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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 9TH DAY OF SEPTEMBER 2025 / 18TH BHADRA, 1947

WP(C) NO. 37392 OF 2023

PETITIONERS:

- 1 JAICE JOHN,
AGED 49 YEARS
S/O. JOHN, PAZHAYAPURAYIL HOUSE, KUNINJI P.O.,
IDDUKI DISTRICT, PIN - 685583
- 2 GEORGE MATHEW,
AGED 70 YEARS
S/O. MATHEW, NOORAMMAKKAL HOUSE, KUNINJI P.O.,
IDUKKI DISTRICT, PIN - 685583
- 3 TOMY ZACHARIAS,
AGED 62 YEARS
S/O. ZACHARIA, VELLANKAL HOUSE, KUNINJI P.O.,
IDUKKI DISTRICT, PIN - 685583

BY ADVS.
SRI.LIJI.J.VADAKEDOM
SHRI.TOM E. JACOB
SMT.REXY ELIZABETH THOMAS
SHRI.ATHUL V. VADAKKEDOM

RESPONDENTS:

- 1 THE DIRECTOR OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM, PIN - 695004
- 2 THE GEOLOGIST,
DISTRICT OFFICE, DEPARTMENT OF MINING AND GEOLOGY,
THODUPUZHA, IDUKKI, PIN - 685584
- 3 JOINT CHIEF CONTROLLER OF EXPLOSIVES,
SOUTH CIRCLE CHENNAI A & D WING, II FLOOR, SHASTRI
BHAVAN, 26, HADDOUS ROAD, NUNGAMBAKKOM,
CHENNAI, PIN - 600006



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- 4 DEPUTY CHIEF CONTROLLER OF EXPLOSIVES,
OFFICE OF THE DEPUTY CONTROLLER OF EXPLOSIVES, KOCHI,
KAKKANAD, ERNAKULAM, PIN - 682037
- 5 THE PURAPUZHA GRAMA PANCHAYATH ,
REPRESENTED BY ITS SECRETARY,
PURAPUZHA P.O., IDUKKI DISTRICT, PIN - 685583
- 6 THE SECRETARY,
THE PURAPUZHA GRAMA PANCHAYATH, PURAPUZHA P.O.,
IDUKKI DISTRICT, PIN - 685583
- 7 SHINE MATHEW,
AGED 49, S/O. MATHAI, VADAKKEMUTTANOLIL HOUSE,
KOOTHATTUKULAM P.O., ERNAKULAM DISTRICT, PIN - 686662
- 8 NIKHIL BABU,
PUTHENPURACKAL HOUSE, VELIYANADU P.O.,
THIRUVANIYLOOR, ERNAKULAM DISTRICT, PIN - 682308

BY ADVS.

GOVERNMENT PLEADER SRI.B.S.SYAMANTHAK
SMT.MINI GOPINATH, SENIOR PANEL COUNSEL
SHRI.K.S.ARUN KUMAR
SHRI.JAWAHAR JOSE
SHRI.T.C.KRISHNA, SENIOR PANEL COUNSEL
SRI.RENJITH THAMPAN (SR.)
SHRI.SAFEER BAWA A.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07.07.2025, THE COURT ON 09.09.2025 DELIVERED THE FOLLOWING:



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"C.R."

JUDGMENT

The 7th respondent submitted an application to the 2nd respondent on 6/08/2018 to establish a quarry in the property measuring 1.0336 Hectares in Re.Sy.No.541/2 in Block No.13 of Purapuzha Village, owned by one Somy Joseph of Vattakkat House, Kuninji P.O., which is located near the petitioners' residential houses. He obtained Ext.P3 Letter of Intent under Rule 8 of the Kerala Minor Mineral Concession Rules, 2015 (for short, the KMMC Rules) from the Geology Department. As per condition No. (4) of Ext.P3, the 7th respondent must produce an explosives licence for extracting minerals from the specified area as outlined in the approved mining plan.

2. The 3rd respondent issued Ext.P4, the LE-3 explosives licence, to the 8th respondent, to possess for use of explosives at a magazine located at Sy.Nos. 282/1-2, 303/2-1, 303/2-2, 302/2-2, and 302/3, Block No.41 of Thiruvaniyoor Village, Kunnathunadu Taluk, Ernakulam. This licence remains valid until 31/3/2027. The 8th respondent submitted an application to the 3rd respondent, seeking permission to use explosives in the proposed quarry of the 7th respondent, utilising his Ext. P4 licence. Based on this application, the 3rd respondent extended the licence to include the property of the proposed quarry of the 7th respondent, thereby permitting the 8th respondent to use explosives there. Subsequently, the 7th respondent entered into



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Ext.P5 agreement with the 8th respondent for carrying out blasting operations within his quarry. The 7th respondent asserts that, by virtue of this arrangement with the 8th respondent, he has effectively obtained an explosives licence in accordance with the Explosives Rules, 2008 (for short, 'Explosives Rules'). However, the petitioners contend that this arrangement does not satisfy condition No. (4) in Ext. P3, the Letter of Intent, and that the 7th respondent must personally obtain an explosives licence. It was in these circumstances, the petitioners have filed the present writ petition seeking an order to direct respondents 2 and 3 not to grant permission for the conducting of quarry to the 7th respondent until he produces an explosives licence in his name. They also seek to quash Ext.P4 to the extent it authorises the 8th respondent to use explosives in the quarry of the 7th respondent.

3. The 1st respondent filed a counter-affidavit supporting the petitioners. It is stated that, for granting quarrying permission, the explosives licence must be in the name of the proponent, and that the 1st respondent declined the 7th respondent's request to treat Ext.P4 as a valid explosives licence, instructing him to produce an explosives licence issued in his own name. The communication from the 1st respondent to the 7th respondent regarding this matter has been produced and marked as Ext.R1(a). It is further stated that the 1st respondent will only consider the 7th respondent's application for the quarrying licence upon production of an explosives licence in his name.



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4. In the counter affidavit filed by the 2nd respondent, it is contended that for mining operations, the explosives licence is issued by the Petroleum and Explosive Safety Organisation (PESO) in accordance with the terms and conditions of the Explosives Rules. It is further contended that initially, the Department of Mining and Geology insisted on production of an explosives licence in the applicant's name, but due to PESO's intervention, the Department began considering the explosives licence issued to another party, provided that the Letter of Intent or Concession numbers and survey numbers of the quarry are specified in the licence. It is also stated that the KMMC Rules do not require that the explosives licence be held in the name of the concession holder.

5. In the counter statement filed by respondents 3 and 4, it is contended that the 3rd respondent received an application from the 8th respondent for permission to use explosives in a quarry located at Re.Sy.No.541/2 of Purapuzha Village, Thodupuzha Taluk, Idukki District. This application was made for the use of a licenced explosive van to transport explosives from the licensed magazine to the quarry. Since there is a practice that the intimation submitted by the licensee for using explosives at a particular site is recorded and acknowledged, the 3rd respondent took the intimation into the records and acknowledged it for use at Re.Sy.No.541/2 as mentioned above. Therefore, no amendment has been made to the licence. It is further contended that it is not mandatory under the Explosives Rules for the quarry and magazine to be



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located within the same survey number.

6. The 7th respondent stated in his counter affidavit that his quarry site was included in Ext.P4 licence by the 3rd respondent, allowing the use of explosives at his quarry. He claims that the inclusion of his quarry site in Ext. P4 is lawful. Additionally, it is stated that the 8th respondent also holds an LE-7 licence for transporting explosives in a road van, as evidenced by Ext.P5 agreement, and has permission to issue explosives from his magazine by transporting them in a licenced explosive van to the blaster, in accordance with the Explosives Rules.

7. I have heard Sri. Liji J. Vadakkedom, the learned counsel for the petitioners; Sri. B.S. Syamanthak, the learned Government Pleader; Smt. Mini Gopinath, the learned Central Government Counsel; Sri. Renjith Thampan, the learned Senior Counsel for the 7th respondent; and Sri. Jawahar Jose, the learned counsel for the 8th respondent.

8. Rules 8 and 33 of the KMMC Rules deal with the grant of quarrying permits and quarrying leases, respectively. According to Rule 8, upon receiving an application for a quarrying permit, the competent authority shall, after conducting site visits and other enquiries as deemed appropriate, issue a Letter of Intent to the applicant. Rule 9(2) states that, once all statutory licences, clearances, or No Objection Certificates from relevant authorities are produced, the competent authority shall issue a quarrying permit. Ext.P3 Letter of Intent, issued under Rule 8 of the KMMC Rules, directed the 7th respondent to obtain



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and produce the necessary licences from the concerned statutory authorities, including an explosives licence for mineral extraction from the precise area as mentioned in the approved mining plan. Admittedly, no explosives licence was granted to the 7th respondent permitting the use of explosives in his quarry. Instead, the 8th respondent, who obtained Ext.P4 LE-3 licence under the Explosives Rules for his property, was authorised to use explosives in the 7th respondent's quarry through the amendment of Ext.P4 by the 3rd respondent. Subsequently, the 7th respondent entered into Ext.P5 agreement with the 8th respondent for carrying out blasting operations in his quarry. The key issue is whether such an arrangement between the 7th and 8th respondents suffices to satisfy the requirement of condition No. (4) in Ext.P3 Letter of Intent, which mandates the 7th respondent to obtain an explosives licence from the relevant authorities. In other words, the question is whether the project proponent should personally obtain the explosives licence in his name under the Explosive Rules to secure the quarrying permit under the KMMC Rules?

9. Rule 7 of the Explosives Rules states that no person shall possess explosives for use unless authorised or licensed under the said Rules. As per Rule 101 of the Explosives Rules, an individual wishing to obtain a licence for using explosives must first secure approval from the District Magistrate. After obtaining such approval, they must acquire a No Objection Certificate under Rule 102 of the Explosives Rules from



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the District Magistrate or the Director General of Mines Safety, as the case may be. The procedure for issuing the No Objection Certificate for obtaining a licence is detailed in Rule 103. According to Rule 103 (3), the District Magistrate will verify the applicant's background, lawful possession of the site, the genuineness of the purpose, and public interest by issuing a public notice under Rule 103(3)(a). Only after completing these procedures will a licence be granted for the use of explosives.

10. The learned counsel for the petitioners, Sri. Liji J. Vadakkedom, submitted that a perusal of the above provisions indicates that, to obtain a licence permitting the use of explosives in a quarry, the applicant must be a person who is in possession of that quarry, and the explosives licence must be in his name. The learned counsel further submitted that, before issuing Ext.P4 permission to the 8th respondent by amending his existing licence, no procedure as outlined under Rule 103 had been followed. It is further argued that, by granting this permission under Ext.P4, the mandatory procedures set out in the Rule were bypassed; therefore, Ext.P4 permission granted to the 8th respondent to use explosives in the quarry of the 7th respondent should be quashed. In response to these contentions, the learned Senior Counsel for the 7th respondent, Sri. Renjith Thampan, made the following submissions:

- (i) The blasting in quarries is governed by the KMMC Rules and not the Explosives Rules. As per Rule 97 of the Explosives Rules, a



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licence for using explosives in a quarry must be issued under the Mines Act, 1952. Therefore, the location of the quarry does not need to be considered when issuing a licence under the Explosives Rules.

(ii) The Explosives Rules only require an enquiry regarding the site of the premises (magazine), and a quarry site is not subject to enquiry under the provisions of the Explosives Rules. No Objection Certificate under Rule 103 of the Explosives Rules is meant for the construction for the possession of explosives, not for the use of explosives in the mining lease area.

(iii) Rule 107 of the Explosives Rules, under which the LE-3 licence is granted, does not specify the location where explosives are to be used.

(iv) The quarrying site is not mentioned in the LE-3 licence. As per Rule 77(2)(i) of the Explosives Rules, it is the responsibility of the person holding a licence for the possession and use of explosives to issue the pass to the blasters, which must include the quarry site.

(v) Rule 102(2) (c) of the Explosives Rules states that an amendment can be made to the existing licence if no new licence for the grant of NOC is required. There is no violation in incorporating the quarry site of the 7th respondent in Ext.P4 licence.



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11. The preamble of the Explosives Act, 1884 (for short, 'Explosives Act'), indicates that this Act is designed to regulate the manufacture, possession, use, sale, transport, import, and export of explosives. Section 5 of the Act authorises the Central Government to make Rules regarding licences for the manufacture, possession, use, sale, transport, import, and export of explosives. Explosives Rules have been enacted under the powers conferred by Section 5 of the Explosives Act. Rule 97 of the Explosives Rules states that blasting operations in mines must comply with the Mines Act, 1952 (referred to as the 'Mines Act'), and the regulations framed under it. The preamble of the Mines Act clarifies that it is an Act to amend and consolidate the law concerning regulation of labour and safety in mines. Neither the Mines Act nor the Rules made under it address the possession and use of explosives. Section 57(i) of the Mines Act specifies that Rules made under the Act shall be subject to the Explosives Act and the Explosives Rules enacted thereunder. Consequently, if the Explosives Rules require an enquiry into the site of a quarry, this cannot be overridden by the provisions of the Mines Act. Therefore, the argument that the use of explosives for blasting in quarries is governed not by the Explosives Rules but by the KMMC Rules is unsustainable.

12. As stated earlier, Rule 103 of the Explosive Rules governs the procedure for issuing a No Objection Certificate. Sub-rule (3) of Rule 103 outlines the matters to be considered when the District



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Magistrate conducts an enquiry for this purpose. A review of this Rule reveals that the enquiry is not limited by specific parameters such as distance rules or others. The decision is based on the subjective satisfaction of the concerned authority. Furthermore, Rule 103(3) of the Explosives Rules states that, besides the specific purposes listed in the Rule, the District Magistrate is authorised to conduct enquiries into "any other verifications or enquiries as may be specifically required by the licensing authority to be carried out, if any, and on any other matter as deemed necessary." This provision indicates that the District Magistrate has the authority to investigate any relevant matter during enquiries. In ***Rajan K v. Additional District Magistrate (ADM) Kasaragod and Another*** (2021 (5) KLT 454), this Court refused to issue the No Objection Certificate after considering the police's request, citing the existence of a Maoist threat in the area where the magazine and quarry are located.

13. The application for a NOC is prescribed in Form AE-12, provided in Schedule V of the Explosives Rules. Column No.3 of this form requires details of the premises' location (magazine premises as noted in Rule 71 of the Rules). According to Column No.5 of Form AE-12, if the licence for possession is for the use of explosives, the applicant must provide details of the site where explosives will be used. Column No.5 clearly indicates that when the application is for a licence to possess explosives for use, the authority conducting the enquiry under Rule 103(3) must inspect the site where the explosives will be utilised.



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Therefore, details about the quarrying site and its possession are also relevant considerations for the authority during the enquiry under Rule 103(3) of the Explosives Rules. If no enquiry regarding the quarry site is required, authorities might issue the licence without considering adverse circumstances associated with the site. To prevent such outcomes, Column No.5 of Form AE-12 specifically instructs applicants to provide details of the site where explosives will be used. If a quarry site belonging to one individual is included in another person's LE-3 licence without any enquiry being conducted, that property will effectively be excluded from the enquiry. Such exclusion is not aligned with the scheme of the Explosives Rules concerning issuance of licences for the possession of explosives for use. Consequently, the argument made by the learned Senior Counsel for the 7th respondent, that no enquiry of the quarrying site is necessary when issuing a licence for the possession for use of explosives within a mining lease area, cannot be accepted.

14. The fact that Rule 107 of the Explosives Rules does not specify where explosives are to be used, and that the LE - 3 licence does not include a column for the quarry site, cannot serve as a reason to avoid an enquiry at the quarry site by the District Magistrate. As previously stated, the enquiry into the site where the explosives will be used is conducted by the District Magistrate under Rule 103 and not by the Explosives Department under Rule 107. It is clear from Rules 104 and 105 that the enquiry regarding the site will be concluded during the



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enquiry regarding the magazine under Rule 107. Rule 104 specifies that the applicant must complete construction of the premises only after obtaining the NOC. Subsequently, the application for the LE - 3 licence must be submitted under Rule 105 to the Explosives Department. Since the enquiry regarding the quarry site is conducted under Rule 103, this will be reflected in the NOC, which will be issued following such an enquiry. Therefore, no further enquiry is required under Rule 107. Hence, the argument that in the absence of mention of the quarry site in Rule 107 and the lack of a column for it in the LE - 3 licence, no enquiry need be conducted in that regard cannot be accepted.

15. Indeed, Rule 109 read with Rule 102(2)(c) of the Explosives Rules states that an amendment can be made to the existing licence if no new enquiry for the grant of NOC is required. Note (3) of the AE-12 application also provides a column to supply information in case of any change in the original details given in the AE-12 application. However, these provisions cannot be extended to include a quarry site of one person in the LE-3 licence issued to another person via an amendment. Furthermore, a reading of Rule 102(2)(c) indicates that if an amendment involves matters that fall under the enquiry provisions of Rule 103, then no such amendment can be made without conducting the enquiry. As already stated, by virtue of Column No. 5 in Form AE-12 read with Clause 3(b) of Part 2 of Form AE-12 (format of NOC), the quarry site is also a matter subject to enquiry for the purpose of granting a No



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Objection Certificate.

16. The issue raised in this writ petition does not concern the inclusion of the quarry site in the No Objection Certificate, but rather the incorporation of the quarry site of the 7th respondent in Ext.P4 licence issued to the 8th respondent. No Rules or statutory format within the Explosives Rules authorise the Controller of Explosives to include a quarry site belonging to one person in the explosives licence issued to another. In the statement filed by respondents 3 and 4, it is stated that the inclusion of the 7th respondent's property in Ext.P4 licence issued to the 8th respondent is conducted as a standard practice. It is further stated that Ext.P4 merely acknowledges the application for inclusion by the 8th respondent, who already holds the licence. The claim by the 3rd respondent that the inclusion in Ext.P4 was a routine practice is unsupported by any statutory provision. Merely because the AE-12 application form instructs to notify changes in the information submitted, it does not mean such changes can be incorporated into the LE-3 licence without undertaking the necessary enquiry under Rule 103. Moreover, the explosives licence confers a personal right that cannot be transferred or leased to another person, as is purportedly done through Ext.P4.

17. The conclusion from the above discussions and findings is that a project proponent seeking a quarrying permit or lease under Rule 8 or Rule 33 of the KMMC Rules must obtain an explosives licence in their own name to secure the quarrying permit or lease. In other words, a



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project proponent cannot use an explosives licence obtained by someone else. It is admitted that the 7th respondent did not obtain an explosives licence in his name. Instead, the 8th respondent, who obtained Ext.P4 LE-3 licence under the Explosive Rules for his property, was allowed to use explosives in the 7th respondent's quarry by amending Ext.P4 licence. To comply with condition No.(4) in Ext.P3 Letter of Intent, the 7th respondent must obtain the LE-3 licence in his name. The current practice adopted by the 7th and 8th respondents—incorporating the 7th respondent's property details into the LE-3 licence granted to the 8th respondent by way of amendment, and permitting the latter to use explosives on the subsequently included property—is illegal. It seeks to bypass statutory restrictions and procedures under the Explosives Rules, and therefore, cannot be upheld. Hence, Ext.P4 to the extent it granted permission to the 8th respondent to use explosives in the quarry of the 7th respondent is hereby quashed. The respondents 2 and 3 are directed not to grant permission for quarrying to the 7th respondent unless and until he submits an explosives licence issued in his favour, as required by condition No. (4) of Ext.P3 Letter of Intent.

The writ petition is hereby allowed as stated above.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF WP (C) 37392/2023**PETITIONER EXHIBITS**

Exhibit P1 A COPY OF THE REPORT DATED 10/1/2013 PREPARED BY THE SECRETARY, PURAPUZHA GRAMA PANCHAYAT

Exhibit P2 THE COPY OF THE RESOLUTION NO. 20(1) DATED 31/07/2023 PASSED BY THE 3RD RESPONDENT -PURAPUZHA GRAMA PANCHAYAT PRODUCED BY THE 7TH RESPONDENT HEREIN AS EXHIBIT P9 IN WP(C) NO. 26093/2023

Exhibit P3 A COPY OF THE LETTER OF INTENT BEARING NO. 4326/M3/2019 DATED 29.5.2019 ISSUED BY THE 1ST RESPONDENT TO THE 7TH RESPONDENT (PRODUCED BY THE 7TH RESPONDENT AS EXHIBIT P2 IN WP(C) NO. 26093/2023)

Exhibit P4 THE COPY OF THE EXPLOSIVE LICENSE BEARING NO. E/SE/KL/22/333(E134567) DATED 11.5.2023 ISSUED BY THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVES, SOUTH CIRCLE, CHENNAI (PRODUCED BY THE 7TH RESPONDENT AS EXHIBIT P4 IN WP(C) NO. 26093/2023)

Exhibit P5 A COPY OF THE AGREEMENT DATED 4.4.2023 EXECUTED IN BETWEEN THE 8TH RESPONDENT-NIKHIL BABU AND THE 7TH RESPONDENT (PRODUCED BY THE 7TH RESPONDENT AS EXHIBIT P12 IN W.P.(C) NO. 26093 OF 2023)

Exhibit P6 A COPY OF THE COMMUNICATION NO. DOIDU-DMG/254/2023-M DATED 26/7/2023 (WHICH WAS PRODUCED AS EXHIBIT P14 IN WP(C) 26093/2023)

RESPONDENT EXHIBITS

Exhibit R2 (a) TRUE COPY OF THE ENVIRONMENTAL CLEARANCE NO. 160/Q/2022 DATED 11/10/2022

Exhibit R2 (b) TRUE COPY OF THE CONSENT TO OPERATE DATED 16/12/2022

Exhibit R2 (c) TRUE COPY OF THE EXPLOSIVE LICENSE NO. E/SE/KL/22/333 (E134567) DATED 11/05/2023

PETITIONER EXHIBITS

Exhibit P7 THE COPY OF THE FILE NO. DCDK/2848/2024-E2 DATED 31.5.2024 ISSUED BY THE PUBLIC INFORMATION OFFICER

Exhibit P8 THE COPY OF THE REPORT SUBMITTED BY RESPONDENT NO.6 DATED 5.11.2024 (OBTAINED UNDER THE PROVISIONS OF THE RTI ACT

Exhibit P9 THE COPY OF THE COMMUNICATION NO. DMG/2014/2024-M4 DATED 13.9.2024 ISSUED BY



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THE DIRECTOR, MINING AND GEOLOGY TO THE
GEOLOGIST, DISTRICT OFFICE, IDUKKI

RESPONDENT EXHIBITS

Exhibit R1(a)	TRUE COPY OF THE COMMUNICATION BEARING NO.DMG2014/2024-M3 DATED 13.09.2024.
Exhibit R7(a)	TRUE COPY OF THE LETTER DATED 19-4-2024 ISSUED BY THE 4TH RESPONDENT TO THE 1ST RESPONDENT
Exhibit R7(b)	TRUE COPY OF THE LETTER BEARING NO: DMG/8953/2021-M3 DATED 11-2-2025
Exhibit R7(c)	TRUE COPY OF THE LETTER DATED 26-3-2025 ISSUED BY THE 4TH RESPONDENT TO THE 1ST RESPONDENT