

Kabeer vs the District Geologist

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/13875/2024

Appellant : Kabeer

Respondent : The District Geologist

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946
WP(C) NO. 13875 OF 2024 PETITIONERS: 1 KABEER AGED 42
YEARS SON OF MOIDEEN, KANJHIRAPPALAN HOUSE, KARIPPOL
P.O., ATHAVANADU, MALAPPURAM, PIN - 676552 (OWNER OF
TIPPER LORRY BEARING- REGISTRATION NO. KL-56-B-6393) 2
MAJEED AGED 47 YEARS SON OF MOIDEEN, THATTARI HOUSE,
THOZHUVANUR, VATTAPARA, KATTIPARUTHI, MALAPPURAM, PIN -
676552 (OWNER OF TIPPER LORRIES BEARING REGISTRATION
NO. KL-58-F-1544 AND KL-58-J-5627) 3 ABDUL AZEEZ AGED 66
YEARS SON OF MUHAMMED HAJI, KILAMANNIL HOUSE, KURUVA,

PIN - 679338 MALAPURAM (OWNER OF TIPPER LORRY BEARING REGISTRATION NO. KL-53-P-1787) 4 MUBASHIR AGED 31 YEARS C/O.SAIDALAVI, ATHIKKATTIL HOUSE, MATTUMMAL, ATHAVANADU P.O., MALAPPURAM, PIN - 676301 (OWNER OF TIPPER LORRY BEARING REGISTRATION NO. KL-10-Y-7849) BY ADVS. P.M.ZIRAJ IRFAN ZIRAJ RESPONDENTS: 1 THE DISTRICT GEOLOGIST DISTRICT OFFICE, DEPARTMENT OF MINING AND GEOLOGY, MALAPPURAM DISTRICT, PIN - 676511

2 THE INSPECTOR OF POLICE VALANCHERRY POLICE STATION, MALAPPURAM DISTRICT, PIN - 675552 BY ADV. DEEPA V, GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 23rd day of April, 2024 The vehicles of the petitioners were seized by the second respondent with an allegation of offences under the MMDR Act. At the time of alleged seizure, the lorries were empty. Mere suspicion of a police officer that the vehicle might have been used for transportation of earth is not at all a ground to seize the vehicle.

2. Immediately after seizure, petitioners approached the

first and second respondents and thereby requested to take action in the subject matter and release his vehicles accordingly. But, no action has been taken by them in spite of repeated requests. The second respondent has no case that the petitioners transported any minerals. The offences alleged would not be attracted against the petitioners as declared by this Court in *Unais v. District Collector* [2023 (1) KLT 651] which was confirmed by the Division Bench of this Court in *W.A.No.609 of 2023*. In the said judgment, this Court categorically stated that preparation for transportation is not an offence under the provisions of the Kerala Minor Mineral Concession Rules.

3. In several other identical judgments also, this Court

retreated the above view. Hence, the vehicles of petitioners ought to have been released by the respondents unconditionally. But, in spite of the repeated requests, the vehicles were not released. Hence, the petitioners filed this writ petition.

4. I have heard the learned counsel for the petitioners and the learned Government Pleader for the respondents.

5. Petitioners contended that their vehicles were not

involved in any offence. The vehicles were seized when they were lying idle. I have perused Ext.P5 seizure mahsar. From the seizure mahasar also it is evident that five vehicles of the petitioners were lying empty and idle. In such circumstances, I am of the view that seizure of the vehicles is legally not justifiable. The writ petition is therefore disposed of directing the 2nd respondent to release the tipper lorries of the petitioners bearing Registrations Nos. KL-56-B-6393, KL-58-F-1544, KL-58-J-5627, KL-53-P-1787 and KL-10-Y-7849. Sd/- N.NAGARESH JUDGE Jka/23.04.24. APPENDIX OF WP(C) 13875/2024 PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF THE JUDGMENT REPORTED IN UNAIS VS DISTRICT COLLECTOR 2023 (1) KLT 651 Exhibit P2 TRUE COPY OF THE JUDGMENT OF THE DIVISION BENCH OF THIS HONOURABLE COURT DATED 29.3.2023 IN W.A.NO.609 OF 2023 Exhibit P3 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 4.4.2023 IN WP(C) NO.11862 OF 2023 Exhibit P4 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 20.7.2023 IN WP(C) NO.23536 OF 2023 Exhibit P5 TRUE COPY OF THE SEIZURE MAHASAR DATED 28.3.2024 PREPARED BY THE SECOND RESPONDENT

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