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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

FRIDAY, THE 24<sup>TH</sup> DAY OF JUNE 2022 / 3RD ASHADHA, 1944

WP(C) NO. 19888 OF 2022

PETITIONER:

K J ABRAHAM  
AGED 71 YEARS  
SON OF. JOSEPH,  
KALAMANNIL HOUSE, KOZHENCHERY P.O.,  
PATHANAMTHITTA DT., PIN - 689641  
BY ADV JESTIN MATHEW

RESPONDENT

THE DISTRICT GEOLOGIST  
DISTRICT OFFICE, DEPARTMENT  
OF MINING AND GEOLOGY,  
COLLECTORATE P.O., KOTTAYAM DT, PIN - 686002

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GOVT. PLEADER SRI. SYAMANTHAK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 24.06.2022, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

## **J U D G M E N T**

*Dated this the 24<sup>th</sup> day of June, 2022*

The petitioner, who is running a granite unit, has approached this Court aggrieved by Ext.P1 demand notice issued by the respondent.

2. The petitioner states that the respondent-District Geologist has granted a dealers licence to the petitioner's unit. In Ext.P1 demand notice dated 09.05.2022, it was alleged that the petitioner illegally stored 7316 MT granite products. A penalty of Rs.5,51,752/- was imposed on the petitioner.

3. The petitioner states that imposition of penalty is without any notice. As per Rule 24 of the Kerala Minerals (Prevention of Illegal Mining, Storage and Transportation) Rules, 2015 ('the Rules', for short), the respondent is bound to give a show- cause notice to the petitioner and hear him. Any liability can be fixed on the petitioner only after considering the reply and explanation given by the petitioner.

In the present case, the petitioner has not been given such an opportunity.

4. The Government Pleader entered appearance and contested the writ petition. The Government Pleader denied all material allegations made by the petitioner in the writ petition.

5. It was pointed out by the Government Pleader that Ext.P1 itself would indicate that a show-cause notice dated 16.09.2020 was issued to the petitioner. Therefore, Ext.P1 cannot be interfered with for violation of the principles of natural justice or for violation of Rule 24 of the Rules, 2015, contended the Government Pleader.

6. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the respondent.

7. The show-cause notice alleged to be issued to the petitioner is stated to be dated 16.09.2020. The impugned order and Ext.P1 is passed nearly two years thereafter, on 09.05.2022. The petitioner would assert that he has not received any prior notice.

8. Going by Rule 24 of the Rules, 2015, it is mandatory that the petitioner be given a show-cause notice and his reply is considered.

9. In the facts of the case, this Court is of the view that the proceedings against the petitioner pursuant to Ext.P1, without hearing the petitioner would be unjust.

In the circumstances, the writ petition is disposed of directing that Ext.P1 be treated as show-cause notice issued to the petitioner. The petitioner will be at liberty to submit a detailed reply/explanation to the allegations contained in Ext.P1, within a period of two weeks. The respondent shall take a final decision in the matter after giving an opportunity of hearing to the petitioner, within a further period of one month from the date of receipt of reply filed by the petitioner.

Sd/-

**N. NAGARESH, JUDGE**

smm/29.06.2022

W.P.(C) No. 19888 of 2022 : 5 :

**APPENDIX OF WP (C) 19888/2022**

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF THE DEMAND NOTICE DATED  
09.05.2022 ISSUED BY THE RESPONDENT TO  
THE PETITIONER