

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHER ZONE AT CHENNAI**

**Original Application No. 105 of 2022 (SZ)**

**WITH**

**Original Application No. 122 of 2022 (SZ)**

**IN THE MATTER OF:**

Sunitha, Kerala

... Applicant

***Versus***

Union of India and Ors.

... Respondents

**WITH**

Ajitha, Alappuzha District

... Applicant

***Versus***

Union of India  
Represented by its Secretary  
MoEF&CC, New Delhi and Ors.

... Respondent

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Dated at Chennai on this 02<sup>nd</sup> day of December, 2022

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**REPORT SUBMITTED TO KERALA STATE BIODIVERSITY BOARD ON THE IMPACT OF DEMOLITION OF KAPICO KERALA RESORTS PVT. LTD ON BIODIVERSITY OF THE AREA WITH SPECIAL REFERENCE TO MIGRATORY BIRDS**

Submitted by

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&

Ms. Sruthy Jose  
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(The team visited the site on 18<sup>th</sup> November 2022)

This report is submitted based on the Letter No. 12191/A13/2022/KSBB dated 03-11-2022 from the Member Secretary, Kerala State Biodiversity Board.

**REPORT ON DEMOLITION OF M/S KAPICO KERALA  
RESORTS PVT. LTD**

**(AS REQUESTED BY BIODIVERSITY BOARD)**

Ref: Petition Before the National Green Tribunal of Smt. Ajitha w/o Manilal  
Chettuparampil, Thrichattukulam, P O Cherthala, Alappuzha

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The present petition is one before the National Green Tribunal submitted by Ms Ajitha, Thrichattukulam Cherthala. The petitioner is one of the several petitioners of the Vembanad *Kayal Samrakshana Vedi*, Cherthala Alappuzha, Kerala.

The petition has to the judgement of the Hon'ble Court of Kerala vide order dated 25.07.2013 in the WPO No. 19564/11 and Hon'ble Supreme Court SLP (C) No. 24390-24391 of 2013 order dated 08.08.2013, on ordered demolition of the illegal construction made by M/s Kapico Kerala Resorts Pvt. Ltd at Nediyaathuruthu island in Vembanad Lake, Alappuzha, Kerala.

The petitioner approaches the Tribunal as an aggrieved due to lack of scientific studies and EMP and statutory clearance before carrying out the demolitions of the construction in Vembanad Lake, a Critically Vulnerable Coastal Area (CVCA). The petitioner belongs to fishing population who find livelihood in fishing. The petitioner says that she is not against the demolition *per se* but the way it is carried out as according to her no study has been made to mitigate the impact of the demolition on the lake ecology. Demolition require prior clearance by MOEF as per CRZ notification 4(ii) (i), the petitioner claims that demolition without such a study will be ecologically disastrous. She claims that the first respondent has given an undertaking before the Hon'ble High Court that safeguards will be taken by preparing an EMP by sending a team for conducting such a study before the demolition.

The petitioner claims that the lake area is home to several migratory birds and home to fishes and aquatic marine animals which breed during different seasons in the lake. According to the petitioner, prior permission from the National Board of Wildlife has not been obtained, so that migratory birds are protected as per Wildlife protection Act as the avian population will be affected during demolition. Prior permission from the State Pollution Control Board is also not obtained, according to the petitioner. She apprehends that facilities for processing of liquid and solid wastes are not available locally and hence wastes need be transported to outside the state where processing plants are available. She claims that at Maradu, Kochi where a similar demolition was done in the past, demolition was done based on an EIA study by IIT Chennai and NGT has *suo moto* had taken up action in pursuant of the concerns raised by the local residents.

The petitioner observe that the Vembanad Lake region was wrecked by floods in 2019 (*it was in 2018*) and therefore apprehends that unregulated demolition will add to further deterioration of the lake ecosystem. She demands that a detailed EIA study and EMP is carried out before the demolition so as to ensure proper waste disposal based on well-defined Management plan.

She however, admits in her petition vide para 11 that Government of India (2<sup>nd</sup> respondent) has engaged an expert agency to conduct an EIA study and EMP before the demolition. However, no officials have approached or heard the *Kayal Samraskshana Samithy* or other residents in such a study. And the petitioner alleges that the EIA prepared is only a 'name sake' study.

From reports gathered it is evident that an Expert Committee was constituted by the Central Government, and site visit by the Expert Committee constituted was carried out on and a report submitted to the Hon'ble High Court which is available for compliance by the respondents. The TOR of the expert committee as per records include:-

1. Site visit to examine the plan of action on demolition proposed by the State Government/ Local Authority including transportation and disposal of debris.
2. Preparation of an EMP to mitigate adverse impacts of demolition.
3. Submission of a report and plan of action on demolition within 6 weeks on receipt of the same by the State Government/ Local Authority.

The Department of Environment and Climate Change, Govt. of Kerala has provided the copy of EIA report prepared by M/s Environmental Engineers and consultants Pvt. Ltd. for the

required demolition, it is evident that the committee has visited the site on 4<sup>th</sup> April, 2014 and the committee comprised the following experts:

1. Shri Amamatha Shetty, Additional Principal Chief Conservator of Forests Regional Office, Ministry of Environment and Forests, Bangalore.
2. Shri R Surendira Prasad, Member, National Coastal Zone Management Authority.
3. Shri Lalit Kapur, Director (Impact Assessment Division -III), Ministry of Environment and Forests, New Delhi besides State Government officials.

The recommendations of the committee, EIA is available for compliance, as detailed below:

- All the movable fixtures, fittings and furnishings, furniture, wardrobes, joinery items and electric items and installations to be should be salvaged first.
- The hazardous materials should be removed and transported before commencement of physical demolition of structures in compliance to HW (Management, Handling and Transboundary movement) Rules, 2008.
- Mechanical demolition is suitable for all the 54 villas since the majority of constructions are limited to Ground floor. Only the front of house is a multi-storey structure with strong concrete component, has an option of controlled blasting which will have minimum impact in terms of noise and vibration, without affecting the lake.
- As per action plan by PWD, Government of Kerala that only demolition of superstructure has been planned. It is noted that from the EIA report that there are 2143 numbers of 300 mm dia piles of 8-18 m depth, 277 piles of 450 – 550 mm dia of 45 – 50 m depth. Complete demolition/ removal of such huge numbers and deep sub surface pillars are not required to be done to safeguard the environment of the island.
- The level of the resort after demolition can be kept at the current level without altering the contours.
- The removal of materials and demolition should be simultaneously carried out, after completing the removal of fittings, fixtures and the hazardous materials in a given unit.
- Waste concrete should be disintegrated to small size before transportation. Reusable materials should be salvaged and auctioned.
- It should be ensured that there is no spillage of wasted debris on to lake water during the loading, unloading and transportation.
- Therefore, only suitable vessels, containers etc should be used. The barge used for this purpose should be certified by the appropriate authority.

- Demolitions should be carried out during non-rainy season as per the suggestions made in the EIA report and restricted to day time.
- The demolition site should be screened upto 3 feet above the height of the structure to avoid the spread of dust and other material into the nearby environment.
- The demolition should be monitored/ reviewed regularly by Collector or Sub-Collector of the District. The channel made within the resort to reach the front of the house shall be blocked and the water level should be brought down prior to demolition, so as to prevent entry of debris & dust to the lake through the canal.
- The EIA suggested for providing of wind screens, water sprinklers for the control of dust during demolition. This can be accepted, wind curtains shall be provided all around the structures prior to its demolition so as to curtail dust and debris within the site. The height of the wind curtain shall be at least 3 feet more than the structure to be demolished. Water sprinklers to be provided.
- Safety equipment's viz. helmets, ear muffs etc shall be provided to the workers and all safety measures should be followed.
- A small capacity mobile STP for the treatment of the waste water may be provided on the Island, by M/s. Kapico Kerala resorts Pvt. Ltd.
- Protection wall around the island is to be retained and mangrove vegetation in and around the island to be promoted.
- Demolition should be carried out during non-rainy season as per the suggestions made in the EIA report and restricted to day time.

The master plan of demolition is proposed to be submitted to MoEF, Kerala State Pollution Control Board & Kerala Coastal Zone Management Authority etc. for approval. The action plan can be executed with the approval and supervision of Kerala State Pollution Control Board & Kerala Coastal Zone Management Authority.

It is known that although the final order of the Supreme Court on the demolition was delivered in 2020, the execution was delayed because of the lockdowns induced by the Covid-19 pandemic. In the context of a new CRZ Notification, 2018 to permit FSI for construction projects and to have a No Development Zone (NDZ) of 20 meters, stipulated for all such Islands: in the wake of unique geography of such regions, any further delay will only lead to further litigations for flouting conservation principles in the coastal region.

Now, after a long drawn legal battle, following a directive from the Supreme Court, the demolition process of resort on Vembanad Lake near Alappuzha has already begun under the watchful eyes of the Alappuzha district authorities. It is known that the district administration headed by the District Collector has been supervising demolition process regularly. The demolition is proceeding with the aim of salvaging all reusable items and it is being currently stored in the site itself. Two JCBs are being operated on a daily basis with a total staff of around 15 per day working from 8 am to 5 pm. A few trees, mainly planted coconut palms and shrubs, near the buildings were damaged. Around 35-40 LED lights are being used in the night for security purposes (avoiding theft of salvaged items). The solid wastes consisting of cement, rubble, bricks etc. are currently left untouched in the site of demolition itself. No waste has been dumped into the nearby lake (photographs enclosed in the last page). The officials of the Panavally Panchayath and Kerala State Pollution Control Board are also visiting the site on a regular basis for monitoring the sound, air and water pollution.

Observations:

With the above suggested measures viz.,

1. Maintaining of the retaining wall and formation of a mangrove vegetation belt around the island.
2. Removal of all hazardous material safely as envisaged.
3. Preventing the deposition of demolition debris and other sediments into the lake.
4. Ensuring no increase in turbidity of waters around the island.
5. Providing of wind screens, water sprinklers etc. to control dust deposition during demolition.
6. Use of wind curtains all around the structures prior to its demolition curtails dust and debris within the site.
7. Ensuring adequate measures to avoid noise and vibration during demolition.
8. Blocking of the channel from resort area to the lake outside.

Above all these, demolition restricted to non-monsoon months will avoid the adverse effects on the planktons, benthic fauna and avian migrant fauna. Lights used in the night for security purposes may causes trouble to nocturnal birds and animals. As the region is exposed to

semi diurnal tides, no negative effects in the lake environment are envisaged. The suggestion to form a mangrove belt around the island will of great help in recolonisation of aquatic fauna. This might also help attract more avian visitors in the region. Apparently, there is little basis for the apprehension raised by the litigant.

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