

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE BENCH, CHENNAI)**

IN

ORIGINAL APPLICATION NO. 117 OF 2021 (SZ)

And

ORIGINAL APPLICATION NO. 184 OF 2021 (SZ)

**REJOINDER TO THE OBJECTION FILED BY THE APPLICANT
SUBMITTED BY THE EXECUTIVE ENGINEER AND DISTRICT
COLLECTOR**

Index

S.No	Particulars	Page No.
1	Rejoinder to the objection filed by the applicant submitted by the Executive Engineer.	1-7
2	Rejoinder to the objection filed by the applicant submitted by the District Collector, Kottayam.	8

Dated at Chennai on this the 27th day of January, 2022.

M/s. E.K.KUMARESAN

Standing Counsel

for State Government of Kerala –

NGT(SZ) Chennai Bench

Rejoinder by Executive Engineer in OA 117/2021 and OA 184/2021 to the objection report filed by the applicant

1. It is humbly submitted that ,the objection placed by the Secretary, Kottayam Nature Society to the Joint Committee report are not factually correct. These objections cannot be accepted. The statement and the report of the Joint Committee are fully correct and relevant in the matters under consideration.

The statement in para 1 of the objection of the applicant are not correct .The technical objection that the 1) Joint committee report did not reflect the result of the joint inspection,

2) and it is the report of the district collector alone and not that of the joint committee, is totally incorrect.

From the Joint Committee report itself , it is evident that on Compliance to the order of Honourable NGT, the Forest Department as the nodal agency for Co-ordination and providing logistics ,itself has constituted the Joint Committee ,Vide Proceedings attached as Annexure I of the Joint Committee Report and the report being filed jointly by the members whose signature are given at the end of the report, the same cannot be objected for not signing the “operative portion” also.

2. It is humbly submitted that the statement in paragraph 2 of objection is also not correct, the district collector and the members of the committee visited all relevant sites serveral times with respect to the preparation of the joint committee report.

Besides the registers in various offices of the members of the joint committee, the photographs evidence the joint visit.(dated **Photographs attached**)

Also the "conclusion" of the disaster management authority and the entire report of joint committee are **presented in a distorted manner in this para**. The report or the conclusion of the disaster management authority did not state that main problem in the meenachil river is "accumulation of silt and if it is removed, there will not be any flood in Kottayam district".

In the conclusion the Joint committee had stated only that "it is important that desilting activities in the river Meenachil may be taken up on a priority basis in a scientific manner" and that there is "deposition of debris, clay and soil mud in the root mat of vegetations like attuvanchi and bamboo, causing obstruction to normal course of Meenachil river."

It is true that no trees were cut or removed from the site and that only hanging branches of small trees etc. were cut and removed and they are deposited on the bank itself .

3. The statement with reference to directions in OP No:14764 Of 1997 dated 22/07/1978 (relating to Kallada river) are not relevant for consideration in the matters that arise in this original application. From para 3 of the objection of applicant, It is seen, that it pertains to the protection of the river banks, and the sides of bridges, dams etc and also relating to excavation of sand where the sand bed level is below the required level fixed by the state and construction of walls along the river banks, where those exists chances of landslides.
4. The statement in para 4 , as to demarcation of boundries of rivers , as directed by the Kerala High Court did not specifically come for consideration in this case. It is a new matter raised in the present objection. It is seen that Honour NGT did not refer to this matter to the joint committee examination.

In any case it may be submitted that the Revenue Authorities have already taken steps in this regard (In spite of the adverse situation faced by Covid 19, Flood, scarcity of employees etc.)
5. The statements in **para 5 & 6** are also not relevant. Nothing with respect to the same are specifically placed before this joint committee examination.
7. In the Objection of the petitioner in para 7, the petitioner refers to works initiated by Major Irrigation Department in Meenachil River and states that no study with reference to silt had been made, it is not correct. As stated under the "Comments of Irrigation Department" of the Joint committee report, it had been stated that Investigation works were carried out as part of the development of Inland Navigation under IWT Scheme in various stretches of the river. **The relevant pages of document** by name 1) IWT- Development of State Water ways and Feeder

Canal –conducting study classification of Statewaterways and deriving development standards and preparation of master plan for state Waterways –for Meenachil River from Chungam to Kanjiram in Kottayam District and 2) IWT- Development of State Water ways and Feeder Canal –conducting study classification of Statewaterways and deriving development standards and preparation of master plan for state Waterways –for Neelimangalam Canal in Kottayam District ,**attached as enclosure 8 of Statement of facts submitted from this office, show that study has been made which included field investigation survey and Topographic survey using Total station** and datas processed by Liscad software and longitudinal and crossections along the river stretches were prepared . In the entire document the cross section of various portion of the river concerned had been shown so that, from those study materials the portion where, the obstruction including silt are clearly identifiable and also by field observations. It is not correct that no study at all has been made in this regard.

8. The statement in para 8 of the objections of the petitioner, that Riverbasin Authority is constituted for the reason that “the present authority are incapable of protecting the rivers of Kerala are not correct at all. The Irrigation department has been the nodal department for the upkeep and maintenance of all the rivers ,including managing the flood and draught situations, ever since its formation. It should be noted that , the aforesaid authority is being constituted from the parent department (irrigation department) itself .

In any case urgent measures are to be taken to avoid floods. As the works arranged in meenachil river are crucial with regard to disaster management, **in the present scenario of unpredictable Climatic conditions of extreme rainfall and Cloud bursts and series of land slides and also the MLA's MP's and flood affected victims and various organisations had expressed their grievances through their petitions ,requesting urgent necessary interventions in this regard before the next Monsoon of 2022, as the region could not withstand any future destructions due to floods .**

The immediate steps that are to be taken by the various existing agencies and departments cannot be kept apart till the formation of the proposed authority. The present government departments are undertaking all needful timely measures. It cannot be allowed to be stopped. If the present action that are done and the proposals made are not implemented, Kottayam district will be facing alarming situations in future floods as well.

Hence it is humbly requested that ,Honourable Tribunal may issue favourable orders ,so as to continue with the works under the monitoring of District Disaster Management

4

Authority , for the prevention of further damages to life and property of Flood affected victims of Kottayam district.

9. The objection placed by the petitioner is liable to be rejected. No circumstances is made out for calling fresh report from the side of joint committee.

Attachments-Photos of site inspection by
District collector

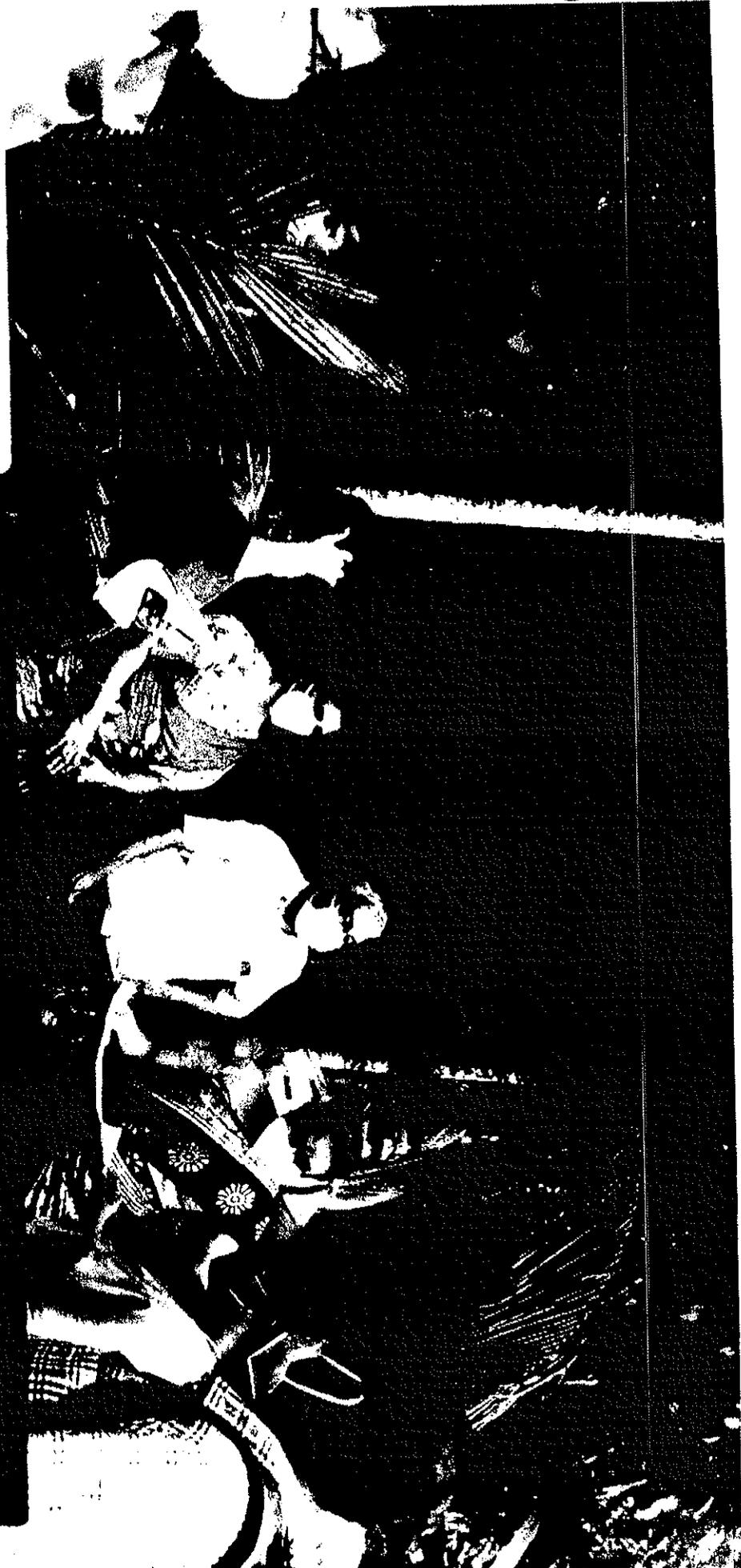
Kottayam
21.01.2022

Yours faithfully

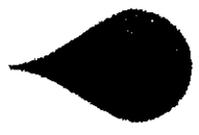


EXECUTIVE ENGINEER

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Go
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Thiruvarpur, Kerala, India

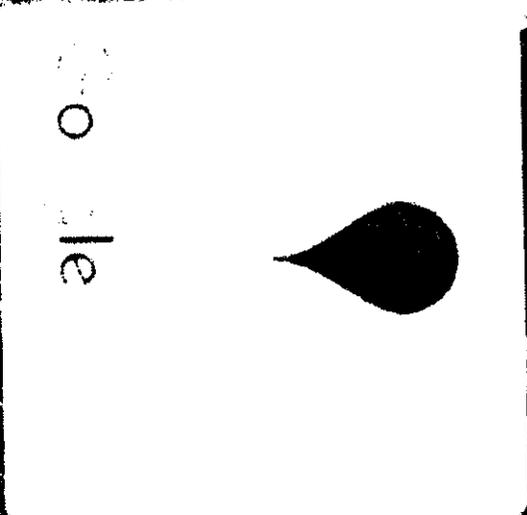
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Milikkal, Thiruvarpur, Kerala 686020, India

Lat N 9° 35' 12.8724"

Long E 76° 29' 17.2824"

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Thiruvarpur, Kerala, India

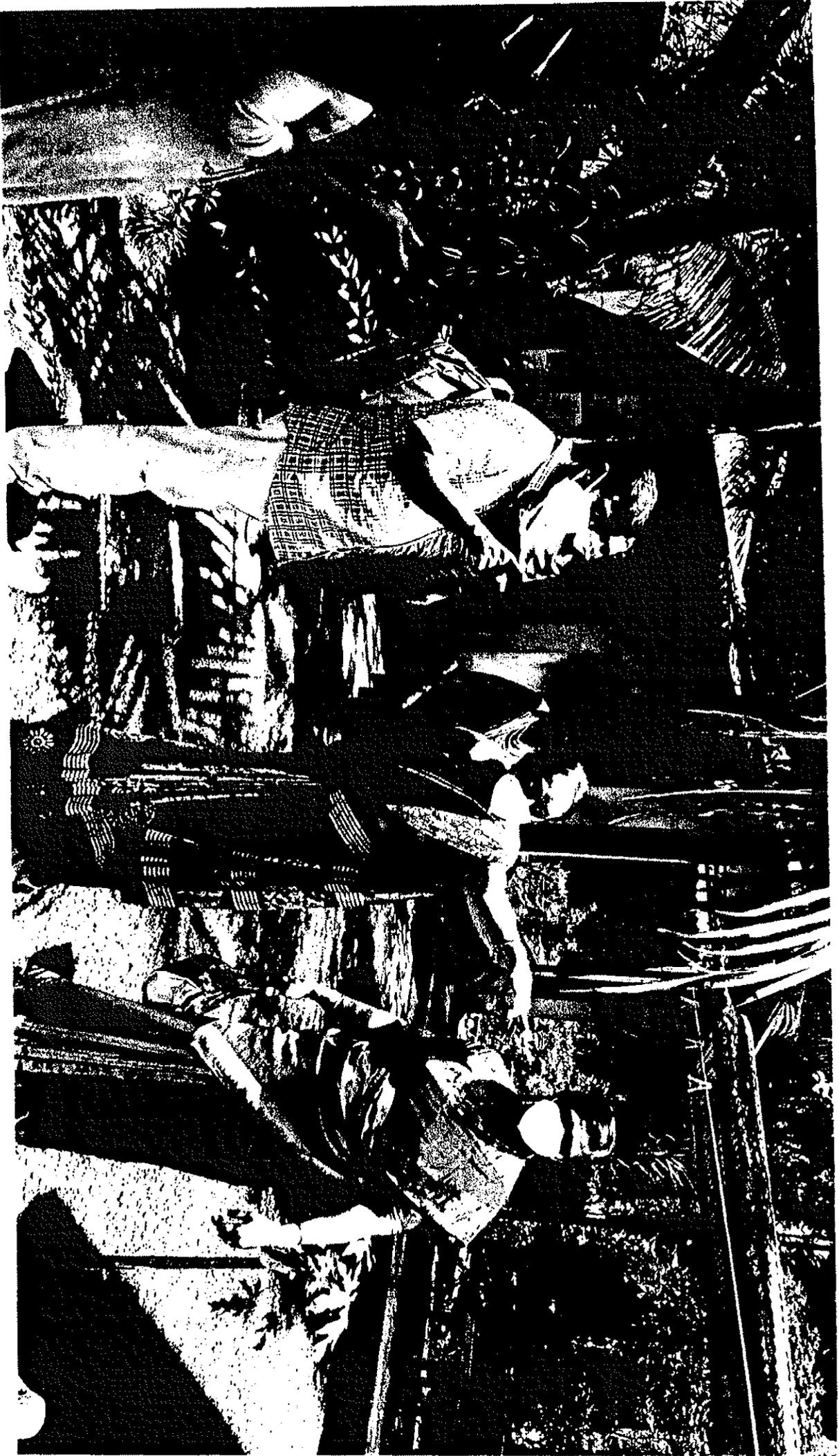
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Illikkal, Thiruvarpur, Kerala 686020, India

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Long E 76° 29' 18.546"

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District Collector (middle)
during site inspection.

Rejoinder submitted by District Collector, Kottayam in OA No.117/2021 and OA 184/2021 to the objection report filed by the applicant

It is humbly submitted that the Joint committee reports submitted in OA 117/2021 and OA 184/2021 are prepared by the the Joint Committee appointed by the Honourable Tribunal. The committee members visited the sites conducted detailed discussions through online(because of Covid situation prevailing) and prepared the reports. All the five Joint Committee members signed the reports.

The District Collector had visited the sites. Photographs of site visits are included in the Joint Committee reports.

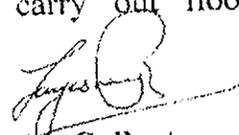
The desiltation works will help to accommodate flood waters and to increase the capacity of river channels.

The works started by irrigation department is with the objective of flood hazard mitigation. Only obstructions to the flow of water in the river were seen removed and whatever spoil obtained were deposited on the banks for the formation of eroded banks. No sand mining was conducted.

In the context of conduct of studies prior to activities taken under Disaster Management, it is humbly submitted that vide SO 1224 (E) dated 28-3-2020, the Ministry of Environment, Forest and Climate Change issued a notification in which it is clearly stated that *dredging and desilting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management do not require any prior environmental clearance.*

It is not a statutory requirement for Disaster Management Authorities to conduct studies for removal of debris. There is no violation in removing debris from rivers to avoid flooding and consequent disaster.

Hence the Honourable Tribunal may after considering Joint Committee reports and statements submitted and issue appropriate orders so as to allow District Disaster Management Authority and Irrigation Department to carry out flood hazard mitigation activities in the river channels.


District Collector
Kottayam