

K.M.Chenthamara Vs. the District Collector

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Court : Kerala

Decided On : Apr-29-2014

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : K.M.Chenthamara

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS TUESDAY, THE 29TH DAY OF APRIL 2014 9TH VAISAKHA, 1936 WP(C).No. 11666 of 2014 (G) ----- PETITIONER: ----- K.M.CHENTHAMARA S/O.MADURAN, KARAPPARAMBU HOUSE, VADAVANUR PO PALAKKAD DISTRICT BY ADV. SRI.SAJEEV KUMAR K.GOPAL RESPONDENTS: ----- 1. THE DISTRICT COLLECTOR PALAKKAD, PIN678001.

2. THE TAHSILDAR PALAKKAD, PIN678001. R BY SRI. JOSEPH GEORGE, GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-04-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 11666 of 2014 (G) ----- APPENDIX PETITIONER'S EXHIBITS : ----- EXHIBIT P1 COPY OF THE SEIZURE MAHAZAR IN RESPECT OF THE PETITIONER'S VEHICLE BEARING REGISTRATION NO.KL-09/AC-647. EXHIBIT P2 COPY OF THE REQUEST SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL ----- //TRUE COPY// P.A. TO
JUDGE rv ALEXANDER THOMAS, J.

----- W.P.(C.) No. 11666 of 2014 -----

Dated this the 29th day of April, 2014

JUDGMENT

The above writ petition has been filed seeking the following reliefs:

1. Issue a writ of mandamus or other appropriate writs, directions or orders directing the respondents to receive and consider the request of the petitioner and thereby give an opportunity for the petitioner to compound the alleged offence under Ext.P1, under Rule 60(A)(1) of the Kerala Minor Mineral Concession Rules, 1967.

2. Issue a writ of mandamus or other appropriate writs, directions or orders directing the 2nd respondent to release the petitioner's vehicle bearing registration No. KL-09/AC-647 forthwith.

3. Issue a writ of certiorari calling for the records leading to Ext.P1 and quash the same.

2. It is a common ground that the matter in issue is covered by the directions in the judgment dated 21.03.2014 in W.P.(C) No. 8241 of 2014. The directions issued in the aforesaid judgment is as follows: "2. This Court has in identical circumstances disposed of W.P.(C) No.1342 of 2014 by directing the competent authority to compound the offence upon payment of the sum of 25,000/- and by directing release of the motor vehicle involved upon such payment. It was also observed that once the offence is compounded, no prosecution shall be initiated against the petitioner, as held by this Court in Digil v. Sub Inspector of Police W.P.(C) No. 11666/2014 -2- [2013 (1) KLT600. In such circumstances, I dispose of the writ petition with a direction to the respondents to accept the application submitted by the petitioner to compound the offence alleged against him upon payment of the sum of 25,000/- as compounding fee and to release the vehicle to the petitioner on the day the payment of the sum of 25,000/- is effected. Needless to say, once the

offence is compounded no prosecution shall be initiated against the petitioner in respect of the incident which led to the instant writ petition. If a report has already been lodged in the competent criminal court, a further report to the effect that the offence has been compounded shall also be filed." 3. It is brought to my notice that series of similar cases have been disposed of by this Court on the similar lines as stated above in the matter of compounding of the offences arising out of the alleged violation of the provisions of the Mines and Minerals (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. It is provided in Section 23A of the aforesaid Act and Rule 60A of the aforementioned rules that offences can be compounded by paying a requisite fee amount of ` 25,000/-.

4. The learned counsel for the petitioner Shri. Sajeev Kumar K. Gopal submits that the petitioner is willing to take recourse to the compounding procedure as ordered in the W.P.(C) No. 11666/2014 -3- aforesaid judgment and that the petitioner would submit a proper application before the 2nd respondent for compounding of the offences alleged.

5. Under the circumstances, it is ordered that in case the petitioner submits a proper application before the 2nd respondent for compounding of the offences arising out of the aforementioned Act and the Rules framed thereunder and remits a compounding fee of `25,000/-, the 2nd respondent shall forthwith compound the offences and release the vehicle of the petitioner which has been seized pursuant to the impugned proceedings herein. Once the compounding is effected, no further prosecution shall also be maintained as against the petitioner. With the above observations and directions, this writ petition stands finally disposed of. sd/-
ALEXANDER THOMAS, JUDGE. rv