

**A.K.JAYASANKARAN NAMBIAR, J.**

**W.P.(C) No.17195 of 2018 (Y)**

**Dated this the 18<sup>th</sup> day of June, 2018**

**ORDER**

The State of Kerala, represented by its Secretary, Local Self Government Department is *suo motu* impleaded as the additional 4<sup>th</sup> respondent in the writ petition.

2. I have heard Sri. Ranjith Thampan, the Additional Advocate General, who appears for the additional 4<sup>th</sup> respondent in the writ petition.

3. I felt it necessary to implead the State of Kerala, as an additional respondent in this case, since a number of instances have come to my notice where Secretaries of various Panchayats/Municipalities within the State fail to respond to notices issued to them from this court, in writ petitions filed on behalf of the persons seeking deemed licenses for activities such as quarrying/crushing operations which have a significant impact on the environment. The absence of any representation on the part of the Panchayats/ Municipalities in such cases, inevitably leads to a situation where this Court is compelled to treat the averments in

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the writ petition as uncontroverted, and find that, in the absence of any order of rejection of the applications filed for the D&O Licence, or renewal thereof, the petitioner/applicant is entitled to the benefit of the deeming provision, and consequently a deemed licence for the activity in question. In taking such a view, this Court follows the precedents laid down in **Rajesh Ramachandran v. Corporation of Trivandrum [2008 (3) KLT 419]**, which was affirmed by a Division Bench in **Sudhakaran v. Pallichal Grama Panchayat [2016 (2) KIT 175]**. Although a caveat is entered in all judgments, that it will be open to the local authority concerned, to take action for cancellation of the deemed licenses, in the event of their establishing that there is a violation of the conditions of the deemed licenses or a violation of the statutory provisions by the applicant concerned, the said safeguard may not be sufficient to ensure protection of the environment.

4. I note, in this connection, that the Government has, through a circular dated 20.12.2016, already directed the various local authorities in the State to take prompt action in such cases filed before this Court, and also ensure proper representation in such matters before this Court. Notwithstanding the said unambiguous instructions issued by

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the Local Self Government Department of the Government of Kerala, many instances have come to the notice of this Court, where the local authorities do not respond in a timely manner to the writ petitions filed before this Court. The additional 4<sup>th</sup> respondent is therefore directed to cause an enquiry to be done in the matter, and furnish a report before this Court as regards instances where deemed licences for quarrying/crushing activities have been obtained by applicants, on account of the default occasioned by the Secretaries of the various Municipalities/Panchayaths in the State, as observed above. A fresh circular, on the same lines as the earlier circular dated 20.12.2016, may also be issued by the State Government, exhorting the Secretaries of the Municipalities/Panchayaths to strictly comply with the directions therein and warning them of penal consequences in the event of default.

Post on 02.07.2018.

*sd/r*  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**