

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

Original Application No. 169 of 2023 (SZ)

Suo Moto

Vs.

State of Kerala & Others

:

Respondents

REPORT FILED BY THE FIFTH RESPONDENT IN THE ABOVE CASE

Adv.Rema Smrithi.V.K

**ADDITIONAL STANDING COUNSEL
Respondent 5**

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

Original Application No. 169 of 2023 (SZ)

Suo Moto

Vs.

State of Kerala & Others

:

Respondents

VOLUME 1

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Dated this the 5th day of December 2023.



Rema Smrithi. V.K., Advocate
Additional Standing Counsel

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

Original Application No. 169 of 2023 (SZ)

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State of Kerala & Others : Respondents

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Dated this the 5th day of December 2023.



Rema Smrithi. V.K., Advocate
Additional Standing Counsel

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VERIFICATION

I, Aurther Xavier J, Environmental Engineer, Kerala State Pollution Control Board, District Office, Kasaragod, do hereby verify on this the 5th Day of December, 2023, that all what is stated above are true and correct to the best of my knowledge and information.



A handwritten signature in blue ink, appearing to read "Aurther Xavier J", with a long horizontal line extending to the right.

Aurther Xavier J

Environmental Engineer

**J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER**

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

Original Application No. 169 of 2023 (SZ)

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Vs.

State of Kerala & Others : Respondents

VOLUME 1

REPORT FILED BY THE FIFTH RESPONDENT IN THE ABOVE CASE

I, Aurther Xavier J, aged 54 years, currently working as Environmental Engineer of the District office of Kerala State Pollution Control Board, Kasaragod, do hereby solemnly affirm and state as follows:

1. I am the Environmental Engineer, Kerala State Pollution Control Board (hereinafter referred to as Board), and duly authorized to represent the 5th respondent in the above case. I am aware of the facts affirmed by me in this report. I am swearing this report based on the best of my knowledge, information and belief and the facts revealed from the records.
2. It is respectfully submitted that this report is filed pursuant to the order of the Hon'ble Tribunal on 07-11-2023.
3. Kubanoor, the waste processing facility was a waste receiving, processing and recycling unit in Mangalpady Grama Panchayath (hereinafter referred to as local body), Kasaragod district owned by the local body. The waste treatment plant has facility for processing wet waste and dry waste. Though the plant was operational for quite some time, later it became inoperative. The Board had regularly taken up the issue of waste dumping and proper waste management with the local body.
4. A joint inspection with the Secretary, local body was conducted on 09-04-2021. During the inspection it was found that large quantity of solid wastes mostly plastics, foams, foot wears, fabrics etc., were seen dumped without adequate segregation and process. The waste collection and processing of certain area of the local body was entrusted with a private enterprise which had engaged only a few workers to segregate



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the dry waste collected daily. The workforce engaged there, were not adequate even to handle the waste that was being collected daily. There was a baling machine in a separate room to make bundles of the collected plastic wastes. That baling machine was inefficient and was very slow. Based on the joint visit, the Secretary, local body, was instructed vide letter No: PCB/KSRD/COMP/MANJESWARAM /135/2019 dated 10-04-2021 to engage sufficient labours and additional baling machines to process dumped wastes and utilise the wet waste processing plant (windrow composting unit) to process organic waste.

5. Earlier the local body was instructed vide this office letters dated 27-04-2019 and 21-06-2019 to implement the Solid Waste Management Rules, 2016 fully (hereinafter referred to as SWM Rules). After a site inspection conducted on 22-02-2020, a show cause notice was issued to the local body on 02-03-2020, for failing to implement the SWM Rules, a copy of which is submitted and produced herewith as **Annexure (1)**. The local body was cautioned of the imposition of Environmental compensation, for the failure to implement SWM Rules, vide this office letter No: PCB/KSRD/SWM/127/2016 dated 17-09-2020, a copy of which is submitted and produced herewith as **Annexure (2)**. As the efforts taken by the local body to implement the SWM Rules were not satisfactory and they had not taken sufficient steps to remove and process the dumped wastes lying at various places in the local body, the district office, Kasaragod had recommended to the Chairman, Board vide letter no. PCB/KSRD/G/EC/142/2019 dated 30-11-2020 to impose a fine of Rs. 7 lakhs as Environmental compensation.
6. The Chairman, Board had issued a show cause notice No. PCB/HO/SEE-2/SWM-KASARGOD/2018 dated 19-02-2021 for non-compliance of SWM Rules. Later, the Chairman, Board conducted a hearing on 13-07-2021. During the hearing, the Secretary, Mangalpady Grama Panchayath informed that Haritha Karma Sena had been engaged for the plastic waste collection and the tendering process was in progress for the removal of the legacy waste. He also informed that the Clean Kerala Company was not collecting the segregated plastic waste regularly. As the local body had not taken any step to comply the directions to implement the SWM Rules even after the hearing of the Chairman, Board, the District Office again recommended vide letter No: PCB/KSRD/G/EC/142/2019 dated 14-02-2022, to impose Environmental Compensation till December 2021, for not taking necessary actions under SWM Rules, a copy of which is submitted and produced herewith as **Annexure (3)**.



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Directions under section 5 of Environmental Protection Act, 1986 was issued vide office notice no. PCB/HO/SEE-2/SWM-KASARGOD/2018 dated 24-04-2022 by the Chairman, Board, to remit the Environmental Compensation, a copy of which is submitted and produced herewith as **Annexure (4)**.

7. On 07-04-2023, Justice A.V.Ramakrishna Pillai conducted an inspection at the site, accompanied by Panchayat Secretary Shibu.P, 18th Ward Member Vijayakumar Ray, 10th Ward Member Majeed, and Board officials. It was informed by the panchayath officials that they had placed a proposal for bio mining and have started the survey. Regarding the visit, a report was presented by Justice A.V.Ramakrishna Pillai to the Hon'ble NGT on 26-06-2023, a copy of which is submitted and produced herewith as **Annexure (5)**.
8. The Hon'ble High court of Kerala, in its order, dated 03-04-2023 in WP(C) No. 7844/2023, has instructed the Board to initiate action under section 33(A) of Water (Prevention and Pollution control) Act, 1974 and section 31(A) of Air (Prevention and Pollution control) Act, 1981 against all Municipalities and Local Self Governments, which are found to be indulging in serious violations of Environmental Laws. Directions under section 31(A) of Air (Prevention and Pollution control) Act, 1981 and under section 33(A) of Water (Prevention and Pollution control) Act, 1974 was issued by Chief Environmental Engineer, Regional Office, Kozhikode vide office notice no. PCB/RO/KKD/GEN/MSW/19105 dated 10-04-2023, a copy of which is submitted and produced herewith as **Annexure (6)**. Further, an inspection was conducted by the Board Officials from Regional office on 30.05.2023. During inspection it was noted that wastes collected were seen dumped at the Material Collection Facility (MCF) without segregation. It was told by the local body officials that the bio mining proposal was not started for want of technical sanction. Roadside waste dumping was still persisting in some areas. As the reply from the local body was found to be unsatisfactory, a show cause notice was issued to the local body on 03-07-2023, by Chief Environmental Engineer, Regional Office, Kozhikode, stating that the solid waste management in the local body was inadequate, and no action was taken for bio-mining of legacy waste, and the Environmental Compensation assessed was not remitted by the local body, even after the direction from the Chairman of the Board, a copy of which is submitted and produced herewith as **Annexure (7)**. In reply to the Show Cause Notice, the Grama Panchayat has replied that they have allocated an amount of Rs.1,80,000 for the biomining process at Kubanoor plant and reported



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that 128 tons of legacy waste has been removed through a contract with Clean Kerala Company Limited (CKCL). Inorganic waste in all wards was collected by Haritha Karma Sena and processed by CKCL. In addition, they had made proposals for biodegradable waste management by providing bio bin and ring compost at household level. The Local Body has reported that schemes to address the gaps in the waste management were included in the Annual Plan 2023-2024, and would take necessary actions for getting authorization under Solid Waste Management Rules from Pollution Control Board as early as possible and requested exemption from legal action against them.

9. The site was again inspected on 03-11-2023 by Environmental Engineer, District office, Kasaragod. During the inspection the entire site was covered with thick wild bushes, making it difficult to access. No activity was noticed at the site. Large quantity of legacy waste and waste collected in the recent past were seen dumped in the site. The waste processing facility was closed. Different photographs taken during the recent visit showing current situation are given as **Annexure (8)**.

The Board is initiating further statutory actions against the Local Body for failing to implement the Solid Waste Management rules, 2016.

All the facts stated above are true to the best of my knowledge, information and belief.

Dated this the 05th day December of 2023.



ENVIRONMENTAL ENGINEER
DISTRICT OFFICE, KASARAGOD

J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER

VOLUME 2
ANNEXURE 1

E-Mail- ksdpcbnew@gmail.com

Telephone: 0467-2201180

KERALA STATE POLLUTION CONTROL BOARD
കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

DISTRICT OFFICE
ജില്ലാ ഓഫീസ്

M.A.M ARCADE, NEAR RAILWAY STATION, KANHANGAD - 671315
എം.എ.എം. അർക്കേഡ്, റെയിൽവേ സ്റ്റേഷനു സമീപം, കാഞ്ഞങ്ങാട്- 671 315



In reply please refer to: No. PCB/KSRD/COMP/MANJESWAR/2019

REGISTERED

SHOW CAUSE NOTICE

DESPATCHED
Date: 05/03/2020

Sub: -.Dumping of Waste on road sides -reg

- Ref: -1. This office Letter No.PCB/KSRD/HARITHAKERALAM/113/2016 dated 04.01.2019
 2. This office Letter No.PCB/KSRD/MSW/492/2007 dated 27.04.2019
 3. This office Letter No.PCB/KSRD/SMW/127/2016 dated 21.06.2019
 4. Inspection conducted from this office on 22.02.2020

WHEREAS Kerala State Pollution Control Board is the statutory authority for implementing Water (Prevention & control of Pollution) Act, 1974, Air (Prevention & control of Pollution) Act, 1981 and Environment (Protection) Act 1986 in the state of Kerala;

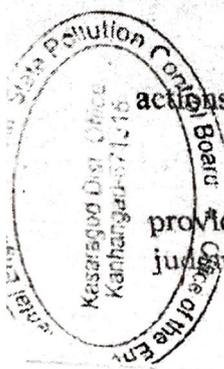
WHEREAS in exercise of the powers conferred under Section 3, 6 and 25 of Environment (Protection) Act, 1986, Central Government has notified the Solid Waste Management Rules, 2016 for the management of solid waste in urban local bodies;

WHEREAS all local bodies comes under the purview of the Solid Waste Management Rules, 2016, Water (Prevention & control of Pollution) Act, 1974, Air (Prevention & control of Pollution) Act, 1981 and Environment (Protection) Act 1986;

WHEREAS as per Section 15 of Solid Waste Management Rules, 2016 every local body shall be responsible for collection of segregated waste from the door steps of the residences and establishments and for the storage, transportation, processing and disposal of solid wastes generated;

WHEREAS you were instructed vid ref(1) to install CCTV cameras and take actions against those throwing/dumping wastes in public places in your jurisdiction;

WHEREAS you were directed vid ref(2) to implement the SWM Rules by providing waste management facilities for collection and disposal ,urgently based on the judgment of the Hon'ble NGT in O.A-606/2018;



J. Aurther Xavier
J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER

WHEREAS vide ref(3), you were directed to implement the Solid Waste Management Rules, 2016, fully;

WHEREAS during the inspection conducted from this office vid ref 4, it was noticed that, large amount of the plastic and other wet waste were seen dumped on both sides of the road in many areas including Uppala, Bandhyod, Nayabazar under your jurisdiction and thus polluting the entire area;

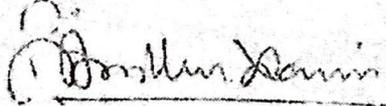
WHEREAS you are not removing the dumped waste from the road sides and have not taken any steps to prevent the dumping of wastes;

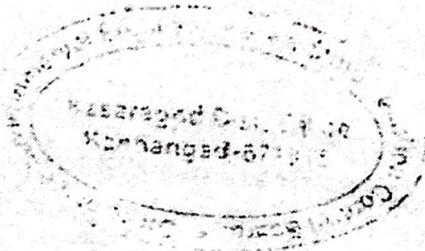
WHEREAS you have not taken any action against those dumping waste on road sides and streams;

NOW THEREFORE you are hereby called upon to show cause, if any within 21 days of receipt of this notice why the Board shall not initiate action against you under the relevant sections of the above said Acts for your failure to act to implement the said rules and to comply with the directions of the Board.

Dated this the 2nd day of March 2020

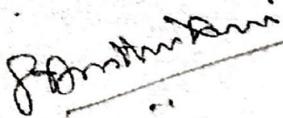
For and on behalf of the
KERALA STATE POLLUTION CONTROL BOARD


Environmental Engineer



To,

The Secretary
Mangalpurady
Aacama Panchayath



ANNEXURE- 2

Telephone: 0467-2201180

KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

DISTRICT OFFICE, KASARGOD

ജില്ലാ ഓഫീസ്, കാസർഗോഡ്

M V M ARCADE, NEAR RAILWAY STATION, KANHANGAD - 671 315

എം.എ.എം. ആർക്കേഡ്, റെയിൽവേ സ്റ്റേഷനു സമീപം, കണ്ടത്തങ്ങുപട്- 671 315

For info please refer to: PCB/KSRD/SWM/127/2016

Dated 17.09.2020

From

The Environmental Engineer

28/09/2020

To

The Secretary,

Su

Sub: Compliance of Solid Waste Management rules - 2016-Reg.

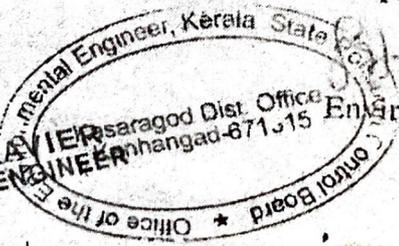
- Ref: 1. Order dated 02.07.2020 in O.A. 606/2018 of Hon'ble NGT
- 2. Letter No. PCB/HO/SEE-2/OA-606/2018- 2nd July/2020 dated 09.09.2020 from Chairman, KSPCB, Thiruvananthapuram addressed to the Directors of Urban Affairs Department and Director of Panchayath

You are hereby informed that time limit for compliance of Hon'ble NGT orders in O.A. No. 606/2018 is almost over. As per the order dated 02.07.2020, Hon'ble NGT has opined that, directions of the Hon'ble Supreme Court and Hon'ble NGT to comply with Solid Waste Management Rules, 2016 remain unexecuted. Hence directed that compensation to be imposed on local bodies for continued failure after 31.03.2020. Any such continued failure will result in liability of every Local Body to pay compensation at the rate of Rs. 10 lakhs per month per Local body for population of above 10 Lakhs, Rs. 5 Lakhs per month per Local body for population between 5 lakhs and 10 lakhs and Rs. 1 Lakhs per month per other Local body of population below 5 lakhs from 01.04.2020 till compliance. So you are hereby advised to implement the solid Waste Management Rules, 2016 fully without fail and submit the details of latest status on compliance of the above O.A. For any details about the solid waste management and disposal facilities, you can refer the "The Manual on Municipal solid Waste Management - 2016" by CPHEEO, in the website of Central Public Health and Environmental Engineering Organization (cphceo.gov.in). The order referred 1 above is attached in e-mail.

Yours faithfully,

J. Aurther Xavier

J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER



J. Aurther Xavier
Environmental Engineer.

Telephone: 0467-2201120

KERALASTATE POLLUTION CONTROL BOARD
കേരളസംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

DISTRICT OFFICE
ജില്ലാതലം

M.A.M ARCADE, NEAR RAILWAY STATION, KANHANGAD - 671 315
എം.എ.എം. ആർക്കേഡ്, റെയിൽവേസ്റ്റേഷനു സമീപം, കാണ്യാട് - 671 315

Date : 14.02.2022

PCB/KSRD/G/CE/142/2019

From The Environmental Engineer
To The Chairman
Kerala Pollution Control Board
Thiruvananthapuram
Sir,

DESPATCHED
4/3/2022

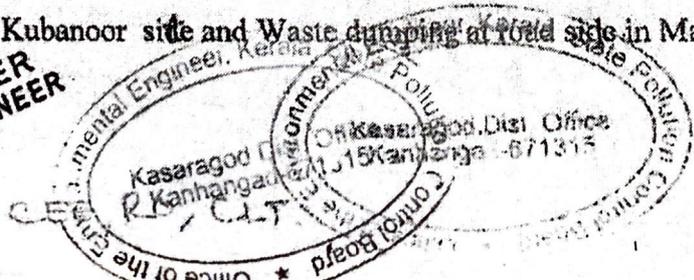
Sub : Imposing of Environmental compensation on Mangalpadu Panchayath.
Ref: 1. This office letter of even number dated-17.11..2020
2. Minutes of the meeting held on 13.7.2021 conducted at the chamber of the CHN
3. That office endorsement PCB/HO/Rules/SWM/Kasaragod/2018 dated 16.7.2021

This has reference to the above; Officials from this office had visited Mangalapadi Panchayath area many times. Though the local body are Collecting Plastic wastes form the residences, they have not yet covered all residences (only 50%) and they are not taking wastes' from establishments. They do not collect wet waste. Throwing of wastes on road sides and near bridges, still continue in many localities. No effective deterrent actions were seen taken by the local body.

The large quantity of wastes mostly plastic covers /carry bags with bio-matter is dumped at Kubanoor waste processing Centre, for years . The local body have engages a private agency to process the wastes being collected from the residencies, who employ a few workers who are grossly inadequate. To process wastes The local body have not taken enough steps to process the dumped wastes there in spite of our direction in this regard and personal visits. Though they have good infrastructure like waste segregation and windrow composting facility, the local body did not utilize the same. It is seen that large quantities of waste is being dumped in many places including on road sides and lying not removed. No enough action have been taken and the SWM rules 2016 have not been implemented to a reasonable level so far. Hence Environmental compensation may be imposed till December 2021 at the rate of Rs. 1 lakhs per month from April 2020 (21 months).

Encl: Photos of Kubanoor site and Waste dumping at road side in Mangalpadu Panchayath.

J. AURTHER XAVIER
ENVIRONMENTAL ENGINEER
Copy to



Yours faithfully,

J. Aurther Xavier

ANNEXURE- 4

KERALA STATE POLLUTION
CONTROL BOARD
THIRUVANANTHAPURAM

23 APR 2022

DESPATCHEE

☎: General: 0471-2312910, 2318153, 2318154, 2318155 Chairman: 2318150 Member Secretary: 2318151
E-mail: ms.kspcb@gov.in FAX: 0471 - 2318134, 2318152 web: www.keralapcb.nic.in



KERALASTATE POLLUTION CONTROL BOARD
കേരളസംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Patton P.O., Thiruvananthapuram - 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/SEE-2 /SWM- KASARAGOD /2018

Date: 24/04/2022

Regd. with A/D

**DIRECTION ISSUED UNDER SECTION 5 OF THE ENVIRONMENTAL
PROTECTION ACT, 1986**

Sub: Non-compliance of Solid Waste Management Rules, 2016-Mangalpady Panchayath.

- Ref:
1. The Hon'ble NGT Order dated 16/01/2019, 25/04/2019 & 02/07/2020 in OA No. 606/2018
 2. Letter No. PCB/HO/SEE-2/OA 606/2018 dated 09/04/2020 from Chairman to the Director of Panchayath
 3. Letter No. PCB/KSRD/SWM/127/2016 dated 21/06/2019 from Environmental Engineer, District Office, Kasargod
 4. Showcause Notice No. PCB/KSRD/COMP/KASARAGOD/134/2019 dated 12/03/2020
 5. Letter No. PCB/KSRD/G/EC/142/2019 dated 30.11.2020 from District Office Kasargod
 6. Showcause Notice No. PCB/HO/SEE-2 /SWM- KASARAGOD /2018 dated 19/02/2021
 7. Minutes of the hearing held on 13/07/2021.

WHEREAS the Central Government notified the Environmental (Protection) Act, 1986 for the protection and improvement of environment and for matters connected therewith;

WHEREAS as per Section 3, 6, and 25 of the Environment (Protection) Act, 1986, the Central Government re-notified the Solid Wastes Management Rules, 2016 (hereinafter referred as SWM Rules) vide notification S.O. 1357(E) dated 8-4-2016;

WHEREAS as per Rule 22 (1) of the SWM Rules, suitable sites for setting up solid waste processing facilities are to be identified by 8-4-2017;

WHEREAS as per Rule 22 (2) of the SWM Rules, suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more by 8-4-2017;

WHEREAS as per Rule 22 (3) of the SWM Rules, suitable sites for setting up solid waste processing facility and sanitary landfill facilities are to be procured by 8-4-2018;

WHEREAS as per Rule 22 (4) of the SWM Rules, the practice of segregation of bio degradable, recyclable, combustible, sanitary waste, domestic hazardous and inert solid waste shall be ensured at source for waste generators at source by 8-4-2018;

WHEREAS as per Rule 22 (5) of the SWM Rules, door to door collection of segregated waste and its transportation in covered vehicles to processing or disposing facility shall be ensured by 8-4-2018;

WHEREAS as per Rule 22 (6) of the SWM Rules, separate storage, collection and transportation of construction and demolition waste shall be ensured by 8-4-2019;

WHEREAS as per Rule 22(8) of the SWM Rules, solid waste processing facilities for the complete quantity of waste generated from the local body at 0.4 to 0.5 kg/person/day, shall be set up by 8-4-2019;

WHEREAS facilities with the technologies specified in CPHEEO manual and SWM Rules are to be in place for the effective treatment and disposal of the solid waste generated in the local body;

WHEREAS as per Rule 22 (11) of the SWM Rules, bio-remediation or capping of old and abandoned dump site shall be ensured and as per order dated 17/7/2019 in OA 519/2019 biomining of dumpsites were to be completed within a year;

WHEREAS repeated instructions including communication vide ref. (2, 3 and 4) were issued to the local body for the non compliance of the SWM Rules;

WHEREAS as per order dated 25/04/2019 in OA 606/2018, the time limit for compliance of environmental statutes by all the local bodies elapsed on 24/04/2020;

WHEREAS the Hon'ble National Green Tribunal vide dated 02/07/2020 in OA 606/2018 laid down compensation scale for continued failure in implementation of Solid Waste Management Rules 2016, after 31-3-2020 and reiterated that the compliance of the rules requires taking of several steps in Rule 22, from serial no. 1 to 10 and the Court directed that any such continued failure will result in liability of every local body to pay compensation at the rate of Rs. 10 lakhs per month per local body for population above 10 lakhs; Rs. 5 lakhs per month per local body for population between 5 lakhs and 10 lakhs and Rs. 1 lakh per month per other local body from 01/04/2020 till compliance and final compensation may be assessed and recovered by the State PCB/PCCs in the light of the above order;

WHEREAS as per the said direction of Hon'ble NGT, template for the assessment of final compensation for non compliance of solid waste management has been prepared and forwarded to SPCBs by CPCB;

WHEREAS as per the CPCB template, the local body shall be liable to pay compensation if there is any gap in the solid waste generated and treated; there is no cent percent door to door collection; there is no segregation of waste; segregated waste is not transported in covered vehicle; there is no adequate material recovery facility, plastic waste recycling facility, composting, biomethanation, RDF, WtE plant and not carried out legacy waste management;

WHEREAS during the inspection conducted from district office on 02/11/2020, it was noticed that local body collected waste from a few establishments only in some areas and transported the waste in an uncovered vehicle and wet waste was disposed in open trenches in MCF premises located in Kubanoor, dry waste was collected from few establishments and residences only and dumped in an open area in MCF premises, MCF building was not adequate and it was already full, no material recovery was being done and there was no shredding unit, 100% door to door collection was not achieved in the panchayat area; a lot of wastes were seen dumped on both sides of NH66 (Nayabazar, Bandhiyod, Uppala), the trench composting facility provided were reached its maximum capacity, which showed that the facility provided was not adequate and they were not practicing biomethanation ;

WHEREAS the Panchayath had not provided RDF facility; no waste was supplied for co-incineration in cement plant and waste to energy plant and secured landfill was not setup as per Rules;

WHEREAS it is noted that there is gap in solid waste management; there is no cent percent door to door collection; there is no segregation of waste; segregated waste is not transported in covered vehicle; non adequacy of material recovery facility, resource recovery facility, waste recycling facility, composting, biomethanation, RDF, and WtE plant for solid waste management;

WHEREAS the continued failure to comply with SWM Rules. 2016 is still continuing in the Panchayath and is liable to the compensation as per the order dated 02/07/2020 of the Hon'ble NGT in OA 606/2018 and vide reference cited 5 above and the Environmental Engineer suggested for levying environmental compensation for the failure of the Municipality for Rs. 7 lakhs (Rupees Seven lakh only) from 01.04.2020 to 31.10.2020;

WHEREAS show cause notice was issued vide ref. cited 6th above to show cause reasons for not recovering Environmental Compensation of Rs. 7 lakhs (Rupees Seven lakh only) from 01.04.2020 to 31.10.2020 for the non-compliance of Rule 22 of the SWM Rules, 2016;

WHEREAS it was noticed in the hearing on 13.07.2021 that there is no progress in implementation of SWM Rules by the municipality and Haritha Karma Sena has been engaged for the plastic waste collection from the households, but 100% door to door collection is not achieved yet; there is a proposal for the MCF , a windrow composting facility has been provided; tendering is in progress for the removal of legacy waste and it was informed that Clean Kerala Company is not collecting the segregated plastic wastes regularly;

AND WHEREAS the district office vide the letter cited 5th above reported that solid waste management rules has not been implemented and recommended to impose environmental compensation.

NOW THEREFORE in exercise of the powers vested under section 5 of the Environment Protection Act, 1986, read with Government of India notification S.O. 327 (E) dated 10/04/2001, you are directed to remit the Environmental Compensation of Rs. 7 lakhs (Rupees Seven lakh only) from 01.04.2020 to 31.10.2020 for the non-compliance of the Solid Waste Management Rules, 2016 in the new head of account given below which is opened for crediting the compensation ordered by Hon'ble NGT in O.A.No.606/2018 in its order dated 14.12.2020.

Head of Account

1425-00-800-91-Compensation issued for non compliance of Solid Waste Management Rules, 2016 and other important environmental issues for the protection of public health and the environment as ordered by the Hon'ble National Green Tribunal.


CHAIRMAN

To

The Secretary,
Mangalpady Panchayath

Copy to:

1. The Chairman
State Level Monitoring Committee
2. The Additional Chief Secretary
Local Self Government Department

-)
3. The District Collector, Kasargod
 4. The Director, Urban Directorate
 5. The Chief Environmental Engineer, Regional Office, Kozhikod
 6. The Environmental Engineer, District Office, Kasargod

ANNEXURE- 5

JUSTICE A V RAMAKRISHNA PILLAI
(Former Judge, High Court of Kerala)
CHAIRMAN

State Level Monitoring Committee, Kerala

(An authority constituted by the
National Green Tribunal)

'AMPAZHAVELIL'
Rajeev Nagar, Elamakkara
Kochi - 682026

Home Office 0484-2408388

Mob: 9447090130

8139878758

email: avrpilla@gmail.com

26-06-2023

Sir,

Kindly see the appended Report regarding the present status of waste dump site at Cubaloor in Mangalvady Panchayath in Kasaragod District.

The same may kindly be placed before the Hon'ble Tribunal for consideration and orders.

Yours Sincerely,

JUSTICE A.V.RAMAKRISHNA PILLAI,
(Chairman, SLMC, KERALA)

To
The Registrar,
National Green Tribunal, Southern Zone Bench,
Kalas Mahal, Kamarajar Salai, PWD Estate,
Chepauk, Triplicane, Chennai, Tamil Nadu-600005.

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

NEW CASE

REPORT

PRESENTED BY JUSTICE A.V.RAMAKRISHNA PILLAI
(FORMER JUDGE, HIGH COURT OF KERALA)
CHAIRMAN, STATE LEVEL MONITORING COMMITTEE, KERALA
(FOR AND ON BEHALF OF THE AFORESAID COMMITTEE)
REGARDING THE PRESENT STATUS OF WASTE DUMP SITE AT
CUBALLOOR IN MANGALPADY PANCHAYATH, KASARGOD DISTRICT

PRESENTED ON : 26.06.2023

I N D E X

		Pages
Report	:	01 - 02
<u>Annexures</u>		
A-Series	:	03 - 13

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REPORT

On the basis of news reports that the Waste Dump Yard at Cubanur in Mangalpady Panchayath within the local limits of Manjeswaram Taluk in Kasaragod District, remains unattended by the authorities concerned and it is gradually attaining the magnitude of the dump yard at Brahmapuram in Ernakulam District, I made a local inspection of the site during the forenoon of 7.5.2023. This was under due notice to the District Office of the Kerala State Pollution Control Board, Kasaragod as well as to the Secretary to the Mangalvady Panchayath.

As authorised by the Environmental Engineer, KSPCB, Wynad District who was holding additional charge of the Kasaragod District, Sri.Harikrishnan K and Smt.Arunima Rajeev, Assistant Engineers of KSPCB, Kasargod accompanied me in the inspection. Sri.Shibu P, Secretary of the Mangalvady Panchayath, Sri.Vijayakumar Ray, Member of Ward No.18 of the aforesaid Panchayath as well as Sri.Majeed, Member of Ward No.10 of the said Panchayath were present at the time of the inspection. **Annexure-A series** are the photographs of the site inspection.

The Dump site is an abandoned laterite mine having an extent of 2.5 acres used for dumping the un-segregated solid waste from the nearby local areas for years. The members of the Panchayath who were present at the site informed that the dumping at this yard started nearly 18 years ago. Initially, the quantity of the waste dumped at the site was approximately 1 tonne per day. However, later this was increased from 5 to 10 tonnes per day. Reportedly, it was further increased 15 to 20 tonnes per day. Though outwardly, it may appear that the quantity of waste dumped at the yard is not much, the outward appearance is

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only a tip of an iceberg, as 90% of the waste materials are lying below the surface level as the site was a laterite stone quarry, originally.

Mangalpady Panchayat is one of the largest Panchayaths in Kasaragod District having 23 Wards and having a population of more than One lakh and is spread over an area of 36.3 Kilometres. The entire solid waste materials from the Panchayath are brought to the site without segregation. The Panchayath has built a material collection centre having an area 732 Sq.Mtr. to store the bio-degradable waste. Though initially the non-degradable waste mainly plastic brought to the yard was segregated, baled and disposed of through renders. However, these activities were stopped after a while and the entire un-segregated waste materials (Degradable and Non-degradable) were brought and deposited at the site in an unscientific manner. At present heaps of un-segregated waste can be found in and around the material collection facility.

The Ward Members stated that the reason for the increase of the quantity is because of the dumping of waste on road sides by the public including casual labourers from other States. It was reported by them that there were protests from the local inhabitants against this unscientific waste dumping as leach ate from the waste during rainy season reaches their courtyards there by polluting the sources of their drinking water. Their grievance appears to be true because the leach ate flow is likely to reach the courtyards of the local inhabitants due to the uneven surface of the terrene, the same being a hill area. According to the Members of the Panchayath who were present at the time of inspection there is lethargy on the part of the government as well as the local body to solving the issue.

The Secretary of the Panchayath stated that initially a survey was conducted to assess the quantity of waste deposited at the site and it was

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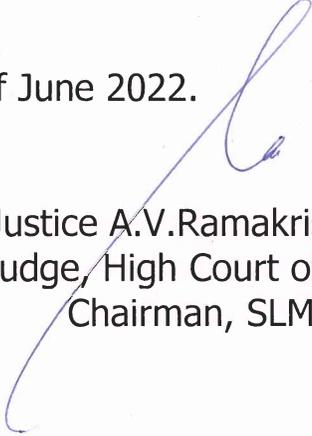
assessed that the quantity was 3725 Cu.Mtrs. However, it was an incorrect assessment as the survey was done without taking the depth of quarry into account. Therefore, a subsequent assessment was conducted and the quantity is assessed 15697 Cu. Mtrs. The Secretary further stated that a project has been prepared for bio-mining of the entire waste deposited at an estimated cost of Rs.50 Lakhs and the project is yet to be approved by the DPC.

The KSPCB reported that they have conducted several inspections in the site and directions were issued to the local body from time to time to comply with the solid waste management Rules 2016. However, the local body had failed to comply with the direction and therefore action has been initiated for imposing an environmental compensation for the breach.

It is evident that the authorities concerned as well as the Government are not taking keen interest to addresses the issue and to provide a viable and effective solution at the earliest. If the issue is left unattended indefinitely, untoward incidents like those occurred at the Brahmapuram Yard in Ernakulam District are likely to occur in Mangalpady also.

This report is placed before this Hon'ble Tribunal for immediate interference and appropriate action.

Dated this the 26th day of June 2022.


Justice A.V.Ramakrishna Pillai
(Former Judge, High Court of Kerala)
Chairman, SLMC, Kerala.







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ANNEXURE- 6



KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

കോഴിക്കോട് റിജ്യണൽ ഓഫീസ്
REGIONAL OFFICE, KOZHIKODE

Phone: 2300744/1115

1st FLOOR, ZAMORIN'S SQUARE, LEIK ROAD, KOZHIKODE, 673 002

File No PCB RO KKD/GEN MSW 19/05

Date 10/04/2023

Regd. with A/D

DIRECTION UNDER SECTION 31 (A) OF AIR (PREVENTION & POLLUTION CONTROL) ACT, 1974

Sub: Non-compliance of Solid Waste Management Rules, 2016 leading fire hazards causing air pollution

- Ref. 1. Solid Waste Management Rules 2016
- 2. Notice dated 24.04.2022 of the Board
- 3. The order of Hon'ble High Court of Kerala dated 03/04/2023 in WP C No. 7844/2023

WHEREAS, the Ministry of Environment, Forest & Climate Change has notified Solid Waste Management Rules, 2016 which inter-alia state procedures for Solid Waste Management; and

WHEREAS, in accordance with Rule 11(d) of the Rules, it is the duty of the State/UT Urban Development Department to ensure implementation of provisions of these Rules by all local authorities; and

WHEREAS, in accordance with Rule 15(a) of the Rules, it is the duty of the local authorities to prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorized by the State Government or Union territory Administration; and

DESPATCHED

Date.. 10/4/23 Rcyd/BN

WHEREAS, in accordance with Rule 15(zj) of the Rules, it is the duty of the local authorities to investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of biomining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites; and

WHEREAS, in accordance with provision of Rule 16(1a) of SWM Rules, 2016, the State Pollution Control Board or Pollution Control Committee shall enforce these Rules in State through local bodies and review implementation of these rules at least twice a year in close coordination with concerned Directorate of Municipal Administration or Secretary in-charge of State Urban Development Department; and

WHEREAS, CPCB prepared guidelines for Disposal of Legacy waste which is available on the CPCB website, a copy of which has been circulated to all SPCBs/CPCCs; and

WHEREAS, as per guidelines for Disposal of Legacy waste (Old Municipal Solid Waste) issued by CPCB, it is important to carryout comprehensive risk assessment and develop onsite emergency plan which should be kept handy prior to commencement of dumpsite bio-remediation & Biomining; and

WHEREAS, CPCB issued Directions dated January 27, 2021 to SPCBs/PCCs to ensure that biomining of legacy waste is done by local authorities in compliance of the provisions of the SWM Rules ,2016; and

WHEREAS, CPCB issued Directions dated May 26 ,2022 to all SPCBs/PCCs to direct the State bodies to take comprehensive measures to prevent/control regarding fire incidents at MSW Dumpsites including conduction of comprehensive risk assessment studies and preparation and implementation of On-site / Off- site Emergency Plan for each dumpsite located in their jurisdiction ; and

WHEREAS no action has been taken for bio-mining in the Mangalpady dump site in your jurisdiction; and

WHEREAS dump sites have potential for break out of fire causing air pollution; and

WHEREAS the Board has issued notice vide reference 2 above;

WHEREAS vide reference 2, the Hon'ble High Court directed Pollution Control Board to initiate first of the measures under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, to all the Municipalities, Local Self Governments which are found to be indulging in serious violations of Environment Laws and put on notice Municipalities/Grama Panchayats that the Board proposes to impose recovery costs for environmental degradation;

AND you are hereby directed to under Section 31 (A) of Air Act, comply the following

1. Submit Action plan for completion of Biomining activities within 15 days.
2. Review the status of MSW facilities already in place and upgrade them to treat the waste in compliance of SWM Rules
3. Take necessary action to comply with CPCB Directions dated May 26,2022 including carrying out comprehensive risk assessment and develop on site emergency plan to prevent all such accidents in future

NOW THEREFORE, you are hereby directed to take necessary action on the above direction and submit the compliance report within 15 days of receipt of this Direction.



SINDHU

RADHAKRISHNAN

CHIEF ENVIRONMENTAL ENGINEER

Digitally signed by SINDHU

RADHAKRISHNAN

Date: 2023.04.10.18:11:48 +05:30

To

The Secretary,
Mangalpady Panchayat, Kasargod

Copy to:

1. The Chairman
2. The Chief Environmental Engineer, Regional Office, Ernakulum (for filing report before Hon'ble High Court)
3. The Environmental Engineer, District Office, Kasargod



KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

കോഴിക്കോട് റിജ്യണൽ ഓഫീസ്
REGIONAL OFFICE KOZHIKODE

Phone: 2300744 (ICEE)

3rd FLOOR, ZAMORIN'S SQUARE, LINK ROAD, KOZHIKODE - 673 002

Date: 10/04/2023

File No PCB/RO/KKD/GEN/MSW/19/05

Regd. with A/D

DIRECTION UNDER SECTION 33 (A) OF WATER (PREVENTION & POLLUTION CONTROL) ACT, 1974

Sub: Non-compliance of Solid Waste Management Rules, 2016 causing pollution of water bodies.

Ref: 1. Solid Waste Management Rules 2016

2. The order of Hon'ble High Court of Kerala dated 03.04.2023 in WP C No. 7844/2023

WHEREAS, the Ministry of Environment, Forest & Climate Change has notified Solid Waste Management Rules, 2016 which inter-alia state procedures for Solid Waste Management; and

WHEREAS, in accordance with Rule 11(d) of the Rules, it is the duty of the State UT Urban Development Department to ensure implementation of provisions of these Rules by all local authorities ; and

WHEREAS, in accordance with Rule 15(a) of the Rules, it is the duty of the local authorities to prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorized by the State Government or Union territory Administration; and

DESPATCHED

Regd./B/D

Date.. 10/04/2023.

WHEREAS, in accordance with Rule 15(z) of the Rules, it is the duty of the local authorities to investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of biomining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites; and

WHEREAS, in accordance with provision of Rule 16(1a) of SWM Rules, 2016, the State Pollution Control Board or Pollution Control Committee shall enforce these Rules in State through local bodies and review implementation of these rules at least twice a year in close coordination with concerned Directorate of Municipal Administration or Secretary in-charge of State Urban Development Department; and

WHEREAS, CPCB prepared guidelines for Disposal of Legacy waste which is available on the CPCB website, a copy of which has been circulated to all SPCBs/CPCCs; and

WHEREAS, as per guidelines for Disposal of Legacy waste (Old Municipal Solid Waste) issued by CPCB, it is important to carryout comprehensive risk assessment and develop onsite emergency plan which should be kept handy prior to commencement of dumpsite bio-remediation & Biomining; and

WHEREAS, CPCB issued Directions dated January 27, 2021 to SPCBs/PCCs to ensure that biomining of legacy waste is done by local authorities in compliance of the provisions of the SWM Rules ,2016; and

WHEREAS, CPCB issued Directions dated May 26 ,2022 to all SPCBs/PCCs to direct the State bodies to take comprehensive measures to prevent/control regarding fire incidents at MSW Dumpsites including conduction of comprehensive risk assessment studies and preparation and implementation of On-site / Off- site Emergency Plan for each dumpsite located in their jurisdiction ; and

WHEREAS no action has been taken for bio-mining in the Mangalpady dump site; and

WHEREAS non removal of legacy waste from dump sites will lead to pollution of water bodies and ground water; and

WHEREAS notice has been issued vide reference 2 to non clearing of dump sites;

WHEREAS vide reference 3 . the Hon'ble High Court directed Pollution Control Board to initiate first of the measures under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, to all the Municipalities, Local Self Governments which are found to be indulging in serious violations of Environment Laws and put on notice Municipalities/Grama Panchayats that the Board proposes to impose recovery costs for environmental degradation;

AND you are hereby directed as per Section 33 (A) of Water Act to comply the following

1. Submit Action plan for completion of Biomining activities within 15 days.
2. Review the status of MSW facilities already in place and upgrade them to treat the waste in compliance of SWM Rules
3. Take necessary action to comply with CPCB Directions dated May 26,2022 including carrying out comprehensive risk assessment and develop on site emergency plan to prevent all such accidents in future

NOW THEREFORE, you are hereby directed to take necessary action on the above direction and submit the compliance report within 15 days of receipt of this Direction.

SINDHU
RADHAKRISHNAN
CHIEF ENVIRONMENTAL ENGINEER

Digitally signed by SINDHU
RADHAKRISHNAN
Date: 2023.04.10 18:10:31 +05'30'

To

The Secretary,
Mangalpady Panchayat, Kasargode

Copy to:

1. The Chairman
2. The Chief Environmental Engineer, Regional Office, Ernakulum (for filing report before Hon'ble High Court)
2. The Environmental Engineer, District Office, Kasargode

KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്



കോഴിക്കോട് റീജ്യണൽ ഓഫീസ്
REGIONAL OFFICE, KOZHIKODE

Phone: 2300744 (CEE); Telefax: 2300745, 46, 47 www.keralapcb.org

3rd FLOOR, ZAMORIN'S SQUARE, LINK ROAD, KOZHIKODE - 673 002

PCB/RO-KKD/KSGD/MSW/MGP/01/2023

Date: 03.07.2023

SHOW CAUSE NOTICE

Sub: - Mangalpady Gramapanchayat- Improper Collection, Segregation and Disposal- Reg.

- Ref: - 1. The office notice no PCB/RO/KKD/GEN/MSW/19/05 dated 10/04/2023
2. Inspection conducted by the Board Officials on 30.05.2023.
3. Your reply letter dated 5/06/2023.

WHEREAS the Central Government have notified the Environment (Protection) Act, 1986 for the protection and improvement of environment and for matters connected therewith;

WHEREAS the Mangalpady Gramapanchayath (hereinafter referred to as the Gramapanchayath), comes under the purview of Environmental Protection Act, 1986 and Solid Waste Management Rules, 2016;

WHEREAS as per section 3, 6 and 25 of Environment (Protection) Act, 1986, the Central Government have re-notified the Solid Waste Management Rules, 2016 (here in after referred as SWM Rules) vide notification S.O 1357(E) dated 08.04.2016;

WHEREAS as per Rule 15 of the above said rule, the local bodies are entrusted with the management of the solid waste generated from their jurisdiction;

WHEREAS as per Rule 22(5) of the SWM Rules, door to door collection of segregated waste and its transportation in covered vehicles to processing or disposing facility shall be ensured by 08.04.2018;

WHEREAS as per Rule 22(7) of the SWM Rules, solid waste processing facilities for the complete quantity of waste generated from the

local body shall be setup by 08.04.2018;

WHEREAS inspection was conducted from this office vide ref (2) cited. It was seen that there is no proper collection, segregation and disposal facility in the Gramapanchayath. The solid wastes including E waste, Domestic hazardous waste, Plastic waste, Biomedical waste were dumped in the dumping yard at Kumbanoor without proper segregation.

WHEREAS at the time of inspection it was reported that total population is more than 1 lakh. Hence, considering waste generation as 0.3kg/person/day, it is seen that 30 TPD of waste is generated in the Gramapanchayath;

WHEREAS you have not obtained authorization from the Board as you have waste generation more than 5 TPD;

WHEREAS there is a large gap in collection, management and disposal of biodegradable and non- biodegradable waste generated in the Gramapanchayath;

WHEREAS, The Central Pollution Control Board (CPCB) prepared guidelines for Disposal of Legacy waste which is available on CPCB website, a copy of which has been circulated to all SPCBs/CPCCs; and

WHEREAS, as per guidelines for Disposal of Legacy waste (Old Municipal Solid Waste) issued by CPCB, it is important to carryout comprehensive risk assessment and develop onsite emergency plan which should be kept handy prior to commencement of dumpsite bio-remediation & biomining; and

WHEREAS, CPCB issued Directions dated January 27,2021 to SPCBs/PCCs to ensure that biomining of legacy waste is done by local authorities in compliance of the provisions of the SWM Rules, 2016; and

WHEREAS no action has been taken for bio-mining of legacy waste in the Mangalpady dump site.

WHEREAS You have replied to the show cause notice dated 10/04/2023 of this office vide reference: 3rd. But the reply is not satisfactory as the biomining of legacy waste has not yet started;

WHEREAS other relevant sections of Solid Waste Management Rules, 2016 such as proper segregation and Door to Door Collection, setting up of processing facility, utilising Material Collection Facility etc. are not yet complied with even after the repeated directions/notices issued from the District office and Regional office of the Board;

WHEREAS the solid waste management in the Grama panchayath is inadequate;

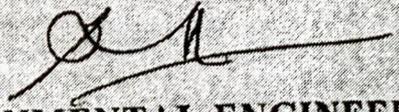
NOW THEREFORE, you are called upon to Show Cause, within 15 days of receipt of this notice, why action shall not be initiated against Gramapanchayath under section 5 of Environment Protection Act, 1986 and why Environmental Compensation is not levied from you.

This is without any prejudice to initiate any legal action against the municipality.

Dated this 3rd day of July, 2023

For and on behalf of the

KERALA STATE POLLUTION CONTROL BOARD


CHIEF ENVIRONMENTAL ENGINEER

To,

The Secretary,

Mangalpady Gramapanchayath.

Copy to:

1) Member Secretary

KSPCB, HO, TVM

2) Chief Environmental Engineer

RO, EKM

3) The Environmental Engineer,

KSPCB, District Office, Kasargode.

ANNEXURE 8



