

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR
&
THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

Friday, the 6th day of September 2024 / 15th Bhadra, 1946
WP(C) NO. 28509 OF 2024

PETITIONER:

IN RE: PREVENTION AND MANAGEMENT OF NATURAL DISASTERS IN KERALA HIGH COURT OF KERALA, PIN - 682031

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
2. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE INDIRA PARYAVARAN BHAWAN JORBAGH ROAD, NEW DELHI, PIN - 110003
3. THE SECRETARY, DEPARTMENT OF MINING AND GEOLOGY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
4. THE DIRECTOR, DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O., THIRUVANANTHAPURAM, PIN - 695004
5. THE SECRETARY, MINISTRY OF MINES SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI, PIN - 110001
6. THE STATE POLICE CHIEF, KERALA STATE POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN - 695010
7. THE COMMISSIONER (*CORRECTED), OFFICE OF THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, OBSERVATORY HILLS, VIKHAS BHAVAN P.O., THIRUVANANTHAPURAM * R7 CORRECTED AS (THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, VIKAS BHAVAN P.O., NANTHANCOD, THIRUVANANTHAPURAM, KERALA, 695033, REPRESENTED BY ITS MEMBER SECRETARY AS PER ORDER DATED 09/08/2024 IN WP(C)), PIN - 695033
8. THE SECRETARY, NATIONAL DISASTER MANAGEMENT AUTHORITY, NDMA BHAWAN, A-1, SAFDARJUNG ENCLAVE, NEW DELHI, PIN - 110029
9. JAMES VADAKKAN, MANAGING TRUSTEE, CENTRE FOR CONSUMER EDUCATION KP 6/699 VADAKKAN BUILDINGS, MUNDANGAL P.O, PALA, KOTTAYAM, PIN - 686575
10. GEOLOGICAL SURVEY OF INDIA, REPRESENTED BY ITS DEPUTY DIRECTOR GENERAL, HAVING ITS LOCAL OFFICE AT 4TH FLOOR, C BLOCK, KENDRIYA BHAVAN, SEAPORT-AIRPORT ROAD, KAKKANAD, KOCHI, KERALA 682 03.
11. NATIONAL CENTRE FOR EARTH SCIENCE STUDY, REPRESENTED BY THE DIRECTOR, AAKKULAM, THIRUVANANTHAPURAM, POST BOX NO.7250, KERALA 695011.
12. THE SURVEY OF INDIA, REPRESENTED BY THE SURVEYOR GENERAL OF INDIA, OFFICE OF THE SURVEYOR GENERAL OF INDIA, HATHIBARKALA ESTATE, DEHRADUN-248001
13. THE STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY (SEIAA) KERALA, K.S.R.T.C BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOR, THIRUVANANTHAPURAM - 695 001
14. THE COASTAL ZONE MANAGEMENT AUTHORITY, THAMPANOR, KSRTC BUILDING,

- 4TH FLOOR, OVERBRIDGE, THAMPANOR, THIRUVANANTHAPURAM, ADDL. R10-R14 ARE IMPEADED AS PER ORDER DATED 09.08.2024 IN WP(C)KERALA 695001.
15. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, 1, PARLIAMENT STREET, NEW DELHI-110001.
 16. NATIONAL HIGHWAY AUTHORITY OF INDIA, G 5 & 6, SECTOR 10, DWARAKA, NEW DELHI – 110075, REPRESENTED BY ITS CHAIRMAN
 17. CENTRAL WATER COMMISSION, 3RD FLOOR, (SOUTH, SEWA BHAVAN, RK PURAM, SECTOR-1, NEW DELHI – 110066, REPRESENTED BY ITS SECRETARY.
 18. INDIAN NATIONAL CENTRE FOR OCEAN INFORMATION SERVICES (INCOIS), "OCEAN VALLEY", PARAGATHI NAGAR (BO), NIZAMPET(SO), HYDERABAD - 500090, TELANGANA, INDIA, REPRESENTED BY ITS DIRECTOR.
 19. NATIONAL REMOTE SENSING CENTRE, DEPARTMENT OF SPACE, GOVERNMENT OF INDIA, HYDERABAD – 500037, TELANGANA, ADDL.R15 -R19 ARE IMPEADED AS PER ORDER DATED 16.08.2024 IN WP(C).
 20. SAYIR A, (SOUGHT TO BE IMPEADED), AGED 45 YEARS, C/O ABDUL RAHIM A ADATHODI MUNDAKAI, VELLARIMALA, WAYANAD.
 21. HAMZA T, (SOUGHT TO BE IMPEADED), AGED 55, S/O SAIDALI, THAZHETHODY, MEPADI P.O, WAYANAD, KERALA.
 22. BIBIN K AUGASTIAN (SOUGHT TO BE IMPEADED), AGED 29, S/O AUGUSTY, KODIYANKUNNIL, THONICHAL, NALLOORNAD P.O, WAYANAD.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to 1) to call for the records leading to Ext-P8. 2) to direct the 8th respondent to call for the records leading to the order Ext-P8, call for the records of the parties and then to conduct a site inspection and verify the village records, and after obtaining all the said records, to measure the properties and then to submit a report, with the plan and the resurvey details, to denote as to the extent of property that the 7th respondent has, 3) to see it that no further constructions are perpetrated by the 7th respondent, in the disputed property unless the controversy stands resolved, pending consideration of the above writ petition in the interest of justice.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and 23.08.2024 and upon hearing the arguments of SUO MOTU for the petitioner, GOVERNMENT PLEADER, K. GOPALAKRISHNAKURUP (AG), SHRI. C. E. UNNIKRISHNAN (SPL. G.P TO AG) for R1, R3, R4, R6 & R7, SRI. JOHNSON MANAYANI, BENHUR JOSEPH MANAYANI & JEEVAN MATHEW, Advocates for R9, SRI. PRAKASH M P, (STANDING COUNSEL) for R14, M/S. P. A. MOHAMMED SHAH, RENOY VINCENT, SHAHIR SHOWKATH ALI, CHELSON CHEMBARATHY, MUHAMED JUNAID V., ADITH KRISHNAN. U., SHERIN SHERIYAR, NANDA SURENDRAN & SAHAL SHAJAHAN, Advocates for R20 to R22, the court passed the following: , the court passed the following:

DR. A.K.JAYASANKARAN NAMBIAR, J.
&
SYAM KUMAR V.M., J.

W.P.(C).NO.28509 OF 2024

Dated this the 6th day of September, 2024

ORDER

Dr. A.K. Jayasankaran Nambiar, J.

**Re: Assessment of Carrying Capacity in the Hill Stations
in the State**

Taking note of the spate of natural disasters that have afflicted the hill stations in our State in the recent past, we are of the view that there is an emergent need to regulate the unbridled inflow of tourists into such hill stations. We are also of the view that a carrying capacity assessment can be done to guide policy makers and the respective District Administrations to devise a system of management of tourist areas in the interest of ecology and preservation. The hill stations in Kerala are among the most sought after tourist destinations in India and the increasing number of tourists and the corresponding unscientific infrastructure development in response to the same, pose a grave danger to the hill stations.

2. According to United Nations World Tourism Organisation (UNWTO), tourism carrying capacity is "the maximum number of people that may visit a tourist destination at the same time, without destroying

the physical, economic, socio-cultural environment and an unacceptable decrease in the quality of visitors satisfaction". Carrying capacity needs to be estimated under various heads such as physical, economic, socio-cultural, biophysical and ecological capacity, with the purpose of limiting tourism influx to a certain number to preserve the resources and local economic and social viability.

3. Overcrowding or saturation of tourists leading to increased footfall, congestion, traffic and limited resources like water and electricity affects the quality of lives of the residents. Diversion of water and electricity to tourist facilities during the peak season, heavy traffic making commute to basic facilities difficult, littering, waste generation, haphazard parking, etc. creates local resentment. Tourists also face innumerable problems like being stuck on roads for hours, lack of to quality and hygienic food and water, toilets, long queues, less parking, access time spent in popular destinations depriving a satisfactory experience, leading to a situation that is no-win for all stakeholders. Mushrooming of buildings and entertainment facilities has led to a concrete overburden on the hills, and coupled with levelling activities they are said to be the leading causes of landslides in the various locations in the State.

4. We are therefore of the view that estimation of carrying capacity and capping the number of vehicles and visitors entering the hill stations in our State is in the best interests of all. The carrying capacity may be

estimated using the available data with the respective District administrations with respect to:

- a. Assessment of footfall of tourists per day during peak and non-peak season.
- b. Assessment of number of all types of vehicles entering the District during peak and non-peak season.
- c. Available accommodation facilities determined from only the facilities that have all legal permits, together with parking space, to assess whether it is commensurate with the accommodation facilities.
- d. Assess the water availability in the District and determine the water that is available to tourist facilities after accounting and preserving water resources for local use including agricultural and other needs.
- e. Waste collection and management infrastructure.
- f. Availability and capacity of effluent treatment facilities.
- g. Determine the protected areas and reserve forests in the various Districts and carry out separate carrying capacity studies, as areas with forests and wildlife are less tolerant to higher tourist intrusion such as pollution, littering and behavioural changes in animals.
- h. List out the popular tourist destinations and calculate individual physical carrying capacity of each location.

The State Government may issue immediate directions in this regard to the respective District administrations in the State within whose territorial and jurisdictional limits the various hill stations of tourist importance are situated, and obtain the necessary data/details/statistics from them. The District Administrations concerned must revert to the State Government with the necessary data/details/statistics within three

weeks from the receipt of orders from the State Government, and a consolidated report pertaining to all the hill stations in the State shall be furnished before this Court by the State Government through an affidavit filed on its behalf on or before 25th October, 2024.

**Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE**



**Sd/-
SYAM KUMAR V.M.
JUDGE**

prp/