

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

O.A.No. 102 of 2020 (SZ)

IN THE MATTER OF:

Nishanth Gopa,
S/o. Gopalakrishnan M.V.,
Residing at Mundakathil House,
Thotappally P.O., Alappuzha District,
Kerala, Pin – 688 561.

...APPLICANT

v.

Union of India,
Through the Secretary,
Ministry of Environment and Forests & Climate Change,
Indira Paryavaran Bhavan,
Jorbagh,
New Delhi, PIN – 110 003 & others

...RESPONDENTS

REPLY FILED ON BEHALF OF THE 6TH RESPONDENT

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Place : Chennai


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v.

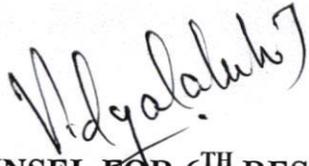
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Sl. No.	Date	Description	Page No
1.	18.11.2021	REPLY FILED ON BEHALF OF THE 6 TH RESPONDENT	1-3
2	17.11.2021	COPY OF THE JUDGMENT PASSED BY THE HIGH COURT OF KERALA AT ERNAKULAM IN WP(C) Nos.11060/2020 & 15520/2021	4-53

Dated at Chennai on this 18th day of November, 2021


COUNSEL FOR 6TH RESPONDENT

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

O.A.No. 102 of 2020 (SZ)

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Nishanth Gopal
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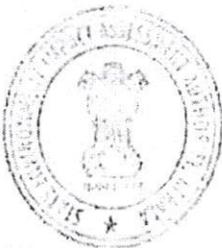
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...RESPONDENTS

REPLY FILED ON BEHALF OF THE 6TH RESPONDENT

I, RANI R.S., wife of Mr. R.Prabodh Chandran, aged about 45 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby solemnly affirm and sincerely state as follows:-

1. I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply on behalf of the 6th Respondent . I crave leave of the Hon'ble Tribunal to file report as and when additional facts are available to the Respondent.
2. It is submitted that the above applications have been preferred by the Applicants herein for the following relief:
 - A. Pass an Order prohibiting the 7th and 8th respondent from carrying out extraction of Mineral Sand from Thottappally Estuary/Pozhi Mouth and transportation of the same in the light of G.O. (Rt.) No 385/2019/WRD dated 31-03-2019 issued by the 12th respondent without obtaining requisite permissions contemplated under the relevant statutes viz., the Atomic Minerals Concession Rules, 2016, The Environment Impact Assessment Notification, 2006, Kerala Panchayath Raj Act, 1994 and in complete violation of the provisions therein;
 - B. Pass an Order prohibiting the 7th and 8th Respondent from carrying out extraction of Mineral Sand from Thottappally Estuary/Pozhi Mouth and transportation of the



Ranmil
RANI. R.S
Deputy Secretary to Govt. &
Legal Officer
State Environment Impact Assessment Authority
4th Floor, KSRTC Bus Terminal Complex
Thiruvananthapuram-1
Ph: 0471-2334262

- same to outside without conducting a study of Independent Team having expertise in Environmental Degradation and Impact studies;
- C. Call for the records pertaining to G.O. (Rt.) No 385/2019/WRD dated 31-03-2019 issued by the 12th respondent and may be pleased to set aside the same;
 - D. To direct 7th and 8th respondent to observe the rigors cast upon them vide Annexure A3 Stop Memo issued by the 10th respondent;
 - E. Exempt the applicant from filing duly verified and attested affidavit in the prevailing situation of covid-19 pandemic;
 - F. Pass any other and further orders which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case

3. It is submitted that this respondent denies all the allegations and averments raised by the Applicants against this Respondent and Applicant is put to strict proof of the same.

4. It is submitted that this Respondent has not issued any Environment Clearance (EC) to IREL/KMML for their projects at Alappuzha District and no applications have been received from the Applicants for sand mining activities conducted at Purakkad Village Alappuzha District

5. It is submitted the subject matter has been heard by the Hon'ble High Court of Kerala and the Hon'ble Court has passed a detailed order on 17.11.2021 in WP(C) NO. 11060 OF 2020 and WP(C)No.15520/2021.(The said order is attached for the reference of this Hon'ble Tribunal)

6. It is submitted that as there are no records/documents/application are pending before this Respondent, this Respondent is unable to make any submissions with respect to the subject issues raised in above mentioned applications. However, this Respondent seek the leave of this Hon'ble Tribunal to permit to place facts as and when any new facts or records are available before this Respondent.

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to pass such order or orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 18th day of November, 2021



Rani R.S.
6th Respondent

RANI. R.S
Deputy Secretary to Govt. &
Legal Officer
State Environment Impact Assessment Authority
4th Floor, KSRTC Bus Terminal Complex
Thiruvananthapuram-1
Ph: 0471-334262

VERIFICATION

I, RANI R.S., wife of Mr. R.Prabodh Chandran, aged about 45 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 6 are true to the best of my personal knowledge and paras 1 to 4 believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 18th day of November, 2021



Rani R.S.
6TH RESPONDENT

RANI. R.S
Deputy Secretary to Govt. &
Legal Officer
State Environment Impact Assessment Authority
4th Floor, KSRTC Bus Terminal Complex
Thiruvananthapuram-1
Ph: 0471-2334262

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

WEDNESDAY, THE 17TH DAY OF NOVEMBER 2021/26TH KARTHIKA, 1943

WP (C) NO. 11060 OF 2020

PETITIONER:

M.H.VIJAYAN, AGED 68,
S/O. M.K. HARIDAS,
SABARMATHI, THOTTAPPILLY P.O.,
ALAPPUZHA, PIN-688 561.

BY ADVS.

MATHEW A KUZHALANADAN
SRI.K.R.ARUN KRISHNAN
SRI.SUDEEP ARAVIND PANICKER

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
THIRUVANANTHAPURAM, PIN-695 036.
- 2 KERALA MINERALS AND METALS LTD.,
REP. BY ITS MANAGING DIRECTOR,
N.H.66, SANKARAMANGALAM, CHAVARA,
KOLLAM, PIN-691 583.
- 3 THE ASSISTANT MAANGER,
KERALA MINERALS AND METALS LTD.,
N.H.66, SANKARAMANGALAM, CHAVARA,
KOLLAM, PIN-691 583.
- 4 PURAKKAD GRAMA PANCHAYATH,
REP.BY ITS SECRETARY, PURAKKAD P.O.,
ALAPPUZHA, PIN-685 561.
- 5 THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT,
HAVING OFFICE AT CIVIL STATION,
NEAR DT. PANCHAYATH OFFICE,
ALAPPUZHA, PIN-688 001.

WP(C) Nos.11060/2020&15520/2021

: 2 :

6 THE CIRCLE INSPECTOR OF POLICE,
AMBALAPPUZHA CIRCLE, PURAKKAD P.O.,
ALAPPUZHA, PIN-688 561.

7 UNION OF INDIA,
REP. BY ITS SECRETARY TO GOVT.,
MINISTRY OF MINES, SHASRI BHAWAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI, PIN-110 001.

8 MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE,
GOVERNMENT OF INDIA,
REP. BY SECRETARY,
INDIRA PARYAVARAN BHAVAN,
JOBAGH ROAD, NEW DELHI-110 003.

ADDL.9 SECRETARY,
DEPARTMENT OF ATOMIC ENERGY,
ANUSHAKTHI BHAVAN,
CHATHRAPATHI SHIVAJI MAHARAJ MARG,
MUMBAI 400 001.

ADDL.10 DIRECTOR, SOUTHERN REGION,
REGIONAL CENTRE FOR ATOMIC MINERALS
EXPLORATION AND RESEARCH, (RCER),
NAGARABHAVI, BANGALORE 560 072.

ADDL.11 THE KERALA STATE ENVIRONMENT
IMPACT ASSESSMENT AUTHORITY,
PALLIMUKKU - KANNAMMOOLA RD,
OVERBRIDGE, VELAKUDI,
THIRUVANANTHAPURAM PIN 695 024.

(ADDITIONAL R9 TO R11 ARE IMPEADED AS PER ORDER
DATED 17.11.2021 IN I.A.NO.1/2020)

BY ADVS.

R1,R5,R6 SRI.P.G.PRAMOD, G.P.

R2-R3 SMT.LATHA ANAND

R4 P.PRAVEEN (P-936)

R4 SRI.JACOB P.ALEX

SRI.K.V.SOHAN, STATE ATTORNEY

SHRI.P.VIJAYAKUMAR, ASG OF INDIA

SRI.SUVIN R.MENON, CGC

WP(C) Nos.11060/2020&15520/2021

: 3 :

SRI.SAIGI JACOB PALATTY, SC
SRI.E.K.NANDAKUMAR, SC
SRI.M.GOPIKRISHNAN NAMBIAR, SC
SRI.M.P.SREEKRISHNAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 17.11.2021, ALONG WITH WP(C).15520/2021, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) Nos.11060/2020&15520/2021

: 4 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 17TH DAY OF NOVEMBER 2021/26TH KARTHIKA, 1943

WP(C) NO. 15520 OF 2021

PETITIONERS:

- 1 SURESH KUMAR S., AGED 57 YEARS,
S/O. SURENDRAN, 'KARTHIKA',
THOTTAPPALLY P.O.,
ALAPPUZHA DISTRICT 688 563.
- 2 ANILKUMAR A., AGED 40 YEARS,
S/O. AYYAPPAN.P., DEVASWOM PARAMBU,
THOTTAPALLY P.O.,
ALAPPUZHA DISTRICT 688 563.
- 3 SAMGHOSH, AGED 32 YEARS,
S/O.SASIKUMAR D.,
PORIYENTAE PARAMBU,
THOTTAPALLY P.O.,
ALAPPUZHA DISTRICT 688 563.
- 4 SANIL C., AGED 35 YEARS,
S/O. CHANDRAN R.,
VETHUVINTAE PARAMBU,
THOTTAPALLY P.O.,
ALAPPUZHA DISTRICT 688 563.

BY ADVS.
LIJU.V.STEPHEN
INDU SUSAN JACOB

RESPONDENTS:

- 1 UNION OF INDIA REPRESENTED BY
ITS SECRETARY TO GOVERNMENT,
MINISTRY OF MINES, SHASTRI BHAWAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI 110 001.

WP(C) Nos.11060/2020&15520/2021

: 5 :

- 2 MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE,
GOVERNMENT OF INDIA,
REPRESENTED BY SECRETARY,
INDIRA PARYAVARAN BHAVAN,
JOBAGH ROAD, NEW DELHI 110 003.
- 3 NATIONAL COASTAL ZONE MANAGEMENT
AUTHORITY, DIRECTORATE OF
ENVIRONMENT AND CLIMATE CHANGE,
DEVIKRIPA, PALLIMUKKU, PETTA,
THIRUVANANTHAPURAM 695 024.
- 4 STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 036.
- 5 KERALA COASTAL ZONE MANAGEMENT AUTHORITY,
4TH FLOOR, KSRTC BUS TERMINAL,
THAMPANOR, THIRUVANANTHAPURAM 1,
REPRESENTED BY ITS CHAIRMAN.
- 6 THE IRRIGATION DEPARTMENT,
GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM.
- 7 THE DISTRICT COLLECTOR,
ALAPPUZHA DISTRICT,
HAVING OFFICE AT CIVIL STATION,
NEAR DT. PANCHAYAT OFFICE,
ALAPPUZHA 688 001.
- 8 PURAKKAD GRAMA PANCHAYAT,
REP. BY ITS SECRETARY,
PURAKKAD P.O. ALAPPUZHA 685 561.
- 9 KERALA MINERAL AND METALS LTD.,
(A GOVERNMENT OF KERALA UNDERTAKING),
REPRESENTED BY ITS MANAGING DIRECTOR,
N.H. 66, SANKARAMANGALAM, CHAVARA,
KOLLAM DISTRICT 691 583.

WP(C) Nos.11060/2020&15520/2021

: 6 :

10 IREL (INDIA) LIMITED,
(FORMERLY INDIAN RARE EARTH LIMITED),
(A GOVERNMENT OF INDIA UNDERTAKING -
DEPARTMENT OF ATOMIC ENERGY),
PLOT NO. 1207, ECIL BLDG,
VEER SAVARKAR MARG,
OPP. SIDDHIVINAYAK TEMPLE,
PRABHADEVI, MUMBAI 400 028,
REPRESENTED BY ITS CHAIRMAN AND
MANAGING DIRECTOR.

BY ADVS.

SHRI.P.VIJAYAKUMAR, ASG OF INDIA
SHRI.N.MANOJ KUMAR, STATE ATTORNEY
SRI.P.G.PRAMOD, GOVERNMENT PLEADER
P.PRAVEEN (P-936)-R8
JIJO PAUL KALLOOKKARAN-R8
LATHA ANAND-R9
R10 M.GOPIKRISHNAN NAMBIAR
R10 K.JOHN MATHAI
R10 JOSON MANAVALAN
R10 KURYAN THOMAS
R10 PAULOSE C. ABRAHAM
R10 RAJA KANNAN
SRI.M.P.PRAKASH, SC, KCZMA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 17.11.2021, ALONG WITH WP(C).11060/2020, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) Nos.11060/2020&15520/2021

: 7 :

[CR]

J U D G M E N T

~ ~ ~ ~ ~

Dated this the 17th day of November, 2021

[WP(C) Nos.11060/2020 & 15520/2021]

Both these writ petitions are filed challenging the work of mechanised loading and transportation of mineral sand from Thottappally Pozhi mouth. The petitioner in W.P.(C) No.11060/2020 is a resident of Purakkad Grama Panchayat residing only five meters away from the Pozhi mouth near Thottappilly Beach. The petitioners in W.P.(C) No.15520/2021 are also residents of Purakkad Grama Panchayat. Since both the writ petitions are filed based on same set of facts, they are heard together and being disposed of by a common judgment. The parties and exhibits are referred to in this judgment as they are arrayed/marked in W.P.(C) No.11060/2020, unless otherwise specified.

WP(C) Nos.11060/2020&15520/2021

: 8 :

2. The petitioner in W.P.(C) No.11060/2020 states that large scale mining activity is being carried out near the Pozhi mouth near Thottappally Beach. The 2nd respondent-Kerala Minerals and Metals Ltd. (KKML) invited Tenders for the work of mechanised loading and transportation of mineral sand from Thottappally Pozhi mouth without requisite licences and permits. The 4th respondent-Grama Panchayat has issued Ext.P4 Stop Memo. However, the mining activity continues. A large number of vehicles are coming to the area and transport mineral sand without any authority. The Panchayat authorities gave Ext.P8 complaint to the 6th respondent-Circle Inspector of Police. Still the illegal mining continues causing grave threat to the ecology and environment.

3. The petitioners in W.P.(C) No.15520/2021 stated that during heavy monsoon rainfalls, the Pamba, Meenachil, Achankovil and Manimala rivers get flooded and the flood water enter the Kuttanad Region causing damage to the paddy land. The Government of India has constructed a 11 Km. long artificial water canal to drain flood water to Arabian

WP(C) Nos.11060/2020&15520/2021

: 9 :

Sea. The sand dunes created by the sea in coastal area act as a strong barrier to resist the impact of natural calamities. The sand dunes are rich of high density mineral sand like Ilmenite, Rutile, Zircon, Monazite, Leucoxene, Sillimanite and Garnet. If these sand dunes are removed, then high tidal waves will reach the land causing damage to the area. However, Mining Companies are permitted to remove the sand dune at Pozhi mouth.

4. When heavy floods engulfed Kerala in 2018, the Central Water Commission, Hydrological Studies Organisation under the Government of India conducted a study and gave Ext.P6 report (in W.P.(C) No.15520/2021). Ext.P6 report contains no finding that it is the Pozhi mouth which causes floods in Purakkad area. The 9th and 10th respondents (in W.P.(C) No.15520/2021) are excavating and removing mineral sand violating environmental laws. The sand dunes being damaged, are the nestling grounds for Olive Ridley Turtles and Migratory Birds. The minerals being excavated include atomic minerals.

WP(C) Nos.11060/2020&15520/2021

: 10 :

5. As per Article 297 of the Constitution, valuables in the territorial waters vest with the Union Government. It is being exploited without the permission of the Union Government and without obtaining any licence. The 'Karimanal Khanana Virudha Ekopana Samithi' submitted representations to the authorities and conducted peaceful Dharna, which were of no avail. The petitioners therefore seek to direct respondents 1 to 5 (in WP(C) No.15520/2021) not to permit any mining and excavation of mineral sand from the coastal areas of Purakkad Village in violation of laws, including Coastal Regulation Zone Notification, 2011.

6. The 2nd respondent-Kerala Minerals and Metals Ltd. filed counter affidavit in WP(C) No.11060/2020. The 2nd respondent stated that flood water in Kuttanad area passes through Thottappally Spillway to the Arabian Sea. The Spillway blocks sea water from entering agricultural fields. After the devastating floods in Kerala in the year 2018, M.S. Swaminathan Research Foundation and IIT Madras recommended clearance of the Sand Bar downstream

WP(C) Nos.11060/2020&15520/2021

: 11 :

Thottappally Spillway and deepening and widening of the leading channel for depressing the flood problem in Kuttanad area. The original width of the Spillway was 360 metres ensuring free flow of water. Due to deposit of sand on either side of the channel, the width was eventually reduced to 260 metres. The reduction of the width and existence of Sand Bar aggravate flood disaster.

7. Accepting the recommendations, the Government of Kerala issued Ext.R2(a) G.O. dated 31.05.2019 authorising the KMML to remove the sand. Accordingly, Ext.R2(b) agreement was entered into. Due to certain reasons, the Irrigation Department did not permit the KMML to start the work immediately. On 18.05.2020, the KMML was required to start work immediately, in view of the impending Cyclone Umphoon. By Ext.R2(d), the District Disaster Management Authority (DDMA) decided to remove obstacles to water flow and by Ext.R2(e), the Executive Engineer was directed to take immediate steps to remove sand. In view of the emergency, the District Administration and Irrigation Department arranged

WP(C) Nos.11060/2020&15520/2021

: 12 :

excavators on behalf of KMML and the work was started on war footing from 20.05.2020.

8. The KMML and IRE Ltd. are the only bodies in the area who are licensed by the Atomic Energy Regulatory Body to handle and process Atomic Minerals. The work is executed with technical guidance and supervision of Engineers of the Irrigation Department. Transportation permit is issued to each lorry specifying the quantity to be lifted. The entire work is done in the light of orders passed invoking Section 72 of the Disaster Management Act, 2005. It would override Ext.P4 communication of the Panchayat, contended the 2nd respondent.

9. The 5th respondent-District Collector filed a statement dated 13.07.2020. The 5th respondent stated that the Thottappally Spillway-cum-Regulator was constructed in 1955 to prevent saline water entering into Kuttanad Backwaters during dry months and to discharge flood water during Monsoon. The width of the lead way reduced by about 30 metres gradually due to heavy sand formation. To save

WP(C) Nos.11060/2020&15520/2021

: 13 :

the life and livelihood of the people in the District, the DDMA conducted a meeting on 06.05.2019 and took a decision to remove sand bars from the area. Ext.R5(b) order was passed invoking Section 30 of the Act, 2005.

10. The Government thereupon accepted the offer of the KMML and IRE Ltd., both of which are Public Sector Undertakings, to desilt, dredge and remove mineral sand from the spillway downstream and Pozhi mouth, as per Ext.R5(c) Government Order. But, the KMML and IRE Ltd. failed to remove the sand prior to 2019 Monsoon. During the 2019 Floods, Kuttanad was again seriously affected. In the Covid Season, it was highly necessary to drain out flood water smoothly to avoid evacuation of people and loss of life, agriculture and property in Kuttanad Taluk. The DDMA hence passed Ext.R5(e) order on 22.05.2020.

11. The Panchayat issued Ext.R5(f) Stop Memo without regard to an existing G.O. By Ext.R5(g), the Panchayat was required to show cause. The Panchayat gave Ext.R5(h) explanation to the effect that the Stop Memo was issued

WP(C) Nos.11060/2020&15520/2021

: 14 :

oblivious of the Government Order. The Secretary stated that the Panchayat will review its decision. The Panchayat has no authority to interfere with respect to atomic minerals and Beach-sand minerals, contended the 5th respondent.

12. The 4th respondent-Grama Panchayat filed a statement dated 14.07.2020. The 4th respondent stated that the Panchayat is of the opinion that the activities now carried on should be continued only after obtaining environment impact assessment and a decision in this regard was taken by the Panchayat on 30.05 2020 as per Ext.R4(c). By Ext.R4(c), it was decided to request to the Government to urgently stop cutting down of Casuarinas and sand mining. Ext.R4(d) Stop Memo was hence issued. The Secretary of the Panchayat requested as per Ext.R4(e) to review Ext.R4(c) decision, invoking Kerala Panchayat Raj (Procedure to be Adopted on Illegal Resolutions) Rules, 2003. The Managing Director of the 2nd respondent submitted a reply stating that the activities carried on are not mining activities and hence environmental impact assessment is not required. The Panchayat Committee

WP(C) Nos.11060/2020&15520/2021

: 15 :

however reiterated its decision.

13. The 5th respondent-Kerala Coastal Zone Management Authority (KCZMA) (in WP(C) No.15520/2021) filed a counter affidavit. The KCZMA stated that the CRZ Notification 2019 will not apply, but the CRZ Notification 2011 is applicable to the case on hand. As per Map No.KL19, the area falls within CRZ-IB and No Development Zone of CRZ III. Dressing or altering the Sand Dunes, Hills, Natural features including landscape changes for beautification, recreation and other such purposes are prohibited activities within the CRZ area.

14. The 5th respondent-KCZMA stated that as per Clause 3(iv)(d) of CRZ 2011, land reclamation, bunding or disturbing the natural course of sea water except, measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structures for prevention of salinity ingress and freshwater recharge based on EIA studies, has to be carried out by any agency to be specified by MoEF. As per Clause 3(x) of CRZ 2011, mining of sand, rare minerals and

WP(C) Nos.11060/2020&15520/2021

: 16 :

other sub strata materials except mining of Atomic Minerals notified under Part B of the First Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 occurring as such or in association with one or other minerals is declared as a prohibited activity in CRZ area.

15. As per Clause 4(ii)(g) of CRZ 2011, mining of Atomic Minerals notified under Part B of the First Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 occurring as such or in association with one or other minerals require clearance from Ministry of Environment, Forest and Climate Change, after being recommended by the State CZMA, contended the 5th respondent. The 5th respondent-Kerala Coastal Zone Management Authority has not received any application from respondents 9 and 10 seeking CRZ clearance for mining sand in coastal area of Alappuzha District. The provisions of CRZ Notification 2011 are to be followed for any development activity in CRZ area.

16. The learned counsel for the petitioners argued that the activities carried out by the respondents amount to mining

WP(C) Nos.11060/2020&15520/2021

: 17 :

of sand minerals. It includes mechanised collection, loading and transportation of mineral sand from Thottappally Pozhi Mouth to KMML and IREL. In view of the judgment of the Apex Court in ***Bhagwan Dass v. State of U.P.*** [(1976) 3 SCC 784], the word "to win" as contemplated in Section 3(d) of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) would take in the removal of minerals from Thottappally Pozhi and it would amount to mining operation.

17. The removal of sand is in violation of the provisions of the Atomic Minerals Concession Rules, 2016 also. The activity carried on violates Environmental Impact Assessment Notification, 2006. The law laid down by the Apex Court in ***Deepak Kumar v. State of Haryana*** [(2012) 4 SCC 629] is violated. Environmental Clearance is a statutory requirement. The respondents have not submitted any mining plans nor have obtained permissions or Environmental Clearance.

18. The learned counsel for the petitioners further urged that the respondents cannot rely on the Disaster Management Act, 2005. The action of the District Collector is

WP(C) Nos.11060/2020&15520/2021

: 18 :

beyond the powers of the authorities under Section 30 and 34 of the Act, 2005. The District Authority has to function as District Planning, Coordinating and Implementing Body for disaster management and are guided by the Guidelines provided by the National Authority and State Authority.

19. It was further argued by the learned counsel for the petitioners that the non-obstante clause under Section 72 of the Disaster Management Act, 2005 cannot override the provisions of MMDR Act, in view of *Praneet K. v. University Grants Commission and others* [2020 SCC Online SC 688]. The MMDR Act is a complete Code as held by the Hon'ble Apex Court in *State of Assam v. Omprakash Mehta* [(1973) 1 SCC 584].

20. The learned counsel for the petitioners further urged that the minerals transported by the respondents have immense economic importance and therefore such activities must be in consonance with public interest. It should be examined on the touch stones of fundamental rights guaranteed to the citizen under Articles 14, 19 and 21. The

WP(C) Nos.11060/2020&15520/2021

: 19 :

right to save environment is a part of the right to life and personal liberty of citizen and those rights have to be protected at any cost.

21. The learned Government Pleader representing the State of Kerala, on the other hand, argued that the orders impugned have been passed essentially in implementation of the decision taken by the District Disaster Management Authority (DDMA) to avert disastrous situations arising from floods. The respondents have no contention that the method now being pursued is without rationale. The Government Order is in pursuance of public interest and passed in pursuance of the decision of the Disaster Management Authority. Due to the *non-obstante* clause, Section 72 of the Act, 2005 will override the provisions contained in any Notifications.

22. The learned Government Pleader argued that while the CRZ Notification is a general Notification, the Act, 2005 is a special legislation. The CRZ Notification cannot be read in vacuum and cannot be applied mechanically. The Court

WP(C) Nos.11060/2020&15520/2021

: 20 :

cannot sit in comparison and juxtapose the wisdom of Government/Authority.

23. The learned Government Pleader emphatically stated that no mining for the purpose of winning any minerals is involved in the activities carried on. The damage caused to the area due to removal of sand, is unsubstantiated. Admittedly, there is a sand bar formation adversely affecting the functionability of the Thottappally Spillway. The sand bar is to be removed to prevent disaster. The work is being carried out by two Public Section Undertakings and hence there is no question of anybody benefiting by unlawful profiteering.

24. The learned Standing Counsel for the Kerala Mineral and Metals Limited questioned the *locus standi* of the petitioners. The petitioners have not established their personal grievance nor have they disclosed as to how they are aggrieved. The orders impugned were passed in the year 2019 and the writ petitions have been filed only in the year 2021. The writ petitions are therefore liable to be dismissed

WP(C) Nos.11060/2020&15520/2021

: 21 :

for delay and laches.

25. The effective regulation of Spillway channel is essential for its effective functioning. The original and designated width of the Spillway is 360 metres. The formation of sand bars has reduced the width by 30 metres. Consequently, the capacity of the Spillway to drain out flood water into sea, has been drastically reduced.

26. The report of M.S. Swaminathan Research Foundation has strongly recommended periodic removal of sand bar at the sea mouth. The report of the Central Water Commission made subsequent to the 2018 floods also states that the reduction of capacity of Thottappally Spillway has worsened the flooding in the Kuttanad region.

27. It was based on the report of the Central Water Commission and of the M.S. Swaminathan Research Foundation that the District Disaster Management Authority, on 06.05.2019, decided to remove the obstacles in the leading channel of the Thottappally Spillway.

WP(C) Nos.11060/2020&15520/2021

: 22 :

28. As per Section 73 of the Disaster Management Act, no proceedings shall lie against any person working on behalf of the Government in respect of any work done in good faith by such person under the provisions of the Act, 2005. Section 72 of the Disaster Management Act has overriding effect.

29. The learned Standing Counsel for the KMML specifically denied the allegation that what is undertaken by them is mining activity. The operations now being carried out is neither for the purpose of searching nor for obtaining minerals. The operations are not for winning any mineral. The duration of the activity will itself show that its only purpose is prevention of floods. The removal of sand is only for the purpose of desilting the Spillway Channel for the purpose of free flow of water. The activity is exempted under EIA Notification, 2006. The activities undertaken by the KMML are pursuant to the orders of the authorities made under the Disaster Management Act. Such orders have been passed for preventing flood in the Kuttanad area. The orders were passed based on reports submitted by expert bodies and such

WP(C) Nos.11060/2020&15520/2021

: 23 :

reports are made after conducting scientific studies. The KMMML has carried on the activity strictly as per the recommendations. The activities are monitored by the Irrigation Department of the Government of Kerala. The Irrigation Department keeps accounts of the exact volume of sand that is removed. In such circumstances, no interference is warranted in the activity.

30. The learned Standing Counsel for the IREL also resisted the writ petitions. The repeated flooding of the Kuttanad area is undisputed. The flooding is a serious issue that requires immediate attention. Various study reports including those made by Hydrological Studies Organisation of Central Water Commission and the report titled "Special Package for Post Kuttanad (October, 2019)" of the Kerala State Planning Board stated that shrinkage of carrying capacity of the Vembanad lake and reduction of the capacity of Thottappally Spillway have worsened the flooding in Kuttanad region and that every year the Government should ensure that more water flows out into the sea and the sand

WP(C) Nos.11060/2020&15520/2021

: 24 :

bars shall be removed manually or using mechanical devices. The study conducted by the IIT, Madras after 2018 floods has also underlined the immediate requirement of desilting of rivers and canals.

31. The learned Standing Counsel for the IREL submitted that the desilting activities carried out is purely a disaster management activity and the DDMA is authorised to order such activity. The learned counsel submitted that under Section 72 of the Act, 2005, the actions taken by the authorities under the Disaster Management Act have been given overriding effect to achieve the purpose and object of the Act.

32. The learned counsel for the IREL further pointed out that the activity carried out is desilting of sea mouth and it could not amount to "mining operations", since the activity is not intended for winning any mineral. The respondents have not violated any of the provisions of the CRZ Notification, contended the learned counsel. The writ petitions are frivolous and are filed purely on experimental basis. The

WP(C) Nos.11060/2020&15520/2021

: 25 :

petitioners have not made out a case warranting interference by this Court, contended the learned counsel.

33. The Standing Counsel for the Coastal Zone Management Authority argued that the Kerala Coastal Zone Management Authority has not received any application seeking CRZ clearance for mining sand in coastal area of Alappuzha District. The learned Standing Counsel urged that the provisions of CRZ Notification, 2011 have to be followed for any development activity in CRZ area.

34. The counsel for the Purakkad Grama Panchayat argued that the Panchayat Committee has expressed its concern that the huge heaping of sand containing atomic minerals may cause serious health and environmental hazards and hence the same is to be removed. The Committee has decided to annul the Stop Memo issued by the Secretary on 01.06.2020.

35. I have heard the learned counsel for the petitioners and the respective counsel appearing for the respondents.

WP(C) Nos.11060/2020&15520/2021

: 26 :

36. The argument of the petitioners is that the removal of sand from Thottappally Pozhi mouth is in violation of the provisions contained in the Mines and Minerals (Development and Regulation) Act. As the sand being mined contains atomic minerals as defined in Section 2(1)(b) of the Atomic Minerals Concession Rules, 2016, the mining is in violation of Atomic Minerals Concession Rules. The area where these operations are carried out falls within Coastal Regulation Zone. The provisions of CRZ Notifications are violated. The provisions of Environment Impact Assessment Notifications are not complied with. The further argument is that the orders passed by the District Administration are ultra vires and beyond the powers conferred under the Disaster Management Act, 2005. The sand bar / sand dune acts as a strong barrier to resist the impact of natural calamities including soil erosion. These sand barriers act as a natural water filter and protect the area from high tidal waves entering into the artificial water channel. Hence, the sand bar/dunes should be protected.

WP(C) Nos.11060/2020&15520/2021

: 27 :

37. While considering these issues, the steps and decision taken by the District Administration resulting in the present situation will have to be taken into consideration. After the Kerala Floods, 2018, based on the recommendations of M.S. Swaminathan Commission, the District Administration decided to desilt the leading channel from Veeyapuram and to widen the leading channel at the Pozhi portion to increase the discharge of flood water to the sea. By proceedings dated 07.05.2019, the Executive Engineer, Irrigation Department was permitted to remove the obstacles in the leading channel of Thottappally Spillway. By a Government Order dated 31.05.2019, the KMML was permitted to remove the sand from downstream of the leading channel.

38. In Floods 2018, about 3609 houses were damaged fully and around 10,000 houses partially. A severe flood recurred in 2019 and around 1725 families had to be shifted to relief camps. The Chairman of the DDMA therefore issued Ext.R6(a) proceedings dated 22.05.2020 directing the Executive Engineer to take immediate steps to remove the

WP(C) Nos.11060/2020&15520/2021

: 28 :

sand at the Pozhi area so as to ensure smooth flow of storm water through the Spillway. During Monsoon, the only way to drain out the flood water to the sea from the rivers Pampa and Achankovil, is through the Pozhi.

39. Before commencement of the desilting work, the Irrigation Department estimated the quantity of silt clay/sand to be removed. The progress of desilting is monitored by the officials of the Irrigation Department and the District Disaster Management Authority. The Thottappally Pozhi is located at the southern side of the Harbour and excessive erosion on the northern side damages the houses along this stretch of the sea coast. Sufficient depth of water inside the Harbour basin and estuary is required for safe movement of fishing vessels. As per Government Order dated 06.08.2018, the Government accorded sanction for dredging and removal of 1,00,000 Cubic Metres of deposited spoil from the Harbour basin. An agreement was entered into with the IRE Limited for dredging 50,000 Cubic Metres of sand.

WP(C) Nos.11060/2020&15520/2021

: 29 :

40. The Mines and Minerals (Development and Regulation) Act, 1957 is an Act intended to provide for development and regulation of mines and minerals under the control of the Union. The provisions of the Act, 1957 would apply to activities falling under the definition of "mining operations". Section 3(d) of the Act, 1957 defines mining activities as any mining operation undertaken for the purpose of winning minerals. Section 4 mandates that no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under the Act and the rules made thereunder. The question is whether the operations carried out by the respondents require a permit or licence under Section 4 of the Act, 1957.

41. In *Bharat Coking Coal Ltd. and another v. State of Bihar and others* [(1990) 4 SCC 557], the three appellant companies claimed their respective right to the slurry that

WP(C) Nos.11060/2020&15520/2021

: 30 :

escaped from their washery plant/pond and got deposited in the Bokaro and Damodar River beds, as also in certain Raiyati land. The State Government did not accept their plea and leased out the right to remove the said slurry to the respondent on payment of royalty. The Hon'ble Apex Court held that the essence of 'mining operation' is that it must be an activity for winning a mineral whether under the surface or winning the surface of earth. The slurry which is deposited on the river bed is not dumped there artificially by any human agency. Instead, coal particles are carried to the river bed by the flow of water through natural process and hence the activity will amount to mining operation.

42. In *Bhagwan Dass v. State of U.P. and others* [(1976) 3 SCC 784], the Apex Court considered the scope of the term 'mining operations' and held that the definition of mining operations and minor minerals in Section 3(d) and (e) of the Act of 1957 makes it evident that minerals need not be subterranean and that mining operations cover every operations undertaken for the purpose of "winning" any minor

WP(C) Nos.11060/2020&15520/2021

: 31 :

minerals. Winning does not imply a hazardous or perilous activity. The words simply mean 'extracting a mineral' and is used generally to indicate any activity by which minerals are secured.

43. In *Varghese v. State of Kerala* [2021 (4) KLT 1], a Division Bench of this Court held that the word 'mining operations' is defined under the MMDR Act in Section 3(d) as meaning "any operations undertaken for the purpose of winning any mineral". By using the term "any" in Section 3(d) of the MMDR Act, the Parliament intended a very wide definition to be given to the word 'mining operations' and that the term 'mining operations' will include the erection of machinery, laying of a tramway, construction of a road in connection with the working of the mine.

44. It is apparent that in all the above referred cases, the operations were carried out for or in connection with commercial exploitation of minerals and the Hon'ble Apex Court and this Court held that such activities would fall within the ambit of mining operations as defined under the Act, 1957.

WP(C) Nos.11060/2020&15520/2021

: 32 :

In the case on hand, the removal of sand bar is intended to obviate impending disaster. Removal of sand bar from downstream of Thottappally Spillway pursuant to the orders passed in exercise of powers under the Disaster Management Act, 2005 would not amount to "mining operations" as defined under Section 3(d) of the Mines and Minerals (Development and Regulation) Act, 1957 for the reason that winning of minerals is not the primary or secondary intent, purport or priority behind the removal of sand bar. The argument of the petitioners based on violation of the provisions of the MMDR Act, 1957 is therefore rejected.

45. The question next arising is whether the activity carried out by the respondents requires Environmental Clearance. The Central Government, in exercise of the powers conferred by Section 3 of the Environment (Protection) Act, 1986 read with Rule 5(4) of the Environment Protection Rules, 1986, in public interest and in supersession of the notification dated 29.11.2019, has amended the EIA Notification, 2006. By the said amendment, Appendix-IX has

WP(C) Nos.11060/2020&15520/2021

: 33 :

been substituted. Appendix-IX provides for exemption of certain cases from requirement of Environmental Clearance. Exemption is granted under Serial No.7 of the Appendix to dredging and desilting of dams, reservoirs, weirs, barrages rivers and canals for the purpose of their maintenance, upkeep and disaster management.

46. A Division Bench of the Hon'ble High Court of Uttarakhand considered the issue of clearances of deltas formed in the River Ganga by collection of river bed materials in the case ***Jai Prakash Badoni and others v. Union of India and others*** in Writ Petition (PIL) Nos.93 and 95 of 2015 [MANU/UC/0859/2015]. In the said writ petition, the Government of India filed a counter affidavit stating that as long as desilting activities are undertaken for maintenance and upkeep of water reservoir of dams/weirs/canals/drains etc., and it is not undertaken for the purpose of winning minerals, the same would not require prior Environmental Clearance under EIA Notification, 2006. His Lordship Sri.K.M.Joseph, the Chief Justice (as he then was) on behalf

WP(C) Nos.11060/2020&15520/2021

: 34 :

of the Bench, considered the impact of Section 34 of the Disaster Management Act, 2005 on the dredging activity and held that having regard to the public purpose underlying the maintenance of these water bodies, if the dredging is undertaken for the purpose of maintaining water bodies, no environmental clearance is required.

47. Therefore, in view of paragraph 7(i)(B) of the EIA Notification, 2006 and in the light of the substituted Appendix-IX, no Environmental Clearance is required for dredging and desilting of downstream of Thottappally Spillway since the dredging is intended for maintenance, upkeep and disaster management.

48. The petitioners would contend that the desilting operations being carried out violate CRZ Notification. The learned Standing Counsel for the Kerala Coastal Zone Management Authority submits that as per Clause 3(iv)(d) of the CRZ, 2011, land reclamation, bunding or disturbing the natural course of sea water except measures to prevent sand bars, installation of tidal regulators, laying of storm water

WP(C) Nos.11060/2020&15520/2021

: 35 :

drains or for structures for prevention of salinity ingress and freshwater recharge based on EIA studies carried out by any agency to be specified by MoEF, are prohibited activities.

49. The Government of Kerala, Irrigation Department has stated in their statement that there is no violation of CRZ Notification 2011 or CRZ Notification 2019. Paragraph 3(iv)(d) of the CRZ Notification 2011 will not be applicable to the case since the activity undertaken is not for land reclamation, bunding or disturbing the natural course of seawater. Furthermore, the paragraph exempts measures taken to prevent sand bars based on EIA studies carried out by any agency specified by the Ministry of Environment and Forests. In this case, paragraph 7(i)(B) of the EIA Notification, 2006 read with Appendix-IX would show that no EC is required for dredging and desilting of the downstream. Paragraphs 3(x) and 4(ii)(g) also would not apply since the activity carried is not a mining activity.

50. Paragraph 3(xiii) of the CRZ Notification 2011 may also not be relevant as it relates to dressing or altering the

WP(C) Nos.11060/2020&15520/2021

: 36 :

sand dunes, hills, natural features including landscape changes for beautification, recreation or other such purposes. In the case on hand, what is being altered is a sand bar and not a sand dune. As per Webster Comprehensive Dictionary, the word 'Sandbar' means "a ridge of silt or sand in rivers, along beaches, etc., formed by the action of currents or tides". As per Wharton's Law Lexicon, the word 'Sand dune' means "hill, mound or ridge of loose material formed by wind action". The accumulation of sand in question being downstream and near a sea face, it cannot be a sand dune. It is a sand bar.

51. The further challenge is based on the Atomic Minerals Concession Rules, 2016. The allegation is that Rules 4, 5, 6 and 8 of the Rules, 2016 are flouted by the respondents. Rule 4 provides that the permitted agencies may carry out prospecting operations for atomic minerals without a prospecting licence, but the agencies desirous shall submit a request to the State Government. Rule 5 deals with grant of mining lease at the instance of the Department.

WP(C) Nos.11060/2020&15520/2021

: 37 :

52. Rule 6 regulates mining by a Government Company or Corporation owned or controlled by the Government and Rule 8 mandates that no mining operations shall be undertaken with respect to a mining lease under Rule 6(7) except in accordance with the approved mining plan. A perusal of the afore rules would show that those rules are governing prospecting operations and mining activities. The operations in issue are already found to be not mining operations and for the same facts and reasons, the said operations cannot be termed as prospecting operations. The arguments based on the provisions of the Atomic Minerals Concession Rules, 2016 are therefore only to be rejected.

53. The issue remaining is whether the orders passed by the respondents are ultra vires the Disaster Management Act, 2005. The fact that the Kerala experienced and was tormented with disastrous floods in the years 2018 and 2019 cannot be disputed. In fact, in the current year also, Kerala is under the threat of floods and has already suffered loss of life due to landslides resultant of heavy rains, though such

WP(C) Nos.11060/2020&15520/2021

: 38 :

calamity was not in Thottappally area. The heavy rains coupled with slow discharge of storm water through the Thottappally Spillway to sea, has inundated a considerable area in Kuttanad during this year also.

54. After 2018 Floods, the M.S. Swaminathan Research Foundation and IIT Madras recommended clearance of the Sand Bar at Thottappally Pozhi and deepening and widening of the leading channel for depressing the flood problem in Kuttanad area. The original width of the Spillway was 360 metres ensuring free flow of water and the width was eventually reduced to 260 metres. The reduction of the width and existence of Sand Bar aggravate flood disaster. It was on the basis of reports of such expert bodies that the authorities under the Act, 2005 decided to to desilt downstream Thottappally and remove the existing sand bar at Pozhi.

55. Section 34 of the Act, 2005 provides that for the purpose of assisting, protecting or providing relief to the community, in respect of any threatening disaster, the District

WP(C) Nos.11060/2020&15520/2021

: 39 :

Disaster Management Authority may take such steps as may be required or warranted to be taken in such situation. The steps taken by the Government and the orders passed by the District Authority are based on the advise / reports / recommendations of the technically expert bodies. The steps taken in this case are intended to avert any possible disaster in Pampa, Meenachil, Achankovil, Kuttanad and other areas. Therefore, the orders of the DDMA cannot be said to be ultra vires Section 34 of the Disaster Management Act, 2005.

56. Ordinarily, laws are framed and are meant to regulate and govern times of peace. The laws meant to govern the times of peace may become insufficient and even hurdles to tackle situations in extra ordinary times like war, calamities, catastrophes, pandemics and disasters. A democratic State should have the power to make such laws which would help to overcome such disasters with least hardship and loss of life and property of its citizens. Section 72 of the Act, 2005 gives overriding effect to the provisions of the Act notwithstanding anything inconsistent there with

WP(C) Nos.11060/2020&15520/2021

: 40 :

contained in any other law or in any instrument having effect by virtue of any law other than the Act, 2005.

57. Providing for special laws to govern difficult times, overriding or even superseding ordinary laws, is not a novel concept or invention of modern democracies. Deliberate freezing of or departure from ordinary laws during difficult times, existed in all societies, even in monarchies, theocracies and other forms of States. In India, such special legal mandates were described as "Apat-Dharma". Shanti Parva of Mahabharata states that rights and duties of citizens vary, depending on whether they are living in times of peace or in times of crisis.

"अन्यो धर्मः समस्थस्य विषमस्थस्य चापरः ।
 अपदस्तु कथं शक्यः परिपाठेन वेदितुम् ॥ 12.260.4
anyo dharmah samasthasya visamasthasya caparah
apadastu katham sakyah paripathena veditum
 - 12.260.4

Duties of citizens vary, depending on whether they are living in times of peace or in times of crisis. Written texts mostly advise about times of peace. However, if necessary adjustment is not made therein, it proves to be inappropriate to meet the challenges of a crisis."

58. "Apat-Dharma" means a course of procedure not usually proper or permissible in ordinary times but allowable in times of extreme distress or calamity. When a State faces calamities, there is only one goal of life, viz., protection of its citizens. Facing a serious calamity must be viewed as a long term effort. In such prolonged process, there is bound to be need to make adjustments for attainment of the objective. The exemption or departure from ordinary laws granted during adverse times is restricted to the end of the adverse times and continues till the beginning of a favourable time.

59. Section 72 of the Disaster Management Act, 2005, in effect, gives the general law of "Apat Dharma", a statutory recognition. In times of disasters, the Disaster Management Act, 2005 will and should override the provisions of other laws, because the Act, 2005 is intended to protect the very life of the citizens, without which the words right, liberty or freedom and even the word Constitution will have no meaning.

WP(C) Nos.11060/2020&15520/2021

: 42 :

For all the afore reason, this Court finds that the writ petitions filed by the petitioners must fail. The writ petitions are therefore dismissed.

Sd/-
N. NAGARESH, JUDGE

aks/05.11.2021

WP(C) Nos.11060/2020&15520/2021

: 43 :

APPENDIX OF WP(C) 11060/2020

PETITIONER'S EXHIBITS

- EXHIBIT P1 A TRUE COPY OF THE STATUS REPORT AS ON 31.5.2020 OF THE TENDER FOR THE WORK OF MECHANIZED LOADING AND TRANSPORTATION OF MINERAL SAND FROM THOTTAPPALLY POZHIMOUTH OBTAINED FROM THE E-PORTAL FOR TENDERS OF KERALA GOVERNMENT.
- EXHIBIT P2 A TRUE COPY OF THE ADVERTISEMENT PUBLISHED IN MATHRUBHUMI DAILY DATED 26.5.2020.
- EXHIBIT P3 A TRUE COPY OF THE DECISION TAKEN IN THE COMMITTEE MEETING OF PRUAKKAD GRAMAPANCHAYATH DATED 21.11.2018.
- EXHIBIT P4 A TRUE COPY OF THE STOP MEMO ISSUED BY THE 4TH RESPONDENT DATED 1.6.2020.
- EXHIBIT P5 A TRUE COPY OF THE LETTER ISSUED BY THE OFFICE OF THE INDIAN RARE EARTHS LIMITED DATED 6.12.2020.
- EXHIBIT P6 A TRUE COPY OF THE COMMON ORDER PASSED BY THIS HONOURABLE COURT IN WPC NO'S 31741 OF 2016 AND 36590 OF 2016 DATED 22.11.2016.
- EXHIBIT P7 A TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WPC 36590 OF 2016 DATED 19.7.2019.
- EXHIBIT P8 A TRUE COPY OF COMPLAINT SUBMITTED BY THE PRESIDENT OF PURAKKAD GRAMAPANCHAYATH TO THE 6TH RESPONDENT DATED NIL.
- EXHIBIT P9 A TRUE COPY OF ACKNOWLEDGEMENT ISSUED BY THE OFFICE OF 6TH RESPONDENT IN RESPECT OF EXHIBIT P8 DATED 2.6.2020.
- Exhibit P10 A TRUE COPY OF THE DECISION OF THE PURAKKAD GRAMA PANCHAYATH COMMITTEE DATED 19/06/2020.
- Exhibit P11 A TRUE COPY OF THE ATOMIC ENERGY ACT, 1962.
- Exhibit P12 A TRUE COPY OF THE ATOMIC ENERGY (RADIATION AND PROTECTION) RULES, 2004.

WP(C) Nos.11060/2020&15520/2021

: 44 :

RESPONDENTS' EXHIBITS

- Exhibit R2 (A) TRUE COPY OF GOVERNMENT ORDER DATED 31/05/2019.
- Exhibit R2 (B) TRUE COPY OF THE AGREEMENT DATED 11/10/2019.
- Exhibit R2 (C) TRUE COPY OF COMMUNICATION DATED 18/05/2020 ISSUED BY IRRIGATION DEPARTMENT TO KMML.
- Exhibit R2 (D) TRUE COPY OF PROCEEDINGS OF THE MEETING DATED 19/05/2020 HELD BY DISTRICT DISASTER MANAGEMENT AUTHORITY, ALAPPUZHA.
- Exhibit R2 (E) TRUE COPY OF ORDER DATED 22/05/2020 ISSUED BY DISTRICT DISASTER MANAGEMENT AUTHORITY, ALAPPUZHA.
- Exhibit R2 (F) TRUE COPY OF LETTER DATED 23/05/2020 ISSUED BY THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT.
- Exhibit R2 (G) TRUE COPY OF ORDER DATED 24/06/2020 ISSUED BY THE DISTRICT COLLECTOR, ALAPPUZHA.
- Exhibit R2 (H) TRUE COPY OF LICENSE ISSUED BY ATOMIC ENERGY REGULATORY BODY (AERB).
- Exhibit R2 (I) TRUE COPY OF TRANSPORTATION PERMIT DATED 31/05/2020.
- Exhibit R2 (J) TRUE COPY OF LETTER DATED 03/06/2020 SUBMITTED BY KMML.
- Exhibit R5 (A) TRUE COPY OF THE PROCEEDINGS NO. DMC 2-513/2016 DATED 07/05/2019.
- Exhibit R5 (B) TRUE COPY OF THE PROCEEDINGS NO. DMC 2-513/2016 DATED 07/05/2019.
- Exhibit R5 (C) TRUE COPY OF THE GOVERNMENT ORDER GO(RT) NO.385/2019/WRD DATED 31/05/2019.
- Exhibit R5 (D) TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 19/05/2020.
- Exhibit R5 (E) TRUE COPY OF THE PROCEEDINGS NO. DMC2-513/2016 DATED 22/05/2020.
- Exhibit R5 (F) TRUE COPY OF THE STOP MEMO DATED 01/06/2020.

WP(C) Nos.11060/2020&15520/2021

: 45 :

- Exhibit R5 (G) TRUE COPY OF THE SHOW CAUSE NOTICE DATED 04/06/2020.
- Exhibit R5 (H) TRUE COPY OF THE EXPLANATION OF SECRETARY OF PURAKKAD GRAMA PANCHAYAT DATED 05/06/2020.
- Exhibit R5 (I) TRUE COPY OF THE ATOMIC MINERALS CONCESSION (SECOND AMENDMENT) RULES 2019 G.S.R. 134(E) DATED 20/02/2019.
- Exhibit R5 (J) TRUE COPY OF THE ORDER ISSUED BY THE MINISTRY OF INES ORDER F. NO. 1/1/2019-M-VI DATED 01/03/2019.
- Exhibit R5 (K) TRUE COPY OF THE RENEWAL LICENCES ISSUED BY GOVERNMENT OF INDIA ATOMIC ENERGY REGULATORY BOARD IN FAVOUROF IREL (INDIA) LIMITED DATED 06TH AUGUST 2019.
- Exhibit R5 (L) TRUE COPY OF THE RENEWAL LICENCES ISSUED BY GOVERNMENT OF INDIA ATOMIC ENERGY REGULATORY BOARD IN FAVOUR OF KMML DATED 27TH NOVEMBER 2019.
- Exhibit R5 (M) TRUE COPY OF THE NOTIFICATION S.O. 1224(E) DATED 28TH MARCH 2020 ISSUED BY MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE.
- Annexure R4 (A) TRUE COPY OF THE PRINTOUT OF THE WEBPAGEIN ISGKERALA.IN.PURAKKADPANCHAYAT.
- Annexure R4 (B) TRUE COPY OF THE PHOTOGRAPHS EVIDENCING THE ONGOING ACTIVITIES IN THOTTAPALLI POZHI MUGAM.
- Annexure R4 (C) TRUE COPY OF THE DECISION DATED 30/05/2020 BEARING NO. 5(1) OF THE COMMITTEE OF THE 4TH RESPONDENT.
- Annexure R4 (D) TRUE COPY OF THE STOP MEMO DATED 01/06/2020 ISSUED TO THE 2ND RESPONDENT.
- Annexure R4 (E) TRUE COPY OF THE REQUEST DATED 01/06/2020 ISSUED SECRETARY TO THE PRESIDENT OF 4TH RESPONDENT.
- Annexure R4 (F) TRUE COPY OF THE REPLY DATED 03/06/2020 SUBMITTED BY THE MD OF 2ND RESPONDENT TO THE 4TH RESPONDENT.

WP(C) Nos.11060/2020&15520/2021

: 46 :

- Annexure R4 (G) TRUE COPY OF THE REPLY DATED 03/06/2020 (SUBMITTED ON 08/06/2020) BY THE MD OF 2ND RESPONDENT TO THE 4TH RESPONDENT.
- Annexure R4 (H) TRUE COPY OF THE SHOW CAUSE NOTICE BEARING NO. DMC2-513/16 DATED 04/06/2020 ISSUED BY THE 5TH RESPONDENT TO THE SECRETARY OF 4TH RESPONDENT.
- Annexure R4 (I) TRUE COPY OF THE REPLY BEARING NO. A5-257/20 DATED 05/06/2020 SUBMITTED BY THE SECRETARY OF THE 4TH RESPONDENT TO THE 5TH RESPONDENT.
- Annexure R4 (J) TRUE COPY OF THE DECISION BEARING NO. 4(1) DATED 19/06/2020 OF THE COMMITTEE OF THE 4TH RESPONDENT.
- Annexure R4 (K) TRUE COPY OF THE REPRESENTATION DATED 01/07/2020 SUBMITTED BY MEMBERS OF THE 4TH RESPONDENT BEFORE THE 5TH RESPONDENT.
- Annexure R4 (L) COPY OF THE DECISION NO. 5(1) OF THE 4TH RESPONDENT PANCHAYATH DATED 09/09/2021.

WP(C) Nos.11060/2020&15520/2021

: 47 :

APPENDIX OF WP (C) 15520/2021

PETITIONERS' EXHIBITS

- Exhibit P1 A TRUE COPY OF THE STUDY REPORT WITH REGARD TO THE KARIMANAL (MINER BEACH-SAND) MINING IN THE ALAPPUZHA COAST OF KERALA BY JAYADEV S.K.M RESEARCH SCHOLAR, UNIVERSITY OF KERALA.
- Exhibit P2 A TRUE COPY OF THE GOVERNMENT ORDER G.O. (RT) NO. 385/2019/WRD DATED 31.05.2019.
- Exhibit P3 THE PHOTOCOPY OF THE PHOTOGRAPHS SHOWING THE MINING AND EXCAVATION OF MINERAL SAND FROM THE PURAKKAD COASTAL AREA CONDUCTED BY THE 9TH RESPONDENT.
- Exhibit P4 THE PHOTOCOPY OF THE PHOTOGRAPHS SHOWING THE DAMAGE CAUSED TO FEW HOUSE LOCATED IN THE PURAKKAD COASTAL AREA.
- Exhibit P5 A TRUE COPY OF THE NEWSPAPER REPROT DATED 27.06.20221 IN KERALA KAWMATHY REPORTING THE DAMAGE CAUSED TO THE PADDY FIELDS IN KUTTANAD.
- Exhibit P6 A TRUE COPY OF THE STUDY REPORT OF THE GOVERNMENT OF INDIA CENTRAL WATER COMMISSION, HYDROLOGICAL STUDIES ORGANIAATION HYDROLOGY (S) DIRECTORATE ON THE STUDY OF THE KERALA FLOODS OF AUGUST 2018.
- Exhibit P7 A TRUE COPY OF THE ORDER ISSUED BY THE KERALA STATE ELECTRICITY BOARD LTD., DATED 5.9.2019.
- Exhibit P8 A TRUE COPY OF THE COASTAL ZONE MANAGEMENT PLAN OF ALAPPUZHA DISTRICT AS PER THE CRZ NOTIFICATION 2011.
- Exhibit P9 A TRUE COPY OF THE ORDER DATED 28.2.2019 ISSUED BY 2ND RESPONDENT APPROVING IF THE COASTAL REGULATION PLAN OF 9 DISTRICT INCLUDING ALAPPUZHA.
- Exhibit P10 A TRUE COPY OF THE RELEVANT EXTRACT IN REPORT OF THE WORLD WILDLIFE, FUND REPORT.

WP(C) Nos.11060/2020&15520/2021

: 48 :

- Exhibit P11 A TRUE COPY OF THE NEWSPAPER REPORT WITH REGARD TO THE HABITAT OF TURTLES AND NESTING GROUND OF MIGRATORY BIRDS, AND THE CHALLENGES FACED BY THEM, DUE TO THE PRESENT MINING OPERATION.
- Exhibit P12 A TRUE COPY OF THE REPRESENTATION DATED 12.07.2021 MADE BY THE PETITIONERS TO THE 7TH RESPONDENT.
- Exhibit P13 A TRUE COPY OF THE REPRESENTATION DATED 23.06.2021 MADE BY THE PETITIONERS TO THE CHIEF MINISTER OF THE 4TH RESPONDENT GOVERNMENT.
- Exhibit P14 PHOTOCOPY OF THE PHOTOGRAPHS WITNESSING THE PEACEFUL DHARNA CONDUCTED BY THE PETITIONERS AND THE OTHER MEMBERS OF THE KARIMANAL KHANANA VIRUDHA EKOPANA SAMITHI.
- Exhibit P15 A TRUE COPY OF THE TENDER NOTICE INVITING FOR TRANSPORT OF MINERALS FROM PURAKKAD TO CHAVARA IN KOLLAM ISSUED BY THE 9TH RESPONDENT PUBLISHED IN MATHRUBOOMI NEWSPAPER DATED 20.07.2021.
- Exhibit P16 A TYPED COPY OF THE RELEVANT EXTRACTS OF THE RTI ACT RECEIVED FROM THE 9TH RESPONDENT DATED 31/03/2021.
- Exhibit P17 A TRUE COPY OF THE REPORT OF KERALA IWRM ACTION PLAN KUTTANAD BASIN BY THE KERALA STATE GOVERNMENT WITH SUPPORT FROM DUTCH DISASTER RISK REDUCTION TEAM DATED 25/03/2009.
- Exhibit 18 A COLOUR PHOTOCOPY SHOWING THE SATELITE IMAGE OF THE THOTTAPALLY SPILWAY ESTUARY
- Exhibit P19 A TRUE COPY OF THE LIST OF A FEW PERSONS WHOSE HOUSES HAVE BEEN DAMAGED IN THE THOTTAPPALLY REGION
- Exhibit P20 A TRUE COPY OF THE RELEVANT PAGES OF THE SPECIAL PACKAGE FOR THE POST-FLOOD KUTTANAD SUBMITTED BY KERALA STATE PLANNING BOARD OCTOBER, 2019
- Exhibit P21 A TRUE COPY OF THE RELEVANT EXTRACT OF M.S.SWAMINATHAN RESEARCH FOUNDATION REPORT OF 2007.

WP(C) Nos.11060/2020&15520/2021

: 49 :

RESPONDENTS' EXHIBITS

- Exhibit R6(A) TRUE COPY OF THE PROCEEDINGS NO. DMC2-513/2016 DATED 22/05/2020.
- Exhibit R7(A) TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 06/05/2019.
- Exhibit R7(B) TRUE COPY OF THE PROCEEDINGS NO.DMC2-513/2016 DATED 07/05/2019.
- Exhibit R7(C) TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 19/05/2020.
- Exhibit R7(D) TRUE COPY OF THE PROCEEDINGS NO. DMC2-513/2016 DATED 22/05/2020.
- Exhibit R7(E) TRUE COPY OF THE DMC1-3626/2021 DATED 12/05/2021.
- Exhibit R9(a) TRUE COPY OF GOVERNMENT ORDER DATED 31.05.2019.
- Exhibit R9(b) TRUE COPY OF THE AGREEMENT DATED 11.10.2019.
- Exhibit R9(C) TRUE COPY OF COMMUNICATION DATED 18.5.2020 ISSUED BY IRRIGATION DEPARTMENT TO KMML.
- Exhibit R9(d) TRUE COPY OF PROCEEDINGS OF THE MEETING DATED 19.5.2020 HELD BY DISTRICT DIASTER MANAGEMENT AUTHORITY, ALAPPUZHA.
- Exhibit R9(e) TRUE COPY OF ORDER DATED 22.5.2020 ISSUED BY DISTRICT DISASTER MANAGEMENT AUTHORITY, ALAPPUZHA.
- Exhibit R9(f) TRUE COPY OF LETTER DATED 23.5.2020 ISSUED BY THE EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT.
- Exhibit R9(g) TRUE COPY OF ORDER DATED 24.6.2020 ISSUED BY THE DISTRICT COLLECTOR, ALAPPUZHA.
- Exhibit R9(h) TRUE COPY OF LICENSE ISSUED BY ATOMIC ENERGY REGULATORY BODY (AERB)
- Exhibit R9(i) TRUE COPY OF NOTIFICATION DATED 28.3.2020.
- Exhibit R10(A) TRUE COPY OF THE RELEVANT PAGES OF THE REPORT BY M.S. SWAMINATHAN, RESEARCH FOUNDATION DATED 13/02/2007.

WP(C) Nos.11060/2020&15520/2021

: 50 :

Exhibit R10 (B) TRUE COPY OF THE NOTIFICATION DATED 28/03/2020 ISSUED BY THE MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE, GOVERNMENT OF INDIA.

Exhibit R10 (C) TRUE COPY OF THE VALID LICENSE DATED 01/04/2021 ISSUED BY THE DEPARTMENT OF ATOMIC ENERGY TO THE 10TH RESPONDENT COMPANY.

Exhibit R10 (D) TRUE COPY OF THE VALID LICENSE DATED 02/08/2019 ISSUED BY ATOMIC ENERGY REGULATORY BOARD TO THE 10TH RESPONDENT COMPANY.

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