

Kerala High Court
Sajeev Kumar vs The District Collector & Another on 5 June, 2009
IN THE HIGH COURT OF KERALA AT ERNAKULAM WP(C).No. 15582 of 2009(P)

1. SAJEEV KUMAR

... Petitioner

Vs

1. THE DISTRICT COLLECTOR & ANOTHER ... Respondent

For Petitioner :SRI.BABU S. NAIR For Respondent : No Appearance The Hon'ble MR. Justice V.GIRI Dated :05/06/2009

O R D E R

V.GIRI,J.

W.P (C) No.15582 of 2009

Dated this the 5th June,2009

J U D G M E N T

The vehicle belonging to petitioner was allegedly seized for infraction of the provisions of the Kerala Protection of River Banks (Protection and Regulation of removal of sand) Act, 2002. He has approached the District Collector, the 1st respondent for release of the vehicle and is aggrieved by the non-consideration of his request as such.

2. The nature of the power exercised by the District Collector and the para meters within which such power is to be exercised have been dealt with by a Bench of this Court in Sanjayan Vs.Tahasildar [2007 (4) KLT 597]. Principles have been reiterated in Subramanian Vs. State of Kerala [2009 (1) KLT 77].

3. In Subramanian's case, this Court observed that the power exercised by the District Collector is under Section 23 of the Kerala Protection of River Banks W.P (C) No.15582 of 2009

2

(Protection and Regulation of removal of sand) Act, 2002. It is also, therefore, quasi judicial in character. Reasons will have to be given by the District Collector while passing orders under Section 23 of the Kerala Protection of River Banks (Protection and Regulation of removal of sand) Act, 2002 r/w Rules 27 and 28 of Kerala Protection of River Banks and Regulation of Removal of Sand Rules 2002. If there is a contention that the transportation of sand was supported by a pass issued by the competent local authority, that has to be referred. The materials which are placed before the District Collector by the subordinate officials shall also be looked into. This has been indicated in Subramanian's case. If motion is made by the owners of the vehicle for release of the vehicle on interim custody, it will be subject to the conditions mentioned in paragraph 58 of the said judgment. The District Collector may pass orders on such applications on interim custody. (The scope of

the directions contained in Subramanian's case have later been dealt with in WPC No.14319/2009. Appropriate clarifications have been W.P (C) No.15582 of 2009

3

issued in the latter judgment). Further conditions can be imposed in the course of release of the vehicle as indicated by this Court in Shoukathali Vs. Tahasildar [2009 (1) KLT 640].

4. Keeping in mind the observations made in the judgments in Shoukathali's case and Subramanian's case and other judgment which have been referred to, the 1st respondent in this case shall pass final orders in the matter of confiscation/release of the vehicle in question after conducting an appropriate enquiry as early as possible, at any rate within three months from the date of receipt of a copy of this judgment.

5. In the meanwhile, if motion is made by the petitioner for interim custody of the vehicle, then orders shall be passed by the District Collector on the application for interim custody of the vehicle, within three weeks from the date of receipt of a copy of this judgment in the light of the observations contained in Shoukathali Vs. Tahasildar [2009 (1) KLT 640, Subramanian Vs. State of Kerala [2009 (1) KLT 77) and the judgment in WPC No.14319 of 2009. W.P (C) No.15582 of 2009

4

The writ petitions is disposed of as above. The petitioner shall produce copies of the judgment in Subramanian, Shoukathali and W.P (C) No.14319 of 2009 along with the certified copy of this judgment before the 1st respondent, for compliance.

(V.GIRI,JUDGE)

ma

W.P (C) No.15582 of 2009

5

W.P (C) No.15582 of 2009

6

(V.GIRI,JUDGE)

ma

W.P (C) No.15582 of 2009

7

W.P (C) No.15582 of 2009

8