

VERDICTUM.IN

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

Monday, the 15th day of July 2024 / 24th 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.

ADDL. R11 IMPEADED

11. THE MUNICIPAL CORPORATION OF THIRUVANANTHAPURAM,
CORPORATION OFFICE, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM, KERALA, PIN - 695 033
REPRESENTED BY ITS SECRETARY.
ADDL. R11 IS SUO MOTU IMPEADED AS PER ORDER
DATED 15.07.2024 IN WP(C)

P.T.O.

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's order dated 28/06/2024 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, SRI.SUMAN CHAKRAVARTHI, Advocate for Addl. R11, 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 & GOPINATH P., JJ.

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

Dated this the 15th day of July, 2024

ORDER

Bechu Kurian Thomas, J.

Reports of the unfortunate incident of a person going missing while cleaning a drain at Thiruvananthapuram have prompted us to call for a special sitting of this Bench today. The incident occurred while three contract workers were engaged in cleaning the Aamayizhanjan Canal near the Thiruvananthapuram Central Railway Station. We are now informed that the missing worker lost his life and his body has been recovered.

2. The Major Irrigation Department of Kerala allegedly owns the canal which is said to flow underneath the Thiruvananthapuram railway station to an extent of about 117 metres. From the media reports of the rescue operations, we noticed that large amounts of legacy waste, especially plastic waste, had accumulated in the canal around the railway station. Therefore, we thought it fit to hear the Railways, the Thiruvananthapuram Corporation and the Government on this aspect. Since the Municipal Corporation of Thiruvananthapuram

is not a party to this case, the Municipal Corporation of Thiruvananthapuram, Corporation Office, Vikas Bhavan P.O., Thiruvananthapuram, Kerala-Pin:695 033, represented by its Secretary is *suo motu* impleaded as the Additional 11th respondent in the Writ Petition. Sri. Suman Chakravarthi accepts notice for the additional 11th respondent. The Registry of this Court shall carry out consequential amendments to the cause title.

3. In our order dated 28.06.2024, We observed that railway tracks and their sidings have become dump yards of plastic waste. We found that Railways have to be regarded as bulk waste generators. We remarked that they have a responsibility to prevent such waste from being deposited and also should remove the plastic waste, which invariably flows into the water bodies, causing serious environmental damage. Though there is a considerable dispute at the Bar as to who was responsible for such a huge quantity of waste accumulating in the canal, the concern we expressed on that day, was literally witnessed during the rescue operations to trace the person gone missing at Aamayizhanjan Canal. We make it clear that these proceedings should not be seen as a fact-finding exercise to determine who

was responsible for the accumulation of waste in the canal and the attempt of this Court is to ensure that such incidents do not occur in future.

4. Sri. T.C. Krishna, learned Senior Panel Counsel appearing on behalf of the Railways submitted that they are making every effort possible to prevent the flow of waste through the canal into the railway property and have even erected metal gratings to prevent the incursion of plastic waste into the canal as it flows under the railway station. According to the learned Counsel, due to the large influx of plastic waste flowing in from the city, the metal gratings that are provided are unable to withstand the flow. It was submitted that the kind of waste that has accumulated at the gratings will reveal that the waste is flowing in from the city and not from the Railway property.

5. Sri. Suman Chakravarthi, learned Standing Counsel appearing on behalf of the Thiruvananthapuram Corporation, submitted that the Corporation had specifically requested the Railways to clear the waste accumulated in the canal within their property by its letters dated 17.05.2024 and 19.06.2024. It was submitted that the waste accumulated in the canal was due to

the irresponsible dumping of plastic within the railway properties.

6. Sri. C.E Unnikrishnan, learned Special Government Pleader submitted that the Government had, pursuant to an earlier direction of this Court, called for a meeting with the Railways on 01.04.2024 and in the minutes it had specifically mentioned that the waste collection contracts of the Railways ought to be reviewed and that it must be ensured that the waste is not illegally disposed of.

7. While considering the submissions made on behalf of the respective counsel, We feel it appropriate to observe that We do not wish to engage in a 'blame game' or indulge in 'mud-slinging'. While each authority tries to put the blame and responsibility on the other's shoulders, our objective is to identify measures to remove the legacy waste accumulated in the canal and to prevent further indiscriminate dumping of plastic waste by all persons, irrespective of within whose territory such instances occur.

8. The photograph shown to us on behalf of the Railways, during the course of the hearing indicates that the Aamayizhanjan Canal near the Thiruvananthapuram Central Railway Station has become a cesspool with plastics clogging

near the metal gratings preventing the flow of drain water. The media reports and the video of rescue operations seen on television indicate that a staggering quantity of legacy waste has accumulated even in the area within the railway property as well. Further, a video was shown in Court on behalf of the Corporation about the indiscriminate manner in which plastic waste has been dumped at a place allegedly near the Veli Railway Station, which, if true, is shocking. The responsibility, at least prima facie, and for the time being, cannot be pinned down any one body. Irrespective of who is responsible, the public suffers, as all this plastic ultimately flows into the Aakulam lake.

9. Taking into reckoning the aforesaid aspects, We deem it appropriate to direct the Railways and the Thiruvananthapuram Corporation, apart from the District Collector, Thiruvananthapuram, to place on record appropriate reports regarding the reason for the flow of plastic waste into the Aamayizhanjan Canal and the manner in which it is removed and also the persons responsible for such removal. The plan of action that these authorities are adopting for clearing the legacy waste both within the railway property and outside, including the timelines, shall also be specifically detailed. The Railways are

also directed to detail the manner in which the plastic wastes generated by them are disposed of, and the Corporation is directed to detail the facility set up by them for waste disposal in the city. The report, as directed above, shall be placed for consideration by the next posting, i.e., on 26.07.2024. Needless to mention, both the Railways and the Thiruvananthapuram Corporation shall undertake immediate steps to clear the Aamayizhanjan Canal of the accumulated waste.

10. Since this Court has already appointed three lawyers of this Court as *amici curiae* to assist the court in these proceedings, We deem it appropriate to request them to visit the Aamayizhanjan Canal including the place of the incident that led to the loss of life of a hapless worker and to put forward their suggestions as well, in the form of a report. We direct the Railways to provide facilities for travel to and from Thiruvananthapuram by train for the learned *amici curiae*. The Local Self-Government Department, Government of Kerala shall provide transportation and other facilities to them, including accommodation, if required, within Thiruvananthapuram District. The *amici curiae* will identify places of visit of their choice including the alleged plastic dump-site near Veli Railway Station

or other places. Since it was informed across the Bar that a cleaning-up process called 'Operation Anantha' was carried out by the Government to desilt the Aamayizhanjan Canal to prevent flooding at Thiruvananthapuram, the *amici curiae* will be at liberty to interact with the Officers involved with the said project and to find out measures and methods to prevent recurrence of accumulation of plastic waste.

11. The *amici curiae* will be paid a total amount of Rs.1,50,000/-, (Rs.50,000 each) for undertaking the assignment. The said amount shall be shared equally between the Local Self Government Department, the Government of Kerala, the Municipal Corporation of Thiruvananthapuram and Southern Railways. The amounts will be paid to the learned *amici curiae* on or before 19.07.2024.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

Sd/-

**P.GOPINATH
JUDGE**

vps