

1988 June 20

[PIKIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION.

CHARALAMBOS MYLONA,

Applicant.

THE REPUBLIC OF CYPRUS, THROUGH
1. THE MINISTER OF COMMERCE & INDUSTRY,
2. THE DIRECTOR OF MINES SERVICES,

Respondents.

(Case No. 895/85).

5 *Quarries—Prospecting permit, application for—Refused on account of environmental reasons—Such reasoning led to the submission that there has been an erroneous assimilation of the prospecting with the quarrying permit—Submission turned down—Indeed, it is legitimate to take into account the ultimate purpose of the applicant, i.e. quarrying—Environmental considerations are invariably relevant in the context of an examination of an application for a prospecting or a quarrying permit.*

Recourse dismissed.

No order as to costs.

10 **Recourse.**

Recourse against the refusal of the respondents to grant applicant a prospecting permit for quarry materials over an area of two square miles bounded by Armenochori - Pareklissia - Ayios Tychonas villages.

15 *Z. Katsouris, for the applicant.*

R. Petridou (Mrs.), for the respondents.

Cur. adv. vult.

PIKIS J. read the following judgment. This is an application for the review of a decision of the Director of Mines refusing an application for a prospecting permit to prospect for quarry materials over an area of two square miles bounded by Armenochori - Pareklissia and Ayios Tychonas villages, in the Limassol district. The permit was refused for environmental reasons. The District Officer expressed the view that quarrying operations would hamper the development of the area, whereas the Cyprus Tourism Organization advised that it would have detrimental consequences for tourism.

Applicant challenges the validity of the decision for two reasons: First, for misconception of facts arising from the erroneous assimilation of an application for a prospecting permit (the application of the applicant), with an application for a quarrying permit. Second, for bad faith on the part of the respondents stemming from the failure of the Minister of Industry and Commerce to honour an oral promise to approve applicant's request for a prospecting permit upon agreement to abandon a quarrying permit at Mitsero village. The respondents refuted the suggestion that the sub judice decision is fraught with misconception of facts or that the administration is guilty of bad faith. In view of the dispute as to the facts relevant to what was exchanged at an oral interview between the applicant and the Minister of Commerce and Industry, the applicant was given an opportunity to substantiate by affidavit his allegations. He did not take up this opportunity and eventually he did not seek to substantiate his contentions by the adduction of evidence.

The correspondence between the applicant and the authorities does not betray any sign of acknowledgment of the allegations of the applicant concerning the promises allegedly given by the Minister. Examination of the documentary evidence before me does indicate that the quarrying permit issued to the applicant at Mitse-

5 ro was cancelled with his consent following objections of the inhabitants of the village and, it was replaced by a new quarry permit elsewhere in the Mitsero area. The applicant disposed of part of his rights under the new quarrying permit for an amount of £24,000.

10 Counsel for the Republic did draw the attention of the Court to the fact that the power to issue a prospecting permit has been delegated to the Director of Mines in whom sole competence vests to issue a permit. Every suggestion of interference with the exercise of the power or subordination of its exercise to the dictates of the Minister of Commerce and Industry was rejected as unfounded.

15 It is unnecessary in this case to determine what would be the implications in law of any promise given or representations made by a Minister in relation to the exercise of statutory powers entrusted to an officer of his department. The question does not arise as I find the allegations of the applicant unsubstantiated and as such are rejected.

20 In determining the application for a prospecting permit it was legitimate for the Director of Mines to take into consideration and reflect upon the ultimate objective of the applicant which in this case was to explore the ground for a quarrying permit. Environmental considerations are invariably relevant in the context of examination of an application for a prospecting or quarrying permit. Such operations unavoidably affect the environment and have repercussions on the rights of others.

25 The inquiry made in this case into the justification of the application for a prospecting permit was adequate and the decision reached reasonably open to the Director of Mines. Consequently, the application is dismissed.

30 In the result the sub judge decision is confirmed pursuant to the provisions of para. 4(a) of Art. 146 of the Constitution.

*Recourse dismissed.
No order as to costs.*