

Kerala High Court

Sukumaran E.K. Eswaramangalath ... vs The District Collector on 24 August, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 17702 of 2009(G)

1. SUKUMARAN E.K. ESWARAMANGALATH HOUSE,  
... Petitioner

Vs

1. THE DISTRICT COLLECTOR, TRISSUR.  
... Respondent

2. THE SUB INSPECTOR OF POLICE,

For Petitioner :SRI.P.M.BENZIR

For Respondent : No Appearance

The Hon'ble MR. Justice V.GIRI

Dated :24/08/2009

O R D E R

V.GIRI, J.

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W.P.(C).No.17702 of 2009  
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Dated this the 24th day of August, 2009.

#### JUDGMENT

The petitioner is the registered owner of a tipper lorry bearing registration No.KL-04/P-7133. The vehicle was intercepted by the 2nd respondent on 3.5.2009 alleging illicit transportation of river sand. According to the petitioner, the sand was being transported with a valid pass. A copy of the same has been produced as Ext.P1. The petitioner further contends that the driver of the vehicle had handed over the original of Ext.P1 pass to the Sub Inspector. But, a copy of the seizure mahazar was not served on him. Ultimately, the District Collector conducted an enquiry and passed Ext.P4 order finding that there was illicit transportation of river sand and directing the petitioner to remit an

amount of Rs.3,05,000/- towards river management fund. This has been challenged in this writ petition. W.P.(C).No.17702 of 2009 :: 2 ::

2. Learned Government Pleader has produced the files leading to Ext.P4. I heard learned counsel for the petitioner and learned Government Pleader.

3. Learned counsel for the petitioner submits that the transportation of river sand was with the aid of a pass and if that be so, it cannot be considered as illicit.

4. Learned Government Pleader submits that the photo copy of the pass itself shows that it was tinkered with.

5. I find force in the submission of the learned counsel for the petitioner that the District Collector ought to have, at least, considered the contention of the petitioner that the transportation of river sand was supported by a pass issued earlier. On a consideration, it might have been open to him to reject the said contention, if there were materials to show that the contention could not be accepted. But, W.P.(C).No.17702 of 2009 :: 3 ::

an authority exercising quasi judicial power cannot refuse to consider a vital contention and then conclude that there was infraction of the law.

6. In these circumstances, I am of the view that the matter requires reconsideration by the District Collector.

In the result, Ext.P4 is set aside and the writ petition is disposed of directing the District Collector to pass fresh orders in the matter of confiscation/release of the vehicle bearing registration No.KL-04/P-7133. It is open to the petitioner to produce materials to show that the transportation of river sand, on the date in question, was legitimate and was supported by a pass issued in that regard. The normal records maintained by the dealer, on whose behalf Ext.P1 was issued, can also be produced before the W.P.(C).No.17702 of 2009 :: 4 ::

District Collector to substantiate his contentions. Fresh orders shall be passed within six weeks from the date of receipt of a copy of this judgment.

Sd/-

(V.GIRI) JUDGE sk/ //true copy// P.S. to Judge