

Cherupuzha Grama Panchayath, vs Single Window Clearance Board,

Cherupuzha Grama Panchayath, vs Single Window Clearance Board,

SooperKanoon Citation : sooperkanoon.com/1797607

Court : Kerala

Decided On : Aug-19-2020

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : WP(C)/17181/2019

Appellant : Cherupuzha Grama Panchayath,

Respondent : Single Window Clearance Board,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
WEDNESDAY, THE 19TH DAY OF AUGUST 2020 / 28TH SRAVANA,
1942 WP(C).No.15809 OF 2020(A) PETITIONER: KABANI BLUE
METALS PVT. LTD REPRESENTED BY ITS MANAGING DIRECTOR,
ANTONY.C.C,S/O.LATE CHACKU,KORATTI EAST.P.O, THRISSUR
DISTRICT,PIN-680308. BY ADV. SRI.GEORGEKUTTY MATHEW
RESPONDENTS: 1 THE SINGLE WINDOW CLEARANCE BOARD
REPRESENTED BY ITS CONVENER, DISTRICT INDUSTRIES
CENTRE,THAVAKKARA, KANNUR-670002. 2 CHERUPUZHA GRAMA
PANCHAYATH, REPRESENTED BY ITS
SECRETARY,CHERUPUZHA.P.O, KANNUR DISTRICT,PIN-670511.

SRI.K.J.MANU RAJ, GOVT.PLEADER, SRI.K.N.ABHILASH THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19.08.2020, ALONG WITH WP(C).17181/2019(W), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: &

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
WEDNESDAY, THE 19TH DAY OF AUGUST 2020 / 28TH SRAVANA,
1942 WP(C).No.17181 OF 2019(W) PETITIONER: CHERUPUZHA
GRAMA PANCHAYATH, CHERUPUZHA, KANNUR DISTRICT,
REPRESENTED BY ITS SECRETARY IN CHARGE KOUSALAYA.S.M.,
AGED 53 YEARS, W/O.BIJU, KANNIVAYAL POST, KASARGODE
DISTRICT. BY ADVS. SRI.K.N.ABHILASH SRI.SUNIL NAIR PALAKKAT
RESPONDENTS:

1 SINGLE WINDOW CLEARANCE BOARD, DISTRICT INDUSTRIES
CENTRE, THAVAKKARA, KANNUR-670 002, REPRESENTED BY ITS
CONVENER. 2 THE CONVENER, SINGLE WINDOW CLEARANCE
BOARD, DISTRICT INDUSTRIES CENTRE, THAVAKKARA, KANNUR-
670 002. 3 GEOLOGIST, DEPARTMENT OF MINING & GEOLOGY,
DISTRICT OFFICE, CIVIL STATION, E-BLOCK, KANNUR-670 002. 4
KABANI BLUE METALS PVT.LTD., KORATTI EAST P.O., THRISSUR
DISTRICT, PIN-680 308 REPRESENTED BY ITS MANAGING
DIRECTOR, ANTONY CC, S/O.LATE CHACKO. R1-2 BY
GOVERNMENT PLEADER R4 BY ADV. SRI.GEORGEKUTTY
MATHEW SRI.DINESH MATHEW J.MURICKEN, SRI.K.J.MANU RAJ,
GOVT.PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP
FOR ADMISSION ON

19.08.2020, ALONG WITH WP(C).15809/2020(A), THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING: &

ALEXANDER THOMAS, J.

=====

&

===== Dated this the 19th day of August,
2020

JUDGMENT

The petitioner in W.P(C)No.15809/2020 is the contesting respondent No.3 in W.P(C)No.17181/2019. The 2nd respondent (Cherupuzha Grama Panchayath) in W.P(C)No.15809/2020 is the sole petitioner in W.P(C)No.17181/2019. The Single Window Clearance Board has been arrayed as respondent in both the cases.

2. As both the cases pertain to the same issue and also pertain to the same parties, these cases are disposed of on the basis of a common judgment. W.P(C)No.15809/2020 is taken as a lead case for the purpose of convenience.

3. The case of the petitioner in W.P(C)No.15809/2020 is that in

order to establish a private quarry, he had earlier secured Ext.P-1

proceedings dated 06.05.2019 issued by the 1 st respondent-Single Window Clearance Board under the provisions of Sec.8(3) of the Kerala Industrial &

Single Window Clearance Boards and Industrial Township Area Development Act, 1999, whereby it is certified in Ext.P-1 that the establishment permit and license envisaged under Sec.233 & Sec.232 of the Kerala Panchayat Raj Act stand granted in favour of the petitioner. The respondent-Cherupuzha Grama Panchyat the said Ext.P-1 certificate dated 06.05.2019 by filing the abovesaid W.P(C)No.17181/2019, on the ground that the said panchayat was not heard by the respondent-Single Window

Clearance Board before issuing the abovesaid Ext.P-1 certificate. This Court admitted the abovesaid W.P(C)No.17181/2019 and has passed an

order dated 26.06.2019 granting interim stay of the said certificate dated

06.05.2019. A reading of the said Ext.P-1 certificate would indicate that the validity period of the Ext.P-1 certificate is only for a limited period of one year therefrom, viz. upto 05.05.2020. Now it is stated by both sides that the said maximum validity period of the said Ext.P-1 certificate has already expired on 05.05.2020. The petitioner in W.P(C)No.15809/2020 (R4 in W.P(C)No.17181/2019) has now filed application dated 22.07.2020 before the respondent-Single Window Clearance Board seeking for renewal of the certification as per Ext.P-1 for a further period of one year. The case of the respondent-Cherupuzha Grama Panchayat is that they should also be

& heard by the respondent-Single Window Clearance Board before any such orders are passed by the said Board.

4. Since the abovesaid certification as per Ext.P-1 noted hereinabove has already expired on 05.05.2020, it is only to be held that the matters raised in in W.P(C)No.17181/2019 has become practically

infructuous and superfluous. Hence, no orders are required in W.P(C)No.17181/2019 except to close the same as infructuous. However since the respondent-Grama Panchayat has a case that they should also be heard before taking a decision by the abovesaid Board on the abovesaid request of the petitioner in W.P(C)No.15809/2020, the following directions and orders are passed :

It is ordered in W.P(C)No.15809/2020 that the 1st respondent therein will take up for consideration the matters in the application dated 22.07.2020 filed by the petitioner seeking for renewal of the said certificate dated 06.05.2020, as acknowledged in Ext.P-3 receipt and after affording reasonable opportunity of being heard to the petitioner in W.P(C)No.15809/2020 as well as the 2nd respondent-Cherupuzha Grama Panchayat through their authorized representative/counsel, if any, should pass orders on &

the said application dated 22.07.2020, in accordance with law, without much delay, preferably within a period of one month from the date of production of a certified copy of this judgment.

5. If the abovesaid matter relating to the request of the petitioner

in the application dated 22.07.2020 cannot be taken up for consideration in the next meeting of the respondent-Board, which is stated to be scheduled next week, then it should be ensured by the 1 st respondent-Board that orders are passed on Ext.P-1 application in compliance with the abovesaid directions, at least in the next meeting, which is to be convened

in September, 2020. Since the matter in issue in W.P(C)No.17181/2019 has become infructuous, it is only to be ordered accordingly. With these observations and directions, both the above Writ Petitions (Civil) will stand finally disposed of. Sd/- ALEXANDER THOMAS JUDGE vgd & APPENDIX OF WP(C) 15809/2020 PETITIONER'S/S EXHIBITS:

EXHIBIT P1

TRUE COPY OF THE CERTIFICATE DATED EXHIBIT

SUBMISSION OF APPLICATION BEFORE THE FIRST RESPONDENT ON 22/07/20. & APPENDIX OF WP(C) 17181/2019 PETITIONER'S/S EXHIBITS: EXHIBIT P1 THE TRUE COPY OF THE WRIT PETITION NO.15683/2019 OF THE HON'BLE HIGH COURT OF KERALA DATED 07.06.2019 FILED BY THE 4TH RESPONDENT. EXHIBIT P2 THE TRUE COPY OF THE CERTIFICATE DATED 06.05.2019 ISSUED BY THE 1ST AND 2ND RESPONDENTS. RESPONDENT'S/S EXHIBITS: EXHIBIT R4(A) TRUE COPY OF THE ENVIRONMENTAL CLEARANCE NO.24/2017 ISSUED BY THE DISTRICT ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, KANNUR DATED 07.11.2017. EXHIBIT R4(B) TRUE COPY OF THE CONSENT TO

OPERATE/AUTHORIZATION/REGISTRATION CERTIFICATE ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD DATED 27.02.2018.

EXHIBIT R4(C) TRUE COPY OF EXPLOSIVE LICENSE ISSUED BY THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES DATED 13.02.2019. EXHIBIT

R4(D) TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 06.05.2019. EXHIBIT R4(E) TRUE COPY OF THE APPLICATION SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 1ST RESPONDENT DATED 29.05.2019.

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