

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

**IN**

**ORIGINAL APPLICATION NO.117 OF 2021 &  
ORIGINAL APPLICATION NO.184 OF 2021 (SZ)**

**WRITTEN SUBMISSIONS FILED BY THE 3<sup>RD</sup> RESPONDENT/EXECUTIVE  
ENGINEER, IRRIGATION DIVISION,**

**KOTTAYAM**

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Dated at Chennai on this the 7<sup>th</sup> day of March, 2022.

**M/s. E.K.KUMARESAN**

Standing Counsel for State Government of Kerala NGT(SZ) Chennai Bench



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**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL**  
**SOUTHERN ZONE, CHENNAI**

**Original Application No 117/2021**

Kottayam Nature Society..... Applicant

State of Kerala and others.....Respondents

**Submissions to the argument notes by Applicant, Filed by the 3<sup>rd</sup> respondent in compliance with the order of ,The Honourable National Green Tribunal dtd 27.01.2022 in OA 117/2021**

I Mollukkutty Emmanuel, aged 55 years , D/o Late Mr Mani Joseph residing at Mattakkara do hereby solemnly affirm and state as follows.

I am the Executive Engineer ,Irrigation Division ,Kottayam ,who is the 3<sup>rd</sup> respondent in the above Original Application . I am well conversant with the facts of the case and competent to swear to this submission ,in my official capacity

1. It may be humbly submitted that , 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. For irrigation department , Flood control in the rivers is a great concern and works are arranged for mitigation of flood hazards ,for which funds are sanctioned from the government level. Within the limited funds ,works are arranged for the worst flood prone areas , considering the requests and petitions of Public ,Recommendations of M.L.A 's and MP's of the area ,for which Estimates are prepared by Engineers and got sanctioned from higher levels.Estimates are prepared by analysing the prevailing situations of the proposed areas for which field visits are conducted and necessary items are included based on the requisites at site .the argument note 1, placed by the Secretary, Kottayam Nature Society cannot be accepted, for the reasons stated below



(a) It is evident from the conclusions of the Joint committee report .ie The joint committee admits 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," also , the Joint Committee recommends Undertaking of flood control and mitigation measures in Meenachil River , by clearing the obstructions in the water way, whether it be the hanging branches of trees and bamboo bushes ,obstructing the flow of water or the depositions in the waterway, as these are efforts to reinstate the river to its original condition ,there by increasing the flow area and flood discharge capacity .These measures reduce the intensity of flooding. Further 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 .

(b) It may be submitted that, impact assessment or study is not needed in view of the extra ordinary Gazette Notification vide S.O (E)1224 dtd 28.03.2020 Appendix IX, SI no 7of **MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE NOTIFICATION** – that states ,Dredging and de-silting of dams, reservoirs, weirs, barrages, rivers and canals for the purpose of their maintenance, upkeep and disaster management are exempted from Environmental clearance.

It is quiet shocking that,the applicant has interpreted the actions of the District Collector, Engineers from Assistant Engineers to Chief Engineers, Peoples representatives from Panchayath members to MLA and Ministers, who have acted one way or other for mitigating the issues of flooding are collectively acting for sand mining and selling in the guise of de silting

2. It may be humbly submitted that **Irrigation department being the nodal department for the upkeep and maintenance of all the rivers ,including managing the flood and draught situations, department is bound to act as per the directions in the Orange Book of Disaster Management 2021, in the case of monsoon related flood hazards ,and in the light of upcoming monsoon seasons and the previous floods of 2018 and 2019, it is the responsibility of the Irrigation department to ensure, the free flow of flood water by removing the obstructions in all the canals, streams and rivers under the jurisdiction (Pg 140 -145 of Orange Book of Disaster Management 2021)**

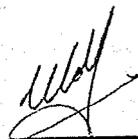
- As contemplated in the the Disaster management act 2005, standard operating

procedures are laid down in the Orange Book of Disastermanagement propounded by Disaster Management Department .The Monsoon Preparedness and Emergency Response plan is approved and issued vide powers vested upon the State Executive Committee of KSDMA and under Disaster Management Act 2005 -section22(2)(f) for strict compliance by the concerned departments central Agencies and District Disaster Management Authorities during the Southwest and North East Monsoons season (June to December)

The conclusions of Joint Committee report itself admits that Several delta formations are found along the river course.The width of the river has been reduced to a great extent due to delta formation at several places , there by reducing the water conveyance capacity which in turn results in excessive flooding of banks during the Monsoon.

Three works were arranged in Meenachil river and these are not only beneficial to the flood hazards, but also for Inland Navigation too, to a great extent and the main items included in the arranged works are 1) Desilting of deltas formed in the river at specific reaches due to deposition of sediments, which are visible even by mere eye observation 2) cutting branches of trees and bamboos overhanging to the river/boat route that obstruct the flow of water 3) Provisions for felling trees grown on these deltas which obstructs the flow which is to be removed only after getting permission from the social forestry department and 4) Removing water hyacinth 5) **Along with this, planting bamboos, Ramacham, Attuvanchi etc are also included in some works for providing bio-shielding protection of the banks.**

Regarding the works executed so far , only **one work was started** and no trees were cut or removed from the site, only hanging branches of small trees and hanging portions of bamboo bunches obstructing the flow of water were ,cut and deposited on the banks itself and the same remain stand still on compliance to the Order of Honourable NGt dtd 25.05.2021.



3. It is submitted that ,the same matter in the 2<sup>nd</sup> argument is reiterated in the 3<sup>rd</sup> argument ,hence submission for the second argument may be considered for these points.

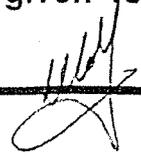
4. It may be humbily submitted that ,desiltation and rectification works of flood affected thodu and Branch canals and various stretches of main rivers under centrally sponsored scheme of SDRF were done statewide, in the previous years by the Department ,which were affected in the 2018 flood. Utilizing State Disaster Response Fund, better flow of flood water in the canals were ensured ,which in turn avoided the flooding of river banks to a great extent and the people of the locality were relieved of the illeffects of flooding to a great extent ,with that timely action.

Hence it may be considered that it is not intended to harm the environment ,but a solution to distress of a large no of flood affected victims.These works are much relevant since the area faces unexpected flooding due to unpredictable weather conditions during Monsoon season, as is evident from the Monsoon2021.

5. It may be humbly submitted that in the statement with reference to directions in Kerala Protetion of River Banks and regulation of Removal of sand act 2001 ,It can be 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.

● The statement that “the attempt is to remove sand illegally under guise of removal of silt” cannot be accepted in the context of recent floods of 2018,2019 ,2020 and 2021.Further in GO (Rt) No. 3880/2019/RD dated 24.12.2019 Government accorded sanction to all District Collectors to remove silt and debris in flood affected rivers as an immediate measure to accommodate flood waters and to increase the capacity of river channels. Copy of the Notification is enclosed as —Annexure-X of the Joint committee report .

● The appellatant may be aware that even in the environmental acts relating to sandmining, there are provisions for restricted sandmining for maintaining the natural flow capacity of the rivers and where there are significant flood hazard to existing structures or infrastructure ,provisions are given for maintaining the flood



**discharge capacity of the river.**

- In the Para 5 of the argument it is stated that 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.**

6. The environmental impact assessment stated in the arguments portion is not required in view of the notification stated in para (1b)above and the reasons which were already admitted by Joint committee .The Department and the officials are fully concerned about the environmental and ecological aspects and are bound to maintain its balance and has no objective of taking actions that affect ecology of the river.

As already stated department has no intention of removing sand and deepening of river bed . No activity that affect river ecology is being conducted instead all acts are to remove the obstructions to water flow by cutting the overhanging branches of trees and bamboo bushes ,for easy draining of flood water and **to maintain the width and depth of river ,by removing the deltas formed at identified reaches ,for easy flow of flood water**

7. It is submitted that ,the same matter in the Para 6th of the argument note is reiterated in the 7thPara ,It may be stated that as per extra ordinary Gazette Notification vide S.O (E)1224 dtd 28.03.2020 Appendix IX, Sl no 7of **MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE NOTIFICATION** – that states ,Dredging and de-silting of dams, reservoirs, weirs, barrages, rivers and canals for the **purpose of their maintenance, upkeep and disaster management are exempted from Environmental clearance.**

Hence department has not done any violations in this regard.The appellants may atleast consider the casualties faced by the fellow human beings during floods and put forward a solution for that ,rather than willfully prolonging the cases there by standing against the unanimous decisions of various departments standing for the sake of states Policy on mitigation of Flood hazards .

8.The statements in para 8 mentions the roles and duties of Environment department .It is submitted that the JointCommittee was constituted with Senior Scientist from the Ministry of Environment, Forest and Climate Change, Integrated Regional Office, Bangalore who considered the environmental aspects as well as the flood atrocities and has agreed with the conclusions of the Joint committee.It is humbly submitted that the conclusions of the Joint Committee may be given due consideration in this regard.

9. The environmental clearance stated in the arguments portion is not required in view of the notification stated in para (1b)above and the reasons which were already admitted byJoint committee . The joint committee recommends admitted that **no major damage has been caused to the environment due to initiation of activities in the Meenachil River** The Department and the officials are fully concerned about the environmental and ecological aspects and are bound to maintain its balance and has no objective of taking actions that affect ecology of the river.



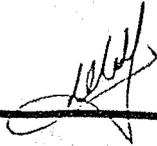
10. It may be humbly submitted that, as contemplated in the the Disastermanagement act 2005, standard operating procedures are laid down in the Orange Book of Disastermanagement propounded by Disaster Management Department .The Monsoon Preparedness and Emergency Response plan is approved and issued vide powers vested upon the State Executive Committee of KSDMA and under Disaster Management Act 2005 -section22(2)(f) for strict compliance by the concerned departments central Agencies and District Disaster Management Authorities during the Southwest and North East Monsoons season (June to December)

- In the case of monsoon related flood hazards , department is bound to act as per the directions in the Orange Book of Disaster Management 2021, and in the light of upcoming monsoon seasons and the previous floods of 2018 and 2019, it is the responsibility of the Irrigation department to ensure, the free flow of flood water by removing the obstructions in all the canals, streams and rivers under the jurisdiction (Pg 140 -145 of Orange Book of Disaster Management 2021)

It may be humbly submitted that submitted that the appellant may give due consideration to the flood havocs in the past and current years and arrive at an amicable solution for the sake of states Policy on mitigation of Flood hazards .Every year State Government is met with huge expenses in setting up and maintaining relief camps throughout the rainy season for victims of the flood affected areas. Rather expenditure is also met with rehabilitating those victims who has lost life and properties during floods.

11. It may be humbly submitted, in the present scenario of unpredictable Climatic conditions of extreme rainfall and Cloud bursts and series of land slides,Riverbasin wise studies were initiated state wide for the 44 rivers to address the Environmental issues,as well as the flood aspects .Actlons are taken on a war foot basis for better solutions .

In any case urgent measures are to be taken to avoid floods. As the works arrangedin meenachil river are crucial with regard to disaster management, also the MLA's MP's and flood affected victims and various organisations had expressed their grievences



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 studies are completed. 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.

12. The argument is only for addressing the necessity of stopping encroachments. Department is bound to stop encroachment in water courses

13. 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. 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 exist chances of landslides.

The statement, as to demarcation of boundaries 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 argument. 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.)

14. No specific allegations against department .The general allegations are denied.

15. It is respectfully submitted that ,the grave situations regarding flood havocs were already submitted to your good office vide statement of facts and Paper reports regarding the necessity of flood control activities in Meenachil ,and the conclusions of Joint committee Report also emphasis the immediate measures to be taken for flood mitigation .There is no intention of alleged sandmining as is evident from the conclusions of Joint Committee reports.

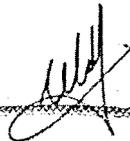
There is no economic interest as alleged in the arguments. It is evident from the conclusions of the various department authorities who were entrusted, in arriving at the conclusions of the Joint committee report, stands for the sake of protection of life and property of flood affected victims and avoiding future flood havocs as the region is prone to frequent flooding during Monsoon season in recent years.

16. The Joint Committee noted that since this region harbours a lot of endangered plant biodiversity, especially in the upper reaches; due care has to be taken to avoid any unnecessary damage to such plant species which are not only endangered but also which can also act as natural barriers for prevention of floods and in case of any unavoidable situation if any tree has to be uprooted or cut, appropriate number of relevant plant species which can act as natural barriers have to be planted for flood protection of banks, in concurrence with the Forest department.

It is submitted that while undertaking desilting activities especially on the deltas formed prior permission from District Tree Committee and Social Forestry wing would be obtained for cutting of trees and adequate provisions for planting of Bamboo, Ramacham, Attuvanchi etc. for protection of eroded banks have already been included in the estimate of the alleged works.

*In the year 2021, Kerala state was struck with extended Monsoon season and extreme unexpected rainfalls, associated with series of Cyclones, formed due to low pressure formations in the Arabian sea and Bay of Bengal.*

*Furious landslides associated with Extreme rainfall for extended period has dumped massive boulders and silt in to the river during the extended Monsoon up to November and extreme rainfalls associated with cyclones," especially in the upper reaches of Meenachil river, the desiltation of rivers has come up as the need of the hour, before the next Monsoon of 2022.*



State Govt has initiated, steps for prompt and immediate action for the removal of all major obstructions in the rivers to avoid flood and related calamities before next monsoon season of 2022 .

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

All the facts stated above are true to the best of Knowledge , belief and information

Dated this 07<sup>th</sup> day of February 2022

  
DEPONENT

Solemnly affirm and signed before me ,by the deponent who is personally known to me on this the 07th day of February 2022 at the Office of The Executive Engineer,Irrigation Division Kottayam.

  
പേഴ്സണൽ അസിസ്റ്റന്റ്  
ടൂ എക്സിക്യൂട്ടീവ് എഞ്ചിനീയർ  
ഇറിഗേഷൻ ഡിവിഷൻ  
കോട്ടയം

