

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
&
THE HONOURABLE MR. JUSTICE GOPINATH P.

Friday, the 28th day of June 2024 / 7th Ashadha, 1946
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY,
PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682 011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS
CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM - 695
004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD,
ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES,
HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O.,
THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS,
THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPLEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.

ADDL. R7 IS SUO MOTU IMPLEADED AS PER ORDER
DATED 07/03/2023 IN WPC

ADDL. R8 IMPLEADED

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
VYDUTHI BHAVAN, PATTOM-695 004.

ADDL. R8 IS SUO MOTU IMPLEADED AS PER ORDER
DATED 10/03/2023 IN WPC.

P.T.0

ADDL. R9 IMPEADED

**9. NATIONAL HIGHWAY AUTHORITY OF INDIA,
REPRESENTED BY ITS DEPUTY GENERAL MANAGER AND
REGIONAL OFFICER, NATIONAL HIGHWAYS AUTHORITY OF INDIA
(MINISTRY OF ROAD TRANSPORT & HIGHWAYS)
GOVERNMENT OF INDIA, REGIONAL OFFICE, KERALA T.C. 86/1036-1,
AMBLY ARCADE, S.N.N.R.A-9, PETTAH-P.O.,
THIRUVANANTHAPURAM – 695 024 (KERALA)**

**ADDL. R9 IS SUO MOTU IMPEADED AS PER ORDER
DATED 18/08/2023 IN WPC.**

ADDL. R10 IMPEADED

**10. SOUTHERN RAILWAYS, REPRESENTED BY ITS GENERAL MANAGER,
CHENNAI, PIN - 600 209.**

**ADDL.R10 IS SUO MOTU IMPEADED AS PER ORDER
DATED 18/03/2024 IN WPC.**

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's orders dated 18/03/2024 and 14/06/2024 and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL for R1, R4, R6 & R7, SRI.RANJITH THAMPAN, SENIOR ADVOCATE a/w SRI.K. JANARDHANA SHENOY, STANDING COUNSEL for R2, SRI.T. NAVEEN, STANDING COUNSEL for R3, SRI.C.E. UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for R5, SRI.ANTONY MUKKATH, STANDING COUNSEL for R8, SRI.T.C.KRISHNA, SENIOR PANEL COUNSEL (DEPUTY SOLICITOR GENERAL-IN-CHARGE) for R9, Advocates SRI.VINU T.V, SRI.VISHNU.S & SMT.POOJA MENON, AMICI CURIAE and of Adv. SRI.MOHAMMED SHAH and SRI.ANTO(PARTY IN PERSON), the court passed the following:

P.T.O.

**BECHU KURIAN THOMAS, J.
&
GOPINATH P., J.**

W.P.(C) No.7844 of 2023

Dated this the 28th day of June, 2024

ORDER

Bechu Kurian Thomas, J.

Use of alternate materials for road works by NHAI:-

Pursuant to our order dated 14.06.2024 the Project Director of the National Highway Authority of India (NHAI) and Sri. K.B.Biju, General Manager (TECHNICAL), from the Fertilizers & Chemicals Travancore Limited (FACT), Udyogamandal, Ernakulam appeared in person to enlighten the court regarding the technical aspects of the study conducted regarding the possible use of gypsum for the purpose of earthwork in road constructions for the National Highway.

2. On behalf of the National Highway, it was pointed out that the NHAI / its contractors are facing an extreme shortage of raw materials with respect to their ongoing projects in the State of Kerala and that the NHAI is therefore open to considering any alternative material subject to such materials being a material approved by the Ministry of Road Transport and Highways (MoRTH). It is stated that the technical and feasibility study conducted by them revealed that the gypsum available with FACT does not satisfy all parameters while on behalf of FACT, it was submitted that the analysis of the gypsum through '*Bureau Veritas*' an accredited testing

agency revealed that the gypsum available with them was satisfying most of the parameters specified in the MoRTH guidelines. The Project Director, National Highway Authority pointed out that as per their study, the clay component in the gypsum available with FACT was substantially higher than the required limit. However, it was submitted that they are still willing to conduct further studies, which may require a minimum of six months period, to verify whether the gypsum could be mixed with red earth for the filling works. It was also submitted that red earth is now available to the contractors at Rs.100 per cubic metre while FACT is offering gypsum at Rs.700/- per Kilogram and financially the said rate is not feasible. The NH Authority however submitted that, if FACT offers the gypsum either free of cost or at an acceptable rate, the NHAI will definitely consider the use of gypsum, subject to the suitability being established through further tests.

3. Having considered the submissions made before us by the Project Director, NHAI and by the Sri.K.B.Biju, General Manager (TECHNICAL) on behalf of the FACT we are of the opinion that a high-level meeting must be convened immediately to explore the possibility of using the gypsum accumulated in FACT (stated to be about 20,00,000 Tons) for road construction activities of the NHAI. Both organizations are essentially under the Government of India and it should not be difficult to arrive at a consensus on the matter. Only a small portion of the gypsum

being generated at FACT is being sold in the market. The accumulated and hardened gypsum (20,00,000 tons) available at FACT is a waste product. If the said waste material available with the FACT can be utilized for road works of the National Highway, it can pave the way for reduced dependency on natural resources like red earth, substantially. Of course, we bear in mind that FACT is selling fresh gypsum in the open market, but the old and accumulated gypsum has very limited takers. The circumstances require the competent authorities of the National Highway and the FACT to act together and explore the possibilities of using the accumulated gypsum for the road works and if so, the financials thereof.

4. In such circumstances, We deem it appropriate to direct the Director, PSU, Department of Fertilizers, Ministry of Chemicals and Fertilizers, Government of India and the Joint Secretary (H&LA), Highways Division, Ministry of Road Transport and Highways, Government of India, who are submitted as competent authorities, to convene a meeting of senior officials of both organizations to work out a modality for the use of gypsum accumulated at FACT in the road constructing work for the National Highway presently progressing in Kerala. The meeting shall be convened within the shortest possible time and at any rate within six weeks from the date of receipt of a copy of this order. Sri.T.C Krishna, Senior Panel Counsel (holding charge of the office of the Deputy Solicitor General of India) will communicate a copy of this order to the above

mentioned officers of the Government of India, forthwith.

Dumping of plastic wastes on railway traks.

5. It has come to the notice of this Court that the railway tracks and railway sidings have become dump yards of plastic waste and other waste that are generated from trains. Most of the plastic waste that is found throughout the length and breadth of the railway tracks appears to be from the trains requiring the Railways to be regarded as a bulk waste generator. Under the Solid Waste Management Handling Rules, the Railways have a responsibility to prevent such waste from being deposited on railway sidings and other properties. The waste dumped on the sides of the railway tracks often flows into the water bodies over which these trains cross causing substantial environmental damage.

6. The *amici curiae* brought to the notice of this Court that though plastic wastes are being moved from the premises of the railway stations, there is a total disregard of waste that accumulates by the side of the tracks beyond the railway stations. The compartments of the trains are not provided with sufficient waste bins, leading to large-scale dumping of plastic waste onto the sides of the railway tracks.

7. On 18.03.2024, we had impleaded the Southern Railways as additional respondent No. 10. Considering the alarming quantity of waste generated from the railways and the brazen manner in which it is dumped onto the side of the tracks, and the failure to remove that waste, We are of

W.P.(C) No.7844/23

-:5:-

the view that the railway authorities ought to focus on removing the waste already accumulated and prevent further dumping of such plastic waste. The Southern Railway, who has been impleaded as the 10th respondent, is required to provide the details of the steps initiated by them to clear the waste and to prevent further dumping of plastic waste on the railway tracks.

8. Accordingly, We direct the additional 10th respondent to file an affidavit before this Court detailing the steps initiated to clear the plastic waste from the railway tracks inside the State of Kerala and also the steps initiated by them to prevent further dumping of plastic waste on the railway sidings. The affidavit shall be filed before the next date of posting.

Post on 26.07.2024.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

Sd/-

**P.GOPINATH
JUDGE**

vps