

**IN THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE),
CHENNAI**

Original Application No. 128 of 2021 (SZ)

Ibrahim Karim

.....Applicant

V.

State of Kerala & Ors

.... Respondents

REPLY STATEMENT TO THE REPORT FILED BY THE 3RD RESPONDENT

S. Sabarinadh (K/313/2014)

Indulekha Joseph (K/548/2014)

Counsel for the Applicant



Legit & Wise

Law Firm

**IN THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE),
CHENNAI**

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Between:

Ibrahim Karim

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//CERTIFIED TO BE TRUE COPIES//

Dated this the 26th day of January, 2022



Counsel for the Applicant

**IN THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE),
CHENNAI**

Original Application No. 128 of 2021 (SZ)

IN THE MATTER BETWEEN

Ibrahim Karim, aged 54 years, S/o Ibrahim, Pallivasal Estate, Factory Division, Munnar P.O -685612, EmailID-Pvlkarim2@gmail.com, Mobile-+918078325847..... **APPLICANT**

AND

1. State of Kerala represented by the Chief Secretary, Government Secretariat, Thiruvananthapuram-695001, EmailID-chiefsecy@kerala.gov.in, Phone- 0471-2333147
2. Kerala State Environment Impact Assessment Authority, represented by Chairman, K.S.R.T.C Bus Terminal Complex, 4th floor, -Thampanoor, 90 Thiruvananthapuram, Kerala - 695 001, Email ID-seacseiaakerala@gmail.com, Phone- +91471-2334262
3. Public Works Department, Building Division, Pathanamthitta, represented through Executive Engineer, 2nd floor, Mini Civil Station, Pathanamthitta-689645, EmailID-eeblpta@pwd.kerala.gov.in, Phone-0468-2224833
4. Public Works Department, represented through Principal Secretary, Secretariat, Thiruvananthapuram-695001, EmailID-prlsecypwd@gmail.com, Phone- 0471-2335452
5. The Union of India, through its Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi - 110 003; represented by the Principal Secretary, EmailID-secy-moef@nic.in, Phone- 01124695262
6. The Superintendent Engineer, Public Works Department (Building), Southern Circle, near Public Office Building, Thiruvananthapuram-695033, EmailID-sescbl.pwd@kerala.gov.in, Phone- 0471-2327898,
7. Minor Irrigation Sub Division, 124, Pathanamthitta, Thazhoorkadavu Rd, Azhoor-689645 represented through Assistant Executive Engineer, EmailID-ptamisubdivision@gmail.com, Phone--0468-2271272

.....**RESPONDENTS**

TO THE HON'BLE CHAIRMAN AND HIS COMPANION MEMBER OF THE NATIONAL GREEN TRIBUNAL, REPLY STATEMENT SUBMITTED BY THE ABOVE NAMED APPLICANT

1. All the averments raised in **Paragraphs 1-4** of the Statement of Facts submitted by 3rd Respondent (at Page No.2) and the report dated 04.08.2021 of the 3rd Respondent as produced in Page No. 4 of the Report of the 3rd Respondent, are mostly false, misleading, baseless,



and irresponsibly framed; hence denied. Thus, all statements unless admitted specifically hereunder, are hereby stoutly denied.

2. At the outset, it is submitted that, averments in Paragraphs No. 1 to 4 (at Page No. 2) and Page No. 4 of the Report of the 3rd Respondent are one and the same. As separate replies for congruent statements are unnecessary and futile, the Applicant is addressing those issues in common.
3. The averments in **Paragraph No. 1 and 2 of the Statement of Facts and that of the Page No. 4 of the Report** mainly pertains to the factual details involved in the construction of multi utility complex. Many of the statements are untenable and false.
 - I. Those facts are solely within the knowledge of the 3rd Respondent and hence should be subject to strict proof.
 - II. However, the statement to the effect that **non-availability of funds** has resulted in the reduction in area of building from 22351.90 Sq. M. to 18,720 Sq. M., **is utterly false**, misleading, and baseless.
 - III. The aforesaid **reduction in the area of the building is implemented in order to bypass the legal requirement of Environmental Clearance** as mandated under Paragraph 4 (iii) of the Environment Impact Assessment Notification, 2006.
 - IV. A mere perusal of reference No. (2) of Document No. 1 throws light on the fact that the aforesaid decision has happened in the aftermath of W.P.C.No.13713/2019 filed by one Sri. K.O. Johny; challenging the absence of Environmental Clearance in view of Paragraph 4 (iii) of the Environmental Impact Assessment Notification, 2006.
 - V. Now, W.P.C.No. 13713/2019 was filed assailing the construction of Multi-Utility Complex above 20, 000 square meters, by flouting Paragraph 4 (iii) of the Environmental Impact Assessment Notification, 2006.
 - VI. No other reliefs/ issues regarding restitution of the environment, damage to flora and fauna, illegal conversion of stream and floodplain were raised by the Petitioner therein before the Hon'ble High Court of Kerala.
4. From the Joint Committee report dated 02.09.2021 filed before this Tribunal, the Applicant became aware of W.P. (C) No. 13713 of 2019 pending before the Hon'ble High Court of Kerala in respect of the same subject matter.
5. Consequently, Applicant filed an impleading Petition in W.P. (C) No. 13713 of 2019. Unfortunately, the said Impleading Petition was not considered by the Hon'ble High Court of Kerala. However, during the course of arguments of the Applicant's impleading Petition, the



Hon'ble High Court has orally observed and made it clear that the apprehension of the Applicant is unnecessary as there is no impediment in dealing with the Environmental issues by this Tribunal. After stating the same, Hon'ble High Court of Kerala dismissed W.P. (C) No. 13713 of 2019 by Judgment dated 05.01.2022; on the ground that 3rd Respondent had decided to restrict the area of construction. The relevant part of the Judgment is extracted for clarity.

“Thus, when respondents have filed the proof of restricting the construction of the proposed building to 18720.4 M², there is no need to obtain clearance from the Authorities under the EIA Notification. Placing on record the above, we are of the view that there is no need to issue any mandamus, as sought for. Writ petition is dismissed accordingly”

A True Photocopy of the Judgment dated 05.01.2022 in W.P. (C) No. 13713 of 2019 passed by the Hon'ble High Court of Kerala is produced herewith and is marked as **ANNEXURE A7**. Annexure A7 and all other forthcoming Annexures, being relevant documents, are produced and marked as numerical continuation to Annexures A1-A6 that were originally produced along with the above Original Application.

6. A bare perusal of Annexure A7 would prove the question dealt with is confined to issuance of mandamus in light of the submission of the Official Respondent. Even the question of bypassing the requirement of Environmental Clearance was not considered. Therefore, indubitably, all the unraised/ unattended legal and Environmental issues pertaining to (1) bypassing a statutory requirement & (2) the restitution of the damaged environment, damage to flora and fauna, illegal conversion of stream and floodplain remains unaddressed. These issues need to be addressed by this Tribunal.
7. It goes without saying that the Hon'ble High Court of Kerala was terribly misled by the Official Respondent. The Petitioner therein never corrected the same. Applicant, on the other hand, never got an opportunity to curate such a fraud. **Reduction of area, claimed by the 3rd Respondent is a fraud on statute** for the following reasons:
 - I. The mechanism for construction of a public building commences with a proposal and the utility it envisages. The administrative sanction for a certain project is given by the Government.
 - II. It is based on this Administrative Sanction that the architecture of the Building is made. However, the architectural wing of the PWD does not have any authority to reduce or increase the project size, according to their fancies, sanctioned by the Government.



- III. Now, it was following such an **Administrative Sanction, for a building with an area of 22351.90 Sq. M**, that the project was designed and execution of the same commenced.
- IV. Consequently, the **piling work for the entire structure was completed**. It goes without saying that the Foundations, made through piling of subsoil, provide support to the structure and transfers the loads from the structure to the soil.
- V. The quality and quantity of piling depends primarily on the load from the superstructure. In the case at hand, **piling work required for a building with an area of 22351.90 Sq. M (deep foundation) is already completed** by disturbing the water level, nearby streams and flood plain.
- VI. In other words, **the primary environmental damage has been caused**. The aforesaid construction has already crucially affected the adjoining ecosystem.
- VII. **After committing such destruction, they are claiming that we will reduce area, so as to get over the statutory prescription. This is nothing but fraud on statute** and making a mockery out of the Courts. This illegality can never be allowed. If that is the case, **every violator can always plead this defense after committing environmental damage** as they wish.
- VIII. Above all that, the decision of restricting the area of construction is extracted in Annexure A7 Judgment. The said Decision decides that the area of the building was allegedly reduced to 18720.4 M², by deciding not to construct 2 floors. **This decision is a proceeding of the Chief Engineer**.
- IX. It goes without saying that the **Chief Engineer is not empowered** to override the administrative sanction/ technical sanction already given by the Government. Hence the issuance of Document No.1 itself **is without power**.
- X. Moreover, such a decision is not accompanied with a proper design. It does not address the already committed damage. It is an idea popped up for defrauding the Courts.
- XI. A Letter dated 23.01.2014 of the Ranni MLA is referred to in Document No.1; which claims that the MLA south for restriction of Floors 10 & 11.
- XII. However, the Letter of Ranni MLA dated 18.11.2014 speaks otherwise. A True Photocopy of the Letter issued by Sri. Raju Abraham, the then Member of Kerala Legislative Assembly (Ranni Constituency) dated 18.11.2014 to the Chief Engineer, Buildings Kerala Public Works Department along with its english translation is produced herewith and is marked as **ANNEXURE A8**.
- XIII. Annexure A8 proves that the MLA has only sought for extended construction and has never uttered any word about restricting the construction.
- XIV. The letter sent by the Chief Engineer to the Chief Engineer, Buildings after Annexure A8 is very important at this juncture. A True Photocopy of the Letter No. DRIQ/BL/D36/2011 dated 27.03.2015 issued by the Chief Engineer to the Chief Engineer, Buildings Kerala Public Works Department is produced herewith and is marked as **ANNEXURE A9**.



- XV. Moreover, in Annexure A9 the idea of Twelve Storey building is retained by the 3rd Respondent. A conjoint reading of these documents would prove that all the claims of reduction of construction area are false.

For all the above reasons, the “*decision for restriction of area of construction*” is a fraud on statute and Court.

8. The averments in **Paragraphs No. 3 and 4 of the Statement of Facts and Paragraph No. 3 of the Page 4 of the report** are contrary to facts and legally incorrect. This is because:

- I. As contended therein Rule No. 7A and Rule 54 of Municipality Rules never stipulates that prior permission of local body is not necessary since drawings were prepared by Chief Architect.
- II. We presume that the Municipality Rules the 3rd Respondent might have meant the Law applicable at the relevant time ie. the Kerala Municipality Building Rules, 1999 (hereinafter referred to as Rules for short). In fact there is no such provision in the Municipality Rules. The 3rd Respondent needs to enlighten us about such a provision.
- III. It is further claimed that “**as a part of intimation**”, which the Applicant does not understand, the sketch and plan were submitted to the local body. No scrap of communication is produced. The 3rd Respondent should be subject to strict proof regarding the said claim.
- IV. Moreover, the 3rd Respondent has miserably and deliberately refused to comply with various statutory prescriptions as mandated under the Rules. The statutory prescriptions are as stated below:
 - A. Rule 4 (2) of the Rules mandates the requirement of a building permit for the construction of building by any person. In the instant case as admitted by the 3rd Respondent, other than mere intimation to the local body (without admitting the factum of intimation by the Applicant), **no building permit is seen obtained by the 3rd Respondent.**
 - B. Rule 7 (2) of the Rules stipulates the submission of a set of plans of the proposed building along with the certificate issued by the Chief Architect, before the Secretary. In the case at hand, even if the plans are prepared by the Chief Architect as alleged by them, going by Rule 7 (2) the same needs to be submitted to the Secretary of the Local body for issuance of building permit. **That is not done.**
 - C. Rule 5 (2) of the Rules mandates that, in the case of any development of land by the State Government Department, the officer authorized shall submit a set of layout plans and all other details with a certificate issued by the Chief Architect, to the Secretary.

Stipulations under Rule 5 (2) and issuance of development permits are not complied.

Therefore, it is **clear from the Municipality Rules that the Government is not exempted from obtaining a valid building permit.** Rules 4 (2) read with 7 (2) & 5 (2) of the Rules mandates a valid Building Permit and Development Permit for construction of all buildings even if it is the Government. Therefore any argument to the contrary is legally unsustainable.

9. It is humbly prayed that the Statement submitted by the 3rd Respondent is utterly baseless and is liable to be discarded and the Original Application is liable to be allowed in totum.



Counsel for the Applicant

VERIFICATION

I, Ibrahim Karim, aged 54 years, S/o Ibrahim, Pallivasal Estate, Factory Division, Munnar P.O-685612, the Applicant in the above Application do hereby verify that the contents of Paragraphs 1-10 are true to my personal knowledge and that I have not suppressed any material fact.

Place-Ernakulam

Date-26.01.2022



Signature of the Applicant

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 5TH DAY OF JANUARY 2022 / 15TH POUSHA, 1943

WP(C) NO. 13713 OF 2019

PETITIONERS:

K.O.JHONEY
 AGED 56 YEARS
 S/O. PAPPACHAN, KOCHI MEDIA, OPPOSITE ST. ANTONY'S CHURCH,
 KALOOR, ERNAKULAM - 82017
 BY ADVS.
 SRIBIJU ANTONY ALOOR
 SRI.K.P.PRASANTH
 SMT.BHAVNA THAMPI
 SHRI.ARUNRAJ S.
 SHRI. PRASANTH N.O.
 R.G RAGESH CHAND

RESPONDENTS:

- 1 DISTRICT COLLECTOR
 PATHANAMTHITTA, CIVIL STATION,
 PATHANAMTHITTA DISTRICT - 689 645.
- 2 KERALA STATE ENVIORMENTAL IMPACT ASSESSMENT
 PALLIMUKKU, PETTAH P.O, THIRUVANANTHAPURM, KERALA - 695
 024 REPRESENTED BY ITS CHAIRMAN.
- 3 RANNI - PAZHAVANGADI GRAMA PANCHAYATH
 PANCHAYATH OFFICE, RANNI, PATHANAMTHITTA DISTRICT - 689
 673.
- 4 SECRETARY
 RANNI- PAZHAVANGADI GRAMA PANCHAYAT OFFICE, RANNI,
 PATHANAMTHITTA DISTRICT - 689 673.
- 5 STATE OF KERALA
 REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
 SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 6 PUBLIC WORKS DEPARTMENT
 BUILDING DIVISION, PATHANAMTHITTA - 691 523,
 REPRESENTED BY THE EXECUTIVE ENGINEER.
- 7 PRINCIPAL SECRETARY FOREST, FOREST AND WILD LIFE

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DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT,
1ST FLOOR, MAIN BLOCK, THIRUVANANTHAPURAM.

- 8 CHIEF TOWN PLANNING OFFICER, DEPARTMENT OF TOWN
AND COUNTRY PLANNING, GOVERNMENT OF KERALA, SWARAJ
BHAVAN, 2ND FLOOR, NANTHANCODE, KOWDIAR. P.O.,
THIRUVANANTHAPURAM.
- 9 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM DIST. - 695001.
BY ADVS.
SRI.M.P.SREEKRISHNAN, STANDING COUNSEL FOR R2
SRI.TEK CHAND, SENIOR GOVERNMENT PLEADER FOR R1,
R5 & R6

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05.01.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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JUDGMENTDated this the 5th day of January, 2022**S. MANIKUMAR, CJ.**

Petitioner has sought for the following reliefs:

(i) Issue a writ of mandamus or any other appropriate writ directing respondent Nos.1 to 6 to ensure that no building construction more than 20,000 square meter is carried out in the Government land by any person including the 6th respondent without obtaining all statutory permission and licenses, including prior environmental clearance.

(ii) Issue a writ of mandamus or any other appropriate writ directing 1st respondent to do the needful to take cognizance of the offence under the Environment (Protection) Act, 1986 against the persons concerned.



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2. Grounds raised by the petitioner in support of the reliefs are as hereunder:

"A. The constructional activity carried out by the 6th respondent in the property of the 5th respondent without obtaining various clearances and permissions under the provisions of the EIA Notification, 2006, Kerala Panchayat Raj Act, 1994 and Kerala Land Utilization Order, 1967 is *per se* illegal and is liable to be stopped immediately.

B. The constructional activity carried out by the 6th respondent by working hand in glove with the respondents herein according to their whims and fancies without any proper supervision by the proper statutory authorities is clear exploitation of the tax payer's money. Since, the construction is being carried out by the 6th respondent without any clearances or permissions, there is no accountability for the same. Since, the respondents No. 1 to 3 who are the competent authorities curtail the act of the 6th respondent, is sitting mum over the petitioner's complaint, the petitioner has no other option than to approach this Hon'ble Court for the redressal of his grievance.

C. The petitioner has no other alternate or efficacious remedy than to approach this Hon'ble Court for the invocation of the extra ordinary jurisdiction under Article 226 of the Constitution of India.

D. It is evident from Exhibit P1 that the project of the 6th respondent



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exceeds more than 20,000 square metres and hence the same requires prior environmental clearance from the 2nd respondent before starting any construction. However, it is seen from Exhibit P3 communication that no prior clearance has been granted to the 5th or 6th respondent till date for constructing the multi utility complex. This is clear violation of the provision of the EIA Notification, 2006.

E. The 6th respondent ought to have preferred an application under Section 235 F of the Kerala Panchayat Raj Act, 1994 and obtained a building permit from the 3rd and 4th respondents before starting any constructional activities. However, it is seen from Exhibit P5 communication that no permission has been accorded from the office of the Secretary of the 3rd respondent till date to start the constructions activities of the multi utility complex till date. This is clear cut violation of the provisions of the Kerala Panchayat Raj Act, 1994 and the Kerala Panchayat Building Rules.

F. The petitioner has also come to learn from the local residents that the land in question was a 'nilam' till some time back. However, it is learnt reliably that neither the 5th respondent nor the 6th respondent has obtained any permission under the Kerala Conservation of Paddy Land and Wetland Act, 2008 or the Kerala Land Utilization Order, 1967 for use of land for any other purpose. This is per se illegal and is to be curtailed by the 1st respondent.

G. The inaction on the part of the respondents No. 1 to 3 on the illegality committed by the 5th and 6th respondents is clear dereliction of duty



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and clearly indicates that the respondents are working hand in glove to perpetuate the illegality to extort the tax payer's money from the public ex-chequer.

H. The careless manner in which the construction materials are being dumped in the construction site is posing huge threat to the life of the local residents, pedestrians as well as motorists. This is unacceptable and stringent action has to be taken against the illegality done against the public at large.”

3. Refuting the averments, the Executive Engineer, Public Works Department, Building Division, Pathanamthitta has filed a counter affidavit dated 1st August, 2019, wherein it is contended thus:

“3. It is respectfully submitted that the project in question was proposed by the Member of Legislative Assembly of Ranni Legislative Assembly Constituency as a multi-storied pilgrim centre for Sabarimala Pilgrims within the limits of Ranni-Pazhavangadi Grama Panchayath. The 3rd respondent acquired necessary land required for construction of the Pilgrim Centre based on the Order of the Government No. GO(RI) No. 3598/08/LSGD /Tvm. dated 07.10.2008. The administrative sanction for the work was obtained vide GO(Rt) No. 1550/13/PWD dated 27.11.2013 - for an amount of Rs. 16.5 Crores. The technical sanction was obtained



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by Order No. CE/L/PTA/2597/11 dated 05.03.2014 of the Chief Engineer, PWD. After obtaining the necessary sanction, the work was tendered and site was handed over to M/s. Rojer Mathew and Company as per Agreement No. 23/SCVSC/14-15 dated 30.09.2014. Pursuant to the handing over of the site to the Contractor for construction, the piling works commenced at the site. It is apposite to mention here that there is no pathway inside the site and trespassers were not allowed to enter the site. No building materials are kept outside the premises where the construction is effected so as to obstruct pedestrian movement. Therefore, the allegation to the effect that the entire area is in a chaotic mess, as a result of building materials being strewn all over obstructing the pathway of pedestrians is made only to suit the Writ Petition.

4. It is respectfully submitted that the allegation in the Writ Petition to the effect that the 2nd respondent has not issued any prior environmental clearance to the 5th or 6th respondent till date for construction of the multi-utility complex is unfounded, in as much as the building now under construction is only having a total area of 18,720.4 M², due to non-availability of funds earmarked for the project. The total area has been reduced to 18,720.4 M² from the proposed area of



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22351.90 M². Under the circumstances, there is no necessity for prior environmental clearance for construction of the work as the total area of the building in question is less than 20,000 Sq. M. Further as per Rule 5 of the Kerala Panchayath Building Rules, application for development permit is not necessary as the construction is for a State Government Department. Likewise, 6th respondent has confirmed with the stipulations necessitated as per Rule 7 of the Kerala Panchayath Building Rules.”

4. The said respondent has also filed an additional affidavit dated 28th October, 2019, wherein it is contended thus:

“3. It is respectfully submitted that the split up area of the floor in the building in question is given in a tabular form hereunder.

FLOOR	AREA IN SQ.M
Ground Floor	1406.9
Parking	1888.1
First Floor	1228.2
Second Floor	1741.5
Typical Floor (3,4,5,6,7,8 & 9th Floors)	1741.5 X 7 =12190.5
Terrace Floor	
Total Area	18720.4



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The Plan of ground floor, 1st floor, 2nd floor and the floors from 3 to 9 are produced herewith and marked as Exhibit R6(a). The above would show that the total area of the building is 18,720 M² excluding 10th & 11th floor. Under the circumstances, this Honourable Court may be pleased to find that no Environmental Clearance is required as a total area of the building is less than 20000 M² and the contention to the contrary is devoid of merit.

In view of the above, this Honourable Court may be pleased to dismiss the Writ Petition and permit the respondents to proceed with the construction of the pilgrimage centre at Ranni, in the interest of justice."

5. Going through the material on record, we found that the respondents have taken a stand that the construction proposed is for Sabarimala pilgrims and that the total area of construction has been reduced to 18720.4 M² from the proposed area of 22351.90 M².

6. As there was no supporting materials for the said contention, we directed proof to be filed. Accordingly, a memo dated 8th June, 2020 has been filed by the Senior Government Pleader substantiating the contention that construction has been reduced to 18720.4 M² and not beyond 20000 M², as provided under the Environment Impact Assessment Notification, 2006.



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7. Proceedings of the Chief Engineer, Public Works Department (Buildings), Thiruvananthapuram dated 3rd January, 2020, restricting the total area of construction to 18720.4 M², is reproduced hereunder:

*"PROCEEDINGS OF THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT
(BUILDINGS), THIRUVANANTHAPURAM*

(Present:Er. Huygheen Albert)

Sub:- PWD -Sanctioning of Environmental Clearance for the Construction of Pilgrim Centre at Ranni Ittiyappara- Order issued - reg:

Read: 1) Letter No. 18/PWD(B)SCTVPM/3299/2013 dated 08/11/2019 of the Superintending Engineer of PWD Buildings South Circle, Thiruvananthapuram Read:

- 2) Writ Petition No. 13713/2019 filed by Mr. K.O. Johnny
- 3) Letter received from Sri. Raju Abraham, M.L.A. of Ranni Constituency dated 23.01.2014

ORDER NO: CE/BL/PTA/A1/5266/2018 DATED 03/01/2020

The Superintending Engineer of PWD Buildings South Circle, Thiruvananthapuram has reported vide ref. cited 1st that due to inadequacy of funds for construction of the Pilgrim Centre at Ittiyappara and based on the request of the Hon'ble M.L.A. of Ranni Constituency, by excluding the construction of the 10th and 11th floors, the area of the building would be only 18720/M2 and prior Environmental Clearance is not



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required. And also, the Hon'ble MLA of Ranni Constituency requested vide letter cited 3rd to rearrange the work by excluding construction of the 10th and 11th floors of the proposed building.

Hence sanction is hereby accorded to fix the total area of the building as 18720/M2 by excluding the construction of the 10th and 11th floors of the proposed building.

Sd/-
CHIEF ENGINEER "

8. In respect of the grounds that permission has not been required from the 3rd and 4th respondents viz., Ranni – Pazhavangadi Grama Panchayath, Pathanamthitta District and its Secretary, we are satisfied with the reasons assigned in the counter and additional affidavits filed by Public Works Department, Building Division, Pathanamthitta, represented by the Executive Engineer – the 6th respondent. We do not find there is any illegality or dereliction of duty, as alleged.

9. Thus, when respondents have filed the proof of restricting the construction of the proposed building to 18720.4 M², there is no need to obtain clearance from the Authorities under the EIA Notification – 2006.



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10. Placing on record the above, we are of the view that there is no need to issue any mandamus, as sought for.

Writ petition is dismissed accordingly.

Sd/-

S.MANIKUMAR
CHIEF JUSTICE

Sd/-

SHAJI P.CHALY
JUDGE

smv



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APPENDIX OF WP(C) 13713/2019

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE PHOTOCOPY OF THE REPLY DATED 16.04.2019 ISSUED FROM THE OFFICE OF THE 6TH RESPONDENT TO THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P2 A TRUE COPY OF THE REPLY DATED 30.07.2018 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT TO THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P3 A TRUE PHOTOCOPY OF THE DETAILED REPRESENTATION THROUGH EMAIL DATED 14.08.2018 PREFERRED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION
- EXHIBIT P4 A TRUE PHOTOCOPY OF THE COMMUNICATION DATED 14.11.2018 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT TO THE PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P5 A TRUE PHOTOCOPY OF THE COMMUNICATION DATED 20.12.2018 ISSUED BY THE SECRETARY OF THE 3RD RESPONDENT TO THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.
- EXHIBIT P6: TRUE COPY OF THE PHOTOGRAPHS

RESPONDENT EXHIBITS

- EXHIBIT R6(a) TRUE COPY OF THE PLAN OF GROUND FLOOR 1ST FLOOR, 2ND FLOOR AND THE FLOORS FROM 3 TO 9.

THIS IS THE TRUE COPY OF THE
DOCUMENT MARKED AS
ANNEXURE A7



ADVOCATE

രണ്ടു എംപിമാരെ
(രണ്ടു)
മെമ്പർ
കേരള നിയമസഭ
കണ്ടനാട്ട്
അങ്ങാടി പി. ഒ.
രാണി



ഫോൺ: 04735-225090
 ഫാക്സ്: 04735-227077
 തിരുവനന്തപുരം: 0471-2512258
 മൊബൈൽ: 9447125090

സംഖ്യ: 0700
 തീയതി: 18/11/14

ചീഫ് കമ്മീഷണർ
 ഹിസ്റ്റോറിക്സ്

നമ്മുടെ സംസ്ഥാനത്ത് വിവിധ ഭാഗങ്ങളിൽ
 നിലവിലുള്ള വിവിധ തരം കെട്ടിടങ്ങൾ
 തിരിച്ചറിയുന്നതിനും അവയുടെ സ്വഭാവം
 നിർണ്ണയിക്കുന്നതിനും സർക്കാർ ഭരണ
 സ്ഥാപനങ്ങൾക്ക് സഹായകരമായിരിക്കുന്ന
 വിവിധ തരം കെട്ടിടങ്ങൾ തിരിച്ചറിയുന്നതിനും
 അവയുടെ സ്വഭാവം നിർണ്ണയിക്കുന്നതിനും
 സർക്കാർ ഭരണ സ്ഥാപനങ്ങൾക്ക് സഹായകരമായിരിക്കുന്ന
 വിവിധ തരം കെട്ടിടങ്ങൾ തിരിച്ചറിയുന്നതിനും
 അവയുടെ സ്വഭാവം നിർണ്ണയിക്കുന്നതിനും

കേരള സർക്കാർ ഭരണ സ്ഥാപനങ്ങൾ
 (കെ.എ.ടി) കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി.
 കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി.
 കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി.
 കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി.

[Handwritten Signature]
 കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി. കെ.എ.ടി.സി.

[Handwritten Signature]



Raju Abraham
(Ranni)
Member
Kerala Legislative Assembly
Kandanattu
Angadi P.O
Ranni

Phone
Residence:
Office
Thiruvananthapuram
Mobile: 9447125090
Place: Ranni
Date:18.11.14

Chief Engineer,
Building

Construction should be started after making some changes in the currently designed Ranni-Sabarimala Building Centre. As no further land is available for Government Building in Ittiyappara Town, it is suggested to give required instructions to construct 4 floors including Ground Floor in full width by utilising maximum land; and to keep the remaining floors in the same manner.

Signature

Raju Abraham

THIS IS THE TRUE COPY OF
DOCUMENT MARKED AS
ANNEXURE A8

ADVOCATE

No. DRIQ/BL/D36/2011

Office of the Chief Engineer
 Design, Public Works Department,
 Thiruvananthapuram-695033
 Phone : 0471 2325856
 Dated: 27/03/2015

From

The Chief Engineer

To

The Chief Engineer
 Buildings, PWD
 Thiruvananthapuram.

Sir,

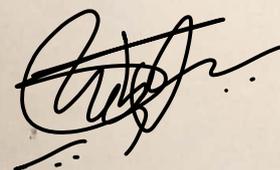
Sub:- Construction of Pilgrim Centre, Ranni - reg.

- Ref:-
1. This office letter of even No. dated 31/01/2015.
 2. Letter No.D3-3054/2012 dated 17/03/2015 of the Executive Engineer, Buildings Division, PWD, Pathanamthitta.
 3. Letter No.BSC/3299/2013/D8 dated 20.02.2015 of the Superintending Engineer(Buildings), South Circle, PWD, Thiruvananthapuram
 4. Priority list received vide letter No.CE/BL/GL/2013 dated 22/01/2014 of that office.

Inviting attention to above work I may inform you the following:

Initially the above was planned for a three storeyed structure – as per AR drawing No.61/10(D) – and later the AR drawings has been revised for a twelve storeyed structure – AR drawing No.29/11(D). In the list of priority of works received vide reference 4th cited, the above work was marked as "Design Received", and no priority was assigned. Hence this work was set aside for finalising the design of other works with top priority. The copy of the first soil investigation report furnished to this office is seen recommending foundation for a three storeyed structure. In this report, the soil consultant has specifically pointed out, under recommendations, Note(ii), that "deep mechanised boring combined with rock coring have to be resorted to in the case of much heavier loads." Hence this report cannot be used for the twelve storeyed structure. Pointing out the above facts a letter vide reference (1) cited, was forwarded, requesting to furnish a revised soil investigation report with Bore hole locations incorporated in the layout of the AR drawing, along with contour map, for taking up design for this work.

28/03/2015



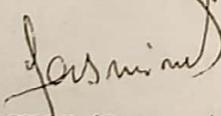
The Superintending Engineer, South Circle Thiruvananthapuram vide reference (3) cited had reported on 20/2/2015 that the contract for the above work has been awarded to M/s Roger Mathew & Co. Kochi, and agreement executed.

In response to this office letter reference (1) cited, the Executive Engineer vide reference (2) on 17/3/2015 has furnished a new SR, after conducting mechanised investigation. In this new report it is found that hard rock is found in all the bore holes, but lacking details of rock characteristics, length of piles, pile capacity for each pile diameters etc based on rock characteristics (unconfined compressive strength of rock, RQD, etc). Hence this new report is also not satisfactory and cannot be used for the design of the twelve storeyed building.

|| It is therefore requested to conduct a fresh soil investigation to collect rock sample from the founding strata with mechanised rig by the approved soil consultant and furnish a report with specific recommendations on founding level, pile diameter, length of pile, and safe load on piles resting on hard rock based on the characteristics of the rock strata on which the piles are to be founded, along with bore ^{hole} location layout etc., urgently for proceeding with structural design of the building.

Yours faithfully,
Sd/-
CHIEF ENGINEER

Forwarded/By Order



DIRECTOR (Research & PPU)

THIS IS THE TRUE COPY OF THE
DOCUMENT MARKED AS
ANNEXURE A9

Copy to:-

1. The Superintending Engineer (Buildings), South Circle, PWD, Thiruvananthapuram for information.
2. The Executive Engineer, PWD, Buildings Division, PWD, Pathanamthitta for necessary action.



ADVOCATE



Legit Wise <legit8wise@gmail.com>

Service of Notice- Reply Statement to the Report filed by the 3rd Respondent

Legit Wise <legit8wise@gmail.com>

Sat, Jan 29, 2022 at 2:35 PM

To: ptamisubdivision@gmail.com, ekkumaresan@hotmail.com, chiefsecy@kerala.gov.in, seacseiaakerala@gmail.com, eeb1pta@pwd.kerala.gov.in, prlsecypwd@gmail.com, secy-moef@nic.in, sescbl.pwd@kerala.gov.in

Dear Sir/ Madam,

We are Counsel for Applicant in OA 128 of 2021 (SZ) - Ibrahim Kareem v. State of Kerala & Ors.

Please find a copy of the Reply Statement to the Report filed by the 3rd Respondent.

This email is sent in compliance with service of notice.

Regards

Yours Truly

S. Sabarinadh

For



Legit & Wise
Law Firm

2nd Floor, K. K. Building,
Mathai Manjooran Road,
Ernakulam, 682 031,
9995546111 or at legit8wise@gmail.com

Reply to R3.pdf
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