

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 8TH DAY OF DECEMBER 2021/17TH AGRAHAYANA, 1943

RP NO. 842 OF 2021

AGAINST THE JUDGMENT DATED 16.09.2021 IN

WP(C) 25602/2020 OF HIGH COURT OF KERALA

REVIEW PETITIONER/PETITIONER IN WP(C) :

RAJAN K., S/O KANNAN,
AGED 46 YEARS, RESIDING AT
KANDATHIL HOUSE, PARAVOOR,
PANAPUZHA P.O., KANNUR-670 306.

BY ADV RAVI KRISHNAN

RESPONDENT/RESPONDENT IN WP(C) :

- 1 THE ADDITIONAL DISTRICT MAGISTRATE (ADM) ,
KASARGOD, VIDYANAGAR, COURT COMPLEX,
STADIUM ROAD, KASARGOD, KANNUR-671 121.
- 2 THE DISTRICT POLICE CHIEF,
PARAKATTA, VIDYANAGAR,
ULIYATHADKA ROAD, KUDLU,
KASARGOD-671 123.

SMT.VINITHA B., SR.G.P.

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
08.12.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

Dated this the 8th day of December, 2021

The writ petitioner challenged Ext.P10 to the extent it denied Explosive Licence as prayed for in Ext.P4. The writ petitioner sought to quash Ext.P15 also. This Court dismissed the writ petition finding that the reasons given by the Additional District Magistrate for rejection, namely, the proposed site for Magazine would adversely affect the Anganwadi and Ambedkar Colony; the Cheemeni - Odakolly PWD Road is near to the site and passing through southern side of the proposed quarry; and the Maoist-Terrorist threat within the limits of Chittarikkal Police Station, are good and sufficient reasons for the District Magistrate to decline NOC.

2. In this review petition, the review petitioner submits that as per Annexure A1, since the quantity of explosives is less than 100 kg, the statutory distance prescribed is 45 m and there are no building or structures within 45 m of the proposed explosive magazine.

3. In the writ petition, the State had filed Counter Affidavit pointing out violation of Distance Rule and also threat of Maoist in the area. There was no material on record in the writ petition controverting a defence made by the Government, in their counter affidavit/statement. Now the petitioner is alleging error apparent on the face of the judgment on the basis of a document Annexure A1 which did not form part of the records of the writ petition. This Court finds that even assuming that the Distance Rule is violated, even then the Additional District Magistrate was perfectly justified in rejecting NOC application for the reason that there is Maoist thereat in the area.

In the circumstances, this Court finds no error apparent on the face of the record so as to intervene and recall the judgment delivered by this Court. Therefore the review petition is dismissed.

Sd/-
N. NAGARESH
JUDGE

ncd/08.12.2021

APPENDIX OF RP 842/2021

PETITIONER'S ANNEXURE

Annexure A1	TRUE COPY OF THE RELEVANT PAGES OF EXPLOSIVE RULES, 2008, SHOWING TABLE OF SAFETY DISTANCES (IN METERS) FOR MANUFACTURING FACTORY, MAGAZINE OF CATEGORY "ZZ".
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