

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

THURSDAY, THE 24<sup>TH</sup> DAY OF MARCH 2022 / 3RD CHAITHRA, 1944

WP(C) NO. 18285 OF 2021

PETITIONER:

NAJEEB HASSAN,  
AGED 37 YEARS  
NAMBRATH HOUSE, VALANCHERRY P.O.  
MALAPPURAM 676 552.

BY ADV SRI PAUL K.VARGHESE

RESPONDENTS:

- 1 KOPPAM GRAMA PANCHAYAT,  
PULASSERY P.O. PALAKKAD 679 307,  
REPRESENTED BY ITS SECRETARY.
- 2 SECRETARY,  
KOPPAM GRAMA PANCHAYAT, PULASSERY P.O.  
PALAKKAD 679 307.

BY ADVS.  
SRI S.P.ARAVINDAKSHAN PILLAY  
SMT.N.SANTHA  
SRI V.VARGHESE  
SRI PETER JOSE CHRISTO  
SRI S.A.ANAND  
SMT.K.N.REMYA  
SMT.L.ANNAPOORNA  
SRI VISHNU V.K.  
SMT.ABHIRAMI K. UDAY  
SRI KURUVILLA SABU CHRISTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY  
HEARD ON 07.01.2022, THE COURT ON 24.3.2022 DELIVERED  
THE FOLLOWING:

**T.R. RAVI, J.**

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W.P.(C)No.18285 of 2021  
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Dated this the 24<sup>th</sup> day of March, 2022

**JUDGMENT**

The writ petition has been filed challenging Ext.P6 order whereby the 2<sup>nd</sup> respondent has rejected an application for D&O licence submitted by the petitioner for carrying out quarrying operations. The reason stated in Ext.P6 is that the area where quarrying is sought to be conducted had been affected during the floods in 2019 and that there are objections from the owners of neighbouring properties. It is also stated that the 2<sup>nd</sup> respondent had personally enquired into the issue. The contention of the petitioner is that the order Ext.P6 is legally unsustainable in view of the judgment of a Full Bench of this Court in **Tomy Thomas v. State of Kerala** reported in [2019 (3) KLT 987], **Abdulla M.P. & Ors. v. Trippangottur Grama Panchayat & Ors.** reported in [2021 (4) KHC 550] and **Malayoram Rock Products Pvt.Ltd. (M/s.) v. Vanimel Grama Panchayat & Anr.** reported in [2021 (4) KHC 398] and other cases.

2. The respondents have filed a counter affidavit

contending that the petitioner has an alternate remedy. The respondents have also produced complaints submitted against the establishment of the quarry.

3. Heard the learned counsel for the petitioner and the respondents.

4. The issue involved in the writ petition is no longer *res integra*. In **Tomy Thomas (supra)**, a Full Bench of this Court has categorically held that after the amendment of Section 233 of the Kerala Panchayat Raj Act, 1994 by Act 14 of 2018, the power of the Village Panchayat to refuse permission has been taken away by the Legislature. This Court has held that once the applicant complies with all the requirements and produces all the necessary permits/licenses which are required to be produced, the Panchayat cannot refuse a D&O licence. The Court also held that there can be no refusal for the reason of high density of population in the neighbourhood or the likelihood to cause pollution or nuisance. In **Abdulla M.P. (supra)** and **Malayoram (supra)**, a learned Single Judge has followed the Full Bench decision in **Tomy Thomas (supra)** and directed issuance of D&O licence. In the above circumstances, the petitioner is entitled to succeed in this writ petition.

5. The writ petition is allowed. Ext.P6 order is set aside. The 2<sup>nd</sup> respondent is directed to reconsider the application submitted by the petitioner for D&O licence and grant the same, if he is otherwise entitled to, before 31.03.2022.

Sd/-  
**T.R. RAVI**  
**JUDGE**

dsn

**APPENDIX OF WP(C) 18285/2021**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE LETTER OF INTENT DATED 14.09.2018 ISSUED BY THE GEOLOGIST PALAKKAD.
- Exhibit P1 (A) TRUE COPY OF THE CONSENT TO OPERATE DTD. 25.03.2021 ISSUED BY THE POLLUTION CONTROL; BOARD VALID TILL 03.03.2026.
- Exhibit P1 (B) TRUE COPY OF THE ENVIRONMENTAL CLEARANCE CERTIFICATE DATED 04.03.2021 VALID TILL 03.03.2026 ISSUED BY THE SEIAA.
- Exhibit P1 (C) TRUE COPY OF THE EXPLOSIVE LICENSE VALID TILL 31.03.2024.
- Exhibit P2 TRUE COPY OF THE APPLICATION DATED 16.04.2021 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- Exhibit P3 TRUE COPY OF THE LETTER DATED 30.04.2021 ISSUED BY THE 2ND RESPONDENT ALONG WITH A COPY OF THE DECISION DATED 26.04.2021 BEARING NO. 5 (1) OF THE PANCHAYATH COMMITTEE OF THE 1ST RESPONDENT.
- Exhibit P4 TRUE COPY OF THE LETTER DATED 16.05.2019 SUBMITTED BY THE 2ND RESPONDENT TO THE DISTRICT COLLECTOR, PALAKKAD ALONG WITH A COPY OF THE DECISION DATED 13.05.2019 BEARING NO. 7 (1) TAKEN BY THE PANCHAYATH COMMITTEE OF THE 1ST RESPONDENT.
- Exhibit P5 TRUE COPY OF THE JUDGMENT DATED 07.07.2021 IN WPC NO. 11699/2021 ON THE FILES OF THIS HONBLE COURT.
- Exhibit P6 TRUE COPY OF THE ORDER DATED 05.08.2201 WITH NO. B4/1857/21 ISSUED BY THE 2ND RESPONDENT.

**RESPONDENTS' EXTS:**

- EXT.R1 (A) : TRUE COPY OF COMPLAINT DT.22.4.2021 SUBMITTED BY THE RESIDENTS OF WARD NO.1 OF THE GRAMA PANCHAYAT EXCLUDING THE PAGES SHOWING THE SIGNATURES OF THE COMPLAINANTS.
- EXT.R1 (B) : TRUE COPY OF MINUTES OF THE MEETING HELD ON 20.4.2021.
- EXT.R1 (C) : TRUE COPY OF REPLY RECEIVED BY SMT.RAJITHA UNDER THE RIGHT TO INFORMATION ACT, 2005 FROM

THE OFFICE OF THE AGRICULTURAL OFFICER AND  
THE DEPUTY TAHSILDAR, PATTAMBI.

EXT.R1 (D) : TRUE COPY OF REPLY RECEIVED BY SRI  
UDAYANATHAN UNDER THE RIGHT TO INFORMATION  
ACT, 2005 FROM THE OFFICE OF THE AGRICULTURAL  
OFFICER AND THE DEPUTY TAHSILDAR, PATTAMBI.

EXT.R1 (E) : TRUE COPY OF THE REPRESENTATION DT.5.8.2021  
SUBMITTED BY ADDITIONAL RESPONDENTS 3 TO 6 IN  
WPC 11699/2021 BEFORE THE 1ST RESPONDENT.