
2. STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA), KERALA, K.S.R.T.C. BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOR, THIRUVANANTHAPURAM 695 001. REPRESENTED BY ITS MEMBER SECRETARY.
3. KERALA STATE POLLUTION CONTROL BOARD, PLAMOODU JUNCTION, PATTAM PALACE P.O., THIRUVANANTHAPURAM 695 004, REPRESENTED BY ITS MEMBER SECRETARY.
4. THE SECRETARY, MOONNILAVU GRAMA PANCHAYATH, MOONNILAVU P.O., KOTTAYAM DISTRICT 686 586.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

1) direct the 3rd and 4th respondents to provisionally renew the Trade License and Consent to Operate, based on Exhibit P4,

2) direct the respondents to permit the petitioner to conduct quarry based on Exhibit P4 Notification dated 12th April, 2022 Pending disposal of the Writ Petition

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.SANTHOSH MATHEW, ARUN THOMAS, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ABI BENNY AREECKAL, LEAH RACHEL NINAN, MATHEW NEVIN THOMAS & KURIAN ANTONY MATHEW, Advocates for the petitioner, ASSISTANT SOLICITOR GENERAL OF INDIA for R1, SRI.M.P.SREEKRISHNAN, Standing Counsel for R2, SRI.T.NAVEEN, Standing Counsel for R3 and of SRI.GEORGEKUTTY, Advocate for R4.



ORDER

Admit.

Learned Assistant Solicitor General of India takes notice for the 1st respondent. Sri.M.P.Sreekrishnan Learned Standing Counsel takes notice for the 2nd respondent. Adv.T.Naveen, learned Standing Counsel takes notice for the 3rd respondent. Adv. Georgekutty takes notice for the 4th respondent.

There shall be a direction to 3rd and 4th respondents to take a decision on Exts.P7 and P9, respectively in the light of Ext.P4, within a period of two weeks.

Sd/- ZIYAD RAHMAN A.A., JUDGE

26-042022



APPENDIX OF WP(C) 14635/2022

Exhibit P4

TRUE COPY OF THE NOTIFICATION DATED 12TH APRIL, 2022
ISSUED BY THE MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE.

Exhibit P7

TRUE COPY OF RECEIPT OF THE APPLICATION DATED 23.4.2022
SUBMITTED BY THE PETITIONER TO THE PANCHAYATH.

Exhibit P9

TRUE COPY OF RECEIPT OF THE APPLICATION DATED 20.4.2022
SUBMITTED BY THE PETITIONER TO THE POLLUTION CONTROL
BOARD.



IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

Wednesday, the 8th day of June 2022 / 18th Jyaishta, 1944

IA.NO.8/2022 IN WP(C) NO. 14635 OF 2022(D)

PETITIONER/PETITIONER:

M/S. MANKOMBU GRANITES, BUILDING NO. 4/194, VELLARA, MOONNILAVU
P.O., KOTTAYAM DISTRICT 686 586, REPRESENTED BY ITS MANAGING
PARTNER, M.A. NALINAKSHAN NAIR.

RESPONDENTS/RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE PARYAVARAN BHAVAN, CGO COMPLEX, LODI ROAD, NEW DELHI 110 003.
2. STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA), KERALA, K.S.R.T.C. BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOR, THIRUVANANTHAPURAM 695 001. REPRESENTED BY ITS MEMBER SECRETARY.
3. KERALA STATE POLLUTION CONTROL BOARD, PLAMOODU JUNCTION, PATTAM PALACE P.O., THIRUVANANTHAPURAM 695 004, REPRESENTED BY ITS MEMBER SECRETARY.
4. THE SECRETARY, MOONNILAVU GRAMA PANCHAYATH, MOONNILAVU P.O., KOTTAYAM DISTRICT 686 586.
5. ADDL.R5:THE DISTRICT GEOLOGIST DISTRICT OFFICE MINING AND GEOLOGY, HGRM + 575, COLLECTORATE, KOTTAYAM, KERALA - 686002 ADDL. R5 IS IMPEADED AS PER ORDER DATED 07.06.2022 IN IA/6/2022 IN WPC NO.14635/2022.

Application praying that in the circumstances stated in the affidavit filed there with the High Court be pleased to direct the additional 5th respondent, the District Geologist, District Office Mining & Geology, HGRM + 575, Collectorate, Kottayam, to issue transit passes to the petitioner herein under Rule 26 of the Kerala Minerals (Prevention of illegal Mining, Storage and Transportation) Rule 2015 in the light of Exhibit P4 notification issued by the Ministry of Environment, Forests and climate change, New Delhi, on 12th April, 2022 read with Exhibit P2 approved mining plan, pending disposal of the Writ Petition.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S.SANTHOSH MATHEW, ARUN THOMAS, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ABI BENNY AREECKAL, LEAH RACHEL NINAN, MATHEW NEVIN THOMAS & KURIAN ANTONY MATHEW, Advocates for the petitioner in IA/WP(C), ASSISTANT SOLICITOR GENERAL OF INDIA for the respondent 1 in IA/WP(C), M.P.SREEKRISHNA, ADVOCATE for the respondent 2, SRI. T.NAVEEN, STANDING COUNSEL for the respondent 3 in IA/WP(C) and of GEORGEKUTTY MATHEW Advocate for the respondent 4 in IA/WP(C), the court passed the following:



T.R.RAVI, J.

WP (C) NO.14635 OF 2022

Dated this the 08th day of June, 2022

ORDER

IA No.5/2022

Petitioner seeks to implead himself as additional 5th respondent in the writ petition. Since the Geologist has already been impleaded as 5th respondent, this application can only be considered as a petition for impleading the petitioner in the IA as additional 6th respondent.

2. The counsel for the writ petitioner seeks time to file a counter affidavit to the impeading petition.

3. Post the impleading petition along with the writ petition. The question of impleading will be considered later, however, the counsel for the petitioner in this IA will also be heard.

IA No.8/2022

4. The petitioner seeks for a direction to the additional 5th respondent District Geologist to issue transit passes to the petitioner under Rule 26 of the Kerala Minerals (Prevention of illegal Mining, Storage and Transportation) Rules, 2015 in the light of Ext.P4 notification issued by the Ministry of

WP (C) NO.14635 OF 2022

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Environment, Forest and Climate Change, New Delhi on 12.04.2022 read with Ext.P2 approved mining plan.

5. In WP(C)No.14264/2022, this Court had already directed the Geologist to issue transit passes in similar circumstances, after noting the effect of the amendment made to the EI notification of 2006 by Ext.P4 order. The application is opposed by the petitioner in IA No.5/2022 stating that Ext.P4 does not deal with licence granted for mining minerals and relates only to mining which are shown in part A of schedule 1 as referred in Section 8 of MMDR Act. I do not think that by referring to the preamble of Ext.P4 notification, the effect of the amendment can be curtailed in any way. The preamble only refers to several instances which had led to the decision to amend EI notification, 2006. It cannot be understood in any other manner. Ultimately, what is amended is paragraph No.9 of EI notification 2006 whereby the existing sub-paragraphs (i) and (ii) have been replaced by a different provision, which in effect takes away the requirement of assessment of the project life by the SEIAA and replaces it with the project life as laid down in the mining plan which has been approved by the competent authority. In

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WP (C) NO.14635 OF 2022

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case of minor minerals, the competent authority being the Geologist what is to be looked into is the life of the mine as determined in the mining plan which is approved by the Geologist.

6. In such circumstances, the counsel for the petitioner is justified in making the submission that as long as the life of the mine as per Ext.P2 approved mining plan has not expired, the period of environmental clearance stands extended till the project life. It is in these circumstances that the request for transit passes is made. The petitioner in IA No.5/2022 has a case that there is excessive mining and as a matter of fact the entire quantity that was available as per the original mining plan which was submitted for getting the environmental clearance has been extracted and hence any order permitting further transit passes can only be a permission to extract more than what is permitted. In this context, the counsel for the petitioner pointed out that, the mining plan which was produced for the purpose of getting environmental clearance postulated only an annual quantity of 2,40,000 metric tonnes per annum totaling to 7,20,000 in 3 years and a project life of 6.57 years. It is submitted that



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WP (C) NO.14635 OF 2022

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as per Ext.P2 mining plan, which was submitted for the purpose of quarrying lease and which has been approved by the Geologist, what is contemplated is for mining of 54,000 metric tonnes per year for a period of 12 years totalling to 6,44,603 metric tonnes. The counsel for the petitioner also submits that as a matter of fact, even the permitted quantity has not been extracted during the previous several years.

7. In such circumstances, this petition is ordered by directing the additional 5th respondent to consider the application submitted by the petitioner for issuance of transit passes and issue the same after verifying the quantities that have been extracted. It shall be ensured that no transit pass is issued for removal of any quantity in excess of what has been permitted in Ext.P2 mining plan. Necessary orders shall be issued within two weeks from the date of receipt of a copy of this order.

H/o

Sd/-

T.R.RAVI, JUDGE

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APPENDIX OF WP(C) 14635/2022

Exhibit P2

TRUE COPY OF THE APPROVED MINING PLAN DATED 22.09.2017 WITHOUT ANNEXURES.

Exhibit P4

TRUE COPY OF THE NOTIFICATION DATED 12TH APRIL, 2022 ISSUED BY THE MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE.



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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE VIJU ABRAHAM

Monday, the 18th day of March 2024 / 28th Phalguna, 1945

IA.NO.2/2023 IN WP(C) NO. 36908 OF 2022

PETITIONER:

FEBY CHACKO, AGED 30 YEARS W/O JOHNSON THOMAS, ARIYAMAKKAL (H)
MOONILAVU P.O. KOTTAYAM PIN-686586.

RESPONDENTS:

1. THE DISTRICT COLLECTOR, KOTTAYAM, COLLECTORATE, KOTTAYAM, PIN-686002.
2. STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA), KERALA, REPRESENTED BY ITS SECRETARY, K.S.R.T.C BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOR.P.O., THIRUVANANTHAPURAM -695 001.
3. THE GEOLOGIST, MINING DEPARTMENT, COLLECTORATE, KOTTAYAM, KERALA-686002
4. MOONILAVU GRAMA PANCHAYATH, MOONILAVU P.O, KOTTAYAM DISTRICT -686 586, REPRESENTED BY ITS SECRETARY.
5. M/S. MANKOMBU GRANITES, BUILDING NO.4/194, VELLARA, MOONILAVU P.O., KOTTAYAM DISTRICT- 686 586, REPRESENTED BY ITS MANAGING PARTNER, M.A NALINAKSHAN NAIR.
6. ADDL.R6.DIRECTOR OF MINING AND GEOLOGY, DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O., THIRUVANANTHAPURAM-695004, (ADDL.R6 IMPEADED AS PER ORDER DATED 27-01-2023 IN IA 1/2023).



Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to To appoint an Advocate Commissioner along with Mr. JOSEPH KORULLA , Consultant Geologist, Tropical Institute of Ecological Sciences, Velloor P.O., Kottayam, who is an Expert in GIS RS based estimations, having the qualification of M.Sc Geology, to inspect the quarry conducted by the 5th respondent, in the presence of the representative of respondent No.2 and respondent No.3, for assessing the total lease area and the quantity of extracted granite, through DGPS survey and to report the following: 1. To assess the height and slope of the quarry from the Mean Sea Level 2. To ascertain the number of benches in the quarry and their height and width. 3. To calculate and note the total area of mining. 4. To assess the total quantity of granite extracted from the quarry 5. Whether the buffer zone which is situated 7.5 meters from the lease area is maintained as green belt or undisturbed land ? 6. Whether any stream or rivulets is flowing through the lease area? 7. Is there any illegal mining outside the lease area and to assess the quantity of granite illegally mined? 8. Whether the crusher unit situates inside the Quarrying lease area? 9. Whether the revenue land in Resurvey No 47 has been quarried? If so, its area and quantity? 10. Whether vegetation restoration has been done in the lease area as per the mining plan? 11. Whether the conditions enumerated in the

table in Paragraph 1 above, had been complied? 12. To note on any matters that the petitioner or his counsel may request at the time of inspection.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S. DAISY A. PHILIPOSE & JAI GEORGE, Advocates for the petitioner, SRI. GEORGEKUTTY MATHEW, Advocate for R4, and SRI. SANTHOSH MATHEW (SENIOR) along with M/S. ARUN THOMAS, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ABI BENNY AREECKAL, MATHEW NEVIN THOMAS & KURIAN ANTONY MATHEW, Advocates for R5 and of DAISY A. PHILIPOSE, Advocate for R6, the court passed the following:



VIJU ABRAHAM, J.

.....
I.A.No.2 of 2023
in
W.P (C) No.36908 of 2022
.....

Dated this the 18th day of March, 2024

ORDER

In the present I.A., the petitioner sought for appointment of an advocate commissioner along with one Mr. Joseph Korulla, Consultant Geologist, Tropical Institute of Ecological Sciences, Velloor P.O., Kottayam, who is an expert in GIS RS-based estimation in the presence of respondents 2 and 3 to inspect the quarry conducted by the 5th respondent and to report the details sought for in the commission application.

2. A detailed counter affidavit has been filed by the 5th respondent wherein it is stated that the quarry is functioning with all the required licences and after complying with the conditions therein. It is also contended that the 5th respondent has only extracted 81970 Metric Tons of granite building stone which is well within the permitted quantity of granite building stone and prayed for dismissal of the application. Learned Senior counsel appearing for the 5th respondent relying on *Karthika Metal Crusher v. State of Kerala, 2023 KHC OnLine 2894* would submit that the executive is the primary authority to take a decision on any complaint related to the violation of mining lease and



this court cannot permit a private consultant to inspect the quarry and ascertain the detail sought for in the commission application.

3. This Court as per order dated 29.01.2024 has directed the learned Government Pleader to get instructions regarding the proceedings for survey of assessment of the quarry as requested by the 3rd respondent to the additional 6th respondent. A memo has been filed by the learned Government Pleader wherein it is reported by the Geologist that a total station survey was conducted on 25.01.2024 by the draftsmen cum surveyor attached to the Directorate of Mining and Geology and the survey report reveals that there is illicit extraction from the buffer zone and outside the lease area. It is further reported that as the overburden quantity which was informed as per the Survey report was found to be unrealistic by the geologist, the matter was reported to the Director of Mining and Geology and requested for a revised survey report and illicit or excess extraction can be calculated only receipt of a revised survey report and that no movement permit will be issued to the lessee till the finalization of the proceedings.

4. A perusal of the survey report produced along with the memo filed by the learned Government Pleader would reveal that there is illegal extraction from the buffer zone and from outside the lease area. Now, the geologist has requested a revised survey report. Learned Government Pleader upon instructions submitted that the revised survey



is proposed to be held on 03.4.2024 and a report will be ready on 08.04.2024. Since revised survey is being conducted, I am of the view that rather than permitting the advocate commissioner and the expert accompanying the commissioner to inspect the quarry and report, it will be proper to permit the survey team to conduct the survey and also verify and report the details sought for in the commission application, specifically taking note of the contention of the senior counsel that it is the authorities under the Government who is primarily to take a decision on any complaint related to the violation of conditions in the mining lease. In view of the survey report now produced wherein illegal extraction was found, I am of the view that the present application could be allowed as follows.

Advocate, Prasanth A.G. (K/525/2014) is appointed as Advocate Commissioner, who shall visit the site along with Mr. Joseph Korulla, Consultant Geologist, Tropical Institute of Ecological Sciences, Velloor P.O., Kottayam, and be present during the revised survey which is scheduled to be held on 03.04.2024. The additional 6th respondent shall fix the revised survey with notice to the petitioner and the 5th respondent regarding the date and time so that the Advocate Commissioner along with the expert could be present during the revised survey. The 6th respondent shall constitute a proper survey team of qualified persons so as to inspect the quarry and the team shall also report as to the points



sought to be ascertained in the commission application, in the presence of the Advocate Commissioner and the expert. The report of the survey shall be produced before this court by the learned Government Pleader along with a memo. Initial batta of Rs.50,000/- is fixed for the Advocate Commissioner, who shall also submit a report regarding the proceedings of the revised survey.

Sd/-

VIJU ABRAHAM
JUDGE

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W.A.No.478 of 2024

2024:KER:24921

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 2 DAY OF APRIL 2024 / 13TH CHAITHRA, 1946

WA NO. 478 OF 2024

AGAINST THE ORDER/JUDGMENT DATED IN WP(C) NO.36908 OF 2022 OF
HIGH COURT OF KERALA

APPELLANT/RESPONDENT NO. 5:

M/S.MANKOMBU GRANITES,
BUILDING NO.4/194, VELLARA, MOONILAVU P.O., KOTTAYAM
DISTRICT - 686 586, REPRESENTED BY ITS MANAGING
PARTNER, M.A NALINAKSHAN NAIR., PIN - 686586

BY ADVS.
KURIAN ANTONY MATHEW
ANIL SEBASTIAN PULICKEL
ARUN THOMAS
KARTHIKA MARIA
MATHEW NEVIN THOMAS



RESPONDENTS/PETITIONER AND RESPONDENTS NOS. 1 TO 4 & 6:

- 1 FEBY CHACKO,
AGED 30 YEARS
W/O JOHNSON THOMAS, ARIYAMAKKAL (H) MOONILAVU P.O.
KOTTAYAM PIN-686586., PIN - 686586.
- 2 THE DISTRICT COLLECTOR,
KOTTAYAM, COLLECTORATE, KOTTAYAM, PIN-686002., PIN -
686002
- 3 STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA),
KERALA, REPRESENTED BY ITS SECRETARY, K.S.R.T.C BUS
TERMINAL COMPLEX, 4TH FLOOR, THAMPANOR, P.O.,



W.A.No.478 of 2024

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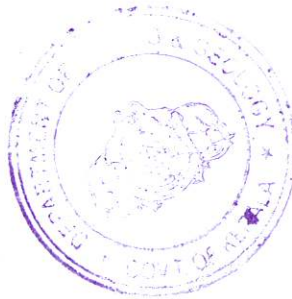
THIRUVANANTHAPURAM -695 001., PIN - 695001

- 4 THE GEOLOGIST,
MINING DEPARTMENT, COLLECTORATE, KOTTAYAM, KERALA-
686002, PIN - 686002
- 5 MOONILAVU GRAMA PANCHAYATH,
MOONILAVU P.O, KOTTAYAM DISTRICT -686 586, REPRESENTED
BY ITS SECRETARY., PIN - 686586
- 6 ADDL.R6.DIRECTOR OF MINING AND GEOLOGY
DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM,
PATTOM PALACE P.O., THIRUVANANTHAPURAM - 695004.
(ADDL.R6 IMPEADED AS PER ORDER DATED 27-01-2023 IN
IA 1/2023) ., PIN - 695004

OTHER PRESENT:

ADV.DAISY PHILIPOSE FOR R1; SR. GP.K.P.HARISH; SC FOR
R3 M.P.SREEKRISHNAN; ADV.GEORGEKUTTY MATHEW FOR R5

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02.04.2024,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:





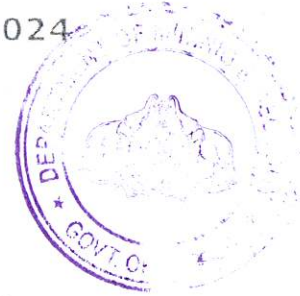
A. J. Desai, C.J.
&
V.G. Arun, J.

W.A.No.478 of 2024

Dated this the 2nd day of April 2024

JUDGMENT

A.J. Desai, C.J.



By way of the present writ appeal filed under Section 5 of the Kerala High Court Act, the appellant/5th respondent in the writ petition has challenged the order dated 18/03/2024 passed in I.A No.2/2023 in W.P.(C)No.36908 of 2022, by which the learned Single Judge has appointed one Mr.Joseph Korulla, an individual who is said to be Consultant Geologist and an expert on mining process, to visit the site along with the Advocate Commissioner who has already been appointed by the impugned order and be present during the revised survey conducted by the State Authorities.

2. The grievance of the appellant is with regard to the presence of the so called expert during the revised survey of the land.

3. On the other hand, learned Counsel appearing for the original petitioner opposed this appeal and submitted that the private person appointed is an expert in the subject and no interference is called for in



W.A.No.478 of 2024

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this writ appeal.

4. We heard the learned Advocates appearing for the appellant and the respondents.

5. Considering the dispute raised in the writ petition, we are of the opinion that it is not necessary to conduct the revised survey in the presence of any private person, as observed in the impugned order which reads as follows;

"Advocate, Prasanth A.G. (K/525/2014) is appointed as Advocate Commissioner, who shall visit the site along with Mr. Joseph Korulla, Consultant Geologist, Tropical Institute of Ecological Sciences, Velloor P.O., Kottayam, and be present during the revised survey which is scheduled to be held on 03.04.2024. The additional 6th respondent shall fix the revised survey with notice to the petitioner and the 5th respondent regarding the date and time so that the Advocate Commissioner along with the expert could be present during the revised survey. The 6th respondent shall constitute a proper survey team of qualified persons so as to inspect the quarry and the team shall also report as to the points sought to be ascertained in the commission application, in the presence of the Advocate Commissioner and the expert. The report of the survey shall be produced before this court by the learned Government Pleader along with a memo. Initial batta of Rs.50,000/- is fixed for the Advocate Commissioner, who shall





also submit a report regarding the proceedings of the revised survey."

6. Hence, we modify the interim order in the following manner;

"Adv.Prasanth A.G., who is appointed as Advocate Commissioner shall inspect the site along with the District Collector, the Taluk Surveyor, the Geologist (3rd respondent in the writ petition), the Secretary of the Panchayat (4th respondent), the Director of Mining and Geology (Additional 6th respondent) and shall prepare a report and submit the same before the learned Single Judge at the earliest".

The writ appeal is disposed of as above.

Sd/-

A. J. Desai
Chief Justice

Sd/-

V.G. Arun
Judge

dpk



**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

**ORIGINAL APPLICATION NO. 147 OF
2024(SZ)**

Sam P Issac

...Applicant

-VS-

Kerala State Pollution Control Board *o/s*

.....Respondent(s)

**REPORT FILED BY THE DIRECTOR
OF MINING AND GEOLOGY
DEPARTMENT**

E.K. KUMARESAN,

**Standing Counsel for Government
of kerala**

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