

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,  
THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,  
Hon'ble Chairperson**

Dated this the 29<sup>th</sup> October, 2009.

H.R.M.P.No.69/2009

- Petitioner : G. Purushothaman Nair,  
Syamalayam,  
Keezhayikonam, Nellanad.P.O,  
Vamanapuram. And others.
- Respondents : 1) District Collector,  
Thiruvananthapuram.  
2) Geologist, Mining and Geology Department,  
Thiruvananthapuram Dist.  
3) Environmental Engineer,  
Kerala State Pollution Control Board,  
Thiruvannthapuram.  
4) District Officer,  
Office of the Soil Conservation,  
Thiruvananthapuram.  
5) State Officer, Explosives State Office,  
Ernakulam.  
6) District Medical Officer,  
Thiruvananthapuram  
7) Director of Panchayats,  
Thiruvananthapuram.  
8) Superintendent of Police,  
Thiruvananthapuram.  
9) Circle Inspector of Police, Venjaramod.  
10) Secretary, Nellanad Grama Panchayat.  
11) Tahasildar, Nedumangad.

**ORDER**

The complaint of the petitioners in the above HRMP is that 'Aramam Crusher' is functioning unauthorisedly at Anappara without any valid licence causing threat to the life and property of the residents. According to the complaint, the owner of the unit approached the Tribunal for Local Self Government and the Tribunal directed the CESS to conduct a study and the CESS reported that that if the unit is allowed to function it will

cause problem to ecology and on the said report Nellanad Grama Panchayat did not give licence but the unit is still functioning using explosives and several complaint to various authorities had become futile.

In the report submitted by the Secretary, Nellanad Grama Panchayat, it is stated that one Abdul Salam filed an application before the Panchayat for commencing 'Aramam Crusher unit' and that it was rejected in the meeting of the Panchayat convened on 10-3-2006. It is further stated in the report that Abdul Salam filed an appeal before the Tribunal for Local Self Government which set aside the above decision of the Panchayat and also directed the Panchayat to take a fresh decision after hearing the applicant and others concerned and in the order of the Tribunal it was also specifically mentioned that the licence and permit from the Panchayat is necessary for Abdul Salam to conduct rock quarrying from the said area. It is also stated in the report that on 21-8-2006 the applicant, Abdul Salam, and the representatives of the Kottukunnam Action Council were heard by the Panchayat and thereafter in the Panchayat committee meeting held on 25-8-2006, the panchayat unanimously took a decision to cancel the licence issued in No.A7-2005-06 to the 'Aramam Crusher Unit' and against the said decision the applicant filed appeal before the Tribunal and the Tribunal in its Order No.348/06 dated 29-9-2006 set aside the above decision and also ordered that action can be taken against the quarry operations for conducting the quarry without licence from the Panchayat. According to the report, the Panchayat rejected the application, dated 1-4-2006 seeking licence, filed by the owner for which he filed an appeal before the Tribunal and the Tribunal passed an order directing to reconsider the decision after hearing the applicant and the other persons concerned and that accordingly they were heard and the application was rejected by the Panchayat as per the decision in its meeting dated 12-9-2006.

In the report it is further stated that the applicant approached the Tribunal against the above decision of the Panchayat which closed the case by issuing a direction to take a decision on the application for licence on the basis of the study report of CESS and that on realizing that the applicant cannot conduct quarrying in Kottukunnam hill on the basis of the study report of CESS and their directions the Panchayat in the meeting dated 9-7-2007 decided not to give licence to Abdul Salam. In the report it is also stated that Abdul Salam filed an appeal in No.356/07 before the Tribunal again on which the Tribunal passed an order mentioning that the application for D & O licence will be considered only after the quarry is established and the Tribunal also directed that if any application is filed by Abdul Salam for establishing the quarry action should be initiated on the said application as per section 233, D & O Rule 12 of the Kerala Panchayat Raj Act and also based on the report of the CESS. The Secretary, in the report, has stated that the Panchayat Committee authorized the Secretary of the Panchayat for taking steps according to law for granting permit to the quarry as directed by the Tribunal in the order.

It is further stated in the report that on the basis of the application filed by Abdul Salam for permit he was asked to submit the No Objection Certificates (N O C) from the offices of the Kerala State Pollution Control Board, Industrial Extension Officer, Controller of Explosives, Mining and Geology Department, District Medical Officer, Divisional Fire Officer and the Inspector of Factories and Boilers and accordingly the N O Cs were submitted. According to the report, the application filed by Abdul Salam was submitted before the District Collector annexed with the copies of the above NOCs as well as the order of the Tribunal, which was pending consideration there. In the report it is also stated that since illegal rock quarrying was noticed at Kottukunnam hills of Nellanad Panchayat, Venjaramood Police was requested to take action in the matter.

In the report submitted by the Environmental Engineer, Kerala State Pollution Control Board, Thiruvananthapuram, it is stated that the Board officials conducted a spot visit on 7-3-2009 and the 'Aramam crusher' is not functioning unauthorisedly as alleged in the petition. It is further stated in the report that on the application filed by Abdul Salam on 3-4-2001 before the Board an inspection was conducted in which no house or other building are found within a radius of 250 meters of the unit and as also the conditions stipulated are also seen complied by the owner the Board issued 'Consent to Establish' which was later renewed. According to the report, on 13-3-2007 the owner applied for the 'Consent to Operate' and the Board granted it after site inspection and the granite quarry run by 'Aramam Rock (P) Ltd is operating with the 'Consent to Operate' issued by the Board and on the basis of the complaint the Board officials inspected the unit and found that the crusher unit is working. As adequate arrangements are provided in the unit there will not be any possibility of air and sound pollution and the Board gave the consent since the unit complied with the conditions stipulated by the Board. The Board officials also found that sprinkler system is functioning in the unit to avoid dust problem. It is further stated in the report that the owner of the unit was directed to water the road thrice in a day using sprinkler and the report concludes by stating that there is no chance for any danger from the unit as the houses are situated at a distance of more than a radius of 100 meters.

The report of the Panchayat therefore shows that the allegations made in the complaint was earlier dealt with by the Tribunal for Local Self Government and orders were passed on several occasions and on the basis of the said orders the concerned Panchayat took steps. The report of the Panchayat also indicates that the application filed by Abdul Salam, the owner of the unit in question, is now pending consideration before the District Collector which was submitted to him along with the other documents like

N O Cs from the offices of the Kerala State Pollution Control Board, Industrial Extension Officer, Controller of Explosives, Secretary, Mining and Geology Department, District Medical Officer, Divisional Fire Officer and the Inspector of Factories and Boilers.

In the above circumstances, it is for the petitioners to approach the District Collector and make a representation. The District Collector is to consider the representation and the complaint of the petitioners by conducting an enquiry either by himself or by nominating a competent officer during which opportunity should be given to the parties concerned and then decide the issue according to law. The petitioners are also to file an application before the Kerala State Pollution Control Board which, in the report filed to this Commission, has stated that steps have been taken by the unit to prevent pollution on account of the running of the unit and that the owner of the unit was also given several directions in the matter. It is made clear that if any decision is taken by the District Collector it will be only after hearing the parties concerned including the owner of the unit and if the said decision is adverse to the petitioners it is for them to agitate the same before an appropriate forum since already several orders were passed by the Tribunal for Local Self Government in the matter and this Commission at this stage cannot interfere and pass fresh orders.

With the above direction the petition is closed. Send a copy of this order each to the first petitioner, District Collector, Thiruvananthapuram and the Secretary, Nellanad Grama Panchayat.

Justice N. Dhinakar,  
Chairperson