

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(SZ) CHENNAI**

**Original Application No. 17 of 2021**

**BETWEEN**

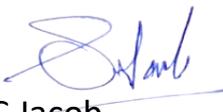
**VIPIN NATH AV & SINU C JACOB-----  
APPLICANTS**

*Versus*

**M/s BHARAT PETROLEUM CORPORATION LIMITED AND OTHERS-----  
RESPONDENTS**

**\*The documents submitted are true copies of their originals**

  
Vipin Nath A V  
First Applicant

  
Sinu C Jacob  
Second Applicant

**Signature of Applicant**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(SZ) CHENNAI**

**Original Application No. 17 of 2021**

**BETWEEN**

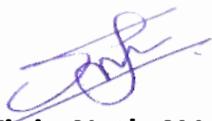
**VIPIN NATH AV & SINU C JACOB-----  
APPLICANTS**

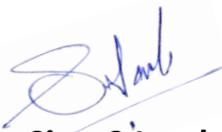
*Versus*

**M/s BHARAT PETROLEUM CORPORATION LIMITED AND OTHERS-----  
RESPONDENTS**

Index

S. L	Description	Page No.
1	Counter affidavit submitted by the applicant to the objections submitted by the 1 <sup>st</sup> respondent.	1-10
2	Screenshot of Google Map - <b>Annexure 1</b>	11-13
3	Copy of the complaint letter dated 7 <sup>th</sup> October 2021- <b>Annexure 2</b>	14-16

  
**Vipin Nath AV**

  
**Sinu C Jacob**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(SZ) CHENNAI**

**Original Application No. 17 of 2021**

**Between:**

**1. Vipin Nath A V**

S/O N K Viswanathan  
Ammencheril House, Kakkad Kara,  
Mamala PO, Ernakulam Dist  
Kerala – Pin – 682305  
Mobile – **9747773607**  
Email: [vipinnathammencheril@gmail.com](mailto:vipinnathammencheril@gmail.com)

**2. Sinu C Jacob**

Thondattil House  
Kakkad Kara, Mamala PO, Ernakulam Dist  
Kerala – Pin – 682305  
Mobile – 8281492012  
Email: [sinujacob2012@gmail.com](mailto:sinujacob2012@gmail.com)

**AND**

**1. M/s Bharath Petroleum Corporation Limited**

**Rep. by its General Manager (Public Relations)**  
(Propylene Derivatives Petrochemical Project- PDPP)  
Post Bag No. 2, Ambalamugal-  
Ernakulam District, Kerala, Pin – 682302  
**Mob:** +91 9967239420, 0484-2821402  
Email – [thomasg@bharatpetroleum.in](mailto:thomasg@bharatpetroleum.in)

**2. Ministry of Environment, Forest & Climate Change**

**Rep. by its Secretary**  
Indira Paryavaran Bhavan,  
Jorbagh Road,  
New Delhi - 110003  
**Mob:** +91 11 24695262  
Email – [secy-moef@nic.in](mailto:secy-moef@nic.in)



**3. Central Pollution Control Board**

**Rep. by its Member Secretary**

'Parivesh Bhawan', East Arjun Nagar,  
Shahdara, Delhi-110032

Tel: 011- 43102030

Email: [mscb.cpcb@nic.in](mailto:mscb.cpcb@nic.in)

**4. Engineers India Limited**

**Rep. by its Company Secretary & Nodal Officer**

El Bhavan, 1, Bhikaiji Cama Place,  
New Delhi – 110 066, India

Tel: 011-26762855

Email: [company.secretary@eil.co.in](mailto:company.secretary@eil.co.in)

**5. Kerala State Pollution Control Board**

**Rep. by its Member Secretary**

Pattom P.O., Thiruvananthapuram - 695 004

Email: [ms.kspcb@gov.in](mailto:ms.kspcb@gov.in)

**6. Petroleum and Explosives Safety Organization**

**Rep. by its Chief Controller of Explosives**

A Block CGO Complex Fifth floor Seminary Hills  
Nagpur-(Maharashtra) 440006

Phone: 7122510248

Email: [explosives@explosives.gov.in](mailto:explosives@explosives.gov.in)

**7. OIL INDUSTRY SAFETY DIRECTORATE**

**Rep. by its Executive Director**

8th Floor, OI DB Bhawan, Plot No 2,  
Sector-73, Noida Noida, Uttar Pradesh, 201301

Tel: 0120 - 2593800

Email: [ED-Noida.oisd@gov.in](mailto:ED-Noida.oisd@gov.in),

**8. DIRECTORATE OF FACTORIES & BOILERS**

**Rep. by its Director**

Suraksha Bhavan  
Kumarapuram, Medical College.P.O.  
Thiruvananthapuram

Kerala- 695 011

Tel: +91-471-2441597, 2440974, +91-471-2441741

Email: [directorate.fab@kerala.gov.in](mailto:directorate.fab@kerala.gov.in)

.... Respondents



**COUNTER AFFIDAVIT SUBMITTED BY THE APPLICANT TO THE  
OBJECTION SUBMITTED BY THE 1<sup>ST</sup> RESPONDENT**

To,

**THE HON'BLE CHAIRMAN AND HIS COMPANION MEMBER OF THE NATIONAL GREEN  
TRIBUNAL**

**HUMBLE APPLICATION SUBMITTED  
BY THE APPLICANTS ABOVE NAMED**

1. The first applicant is **Mr. Vipin Nath A V**, residing Kakkad Kara, Ammencheril H, Near South Side of PDPP project, Mamala PO, Kerala and second applicant is **Mr. Sinu C Jacob**, residing Kakkad Kara, Thondattil H, Near South Side of PDPP project, Mamala PO, Kerala. The applicants are permanent residents at the above-mentioned address. The applicants are interested in the protection of the environment and the families living closer to the BPCl Petrochemical project (Kakkad Kara, South Side of PDPP). It is submitted that the present application has been seeking appropriate direction to **develop Green Belt and Buffer Zone** around the boundary in Kakkad Kara (South Side of PDPP project). I am filing the present Counter affidavit to the objections submitted by the 1<sup>st</sup> respondent namely Bharat Petroleum Corporation Limited.
2. **Green Belt as per Environment Clearance:** - The purpose of a green belt around the site is to capture the fugitive emissions emanating from Plant operations, attenuate the noise generated and improve the aesthetics. Environmental protection has been considered as an important domain for industrial. Trees help in trapping particulate matter, removing carbon dioxide and other pollutants from air and by release of oxygen into the air thereby improving the air quality. The 1<sup>st</sup> respondent namely Bharat Petroleum Corporation Limited claims that **33%** (40 Acres) of land is earmarked for Green Belt development. But it is clear from the statutory authorities report that no Green Belt development has taken place on the shore of Kakkad Kara (South Side of PDPP) or space to

develop green belt where the applicants live, and the screenshot of Google Map attached herewith and marked as **Annexure 1** make it very clear.

3. When Green Belt was developed it did not matter if it was located anywhere inside the plant. According to the 1st respondent, 33% of the land has been provided for Green Belt. The importance of green belt in and around the industry is to control air and noise pollution. **When developing a green belt, it should be designed to protect the adjacent residential area.** But here, the plant is very close to the residential area. Google Map photos and the technical committee report makes it clear.
4. It is clear from the 3rd respondent namely Central Pollution Control Board and the 5<sup>th</sup> respondent namely Kerala State Pollution Control Board inspection report in an around the boundary, there is absolutely no space to develop green belt in our area. With respect to the individual report of Central Pollution Control Board the map submitted to show the green belt development is misleading as it shows entire vacant site as green belt patch irrespective of the building, internal/peripheral roads, open scrap yards, clearance zone, under the high-tension power line etc.
5. The 1st respondent obtained Environment Clearance from Ministry for the Expansion of capacity of Cochin Refinery from 4.5MMTPA to 7.5MMTPA vide document No. J-11011/32/90-IA. II. As per the document it is stated that "Green belt of 500 meters wide as recommended by the consultants in their report should be developed and maintained (Point No. xvi)". Copy of the Environment Clearance document No. J-11011/32/90-IA. II. dated 20th August 1991. Compliance status of Environmental Clearance conditions for Capacity Expansion Project accorded by. **J-11011/32/90-IA. II.** 500 meters green belt has been complied. *(In the rejoinder submitted on 15<sup>th</sup> September 2021 by the applicant, both the document (Environmental Clearance and Compliance status of Environmental Clearance) has been submitted as Annexure 2 and Annexure 3).* But the Committee inspection report and the Central Pollution Control Board,

Kerala State Pollution Control Board and Ministry of Environment, Forest and Climate Changes reports highlight the absence of Green Belt around the project area.

- 6. Importance of Buffer Zone:** - The Visakhapatnam gas leak was an industrial accident that occurred at the LG Polymers chemical plant. The resulting vapor spread over a radius of around 3km, affecting the nearby areas and villages. The initial estimate noted at least 11 deaths and 20–25 people in critical condition. By the next day, the death toll had risen to thirteen. More than 1,000 people were reportedly exposed to the gas. Based on the accident took place at Visakhapatnam, the Honorable National Green Tribunal took up the case and formed a High-power committee and submitted a report. (Case no: 134/2020, Principal Bench, New Delhi). A very important feature of the LG Polymers accident is that the residential areas have come up next to factory boundaries. The buffer zone with tree cover was also available with a limited width. It is strongly suggested that in the development of chemical industrial areas by the Industries Department, **a buffer zone of minimum 100 – 500 meters shall be maintained within the factory.** The residential areas will not develop near to the industrial establishment for a specified distance, which can be prescribed based on the hazard and pollution potential. The industries like Chemical, Hazardous, Explosives, Radiation, Fire prone industries are required to maintain a minimum distance from habitation as a buffer.
- 7.** The applicants in OA 17 of 2021 residing next to factory boundaries (Propylene Derivatives Petrochemical Project (PDPP)). About 25 families live within a 250–300-meter radius of Propylene Derivatives Petrochemical Project in **Kakkad Kara.** There is no doubt that an accident in the Propylene Derivatives Petrochemical Project will seriously affect the nearby residential area. **And how can Bharat Petroleum Corporation Limited, which had a history of a major accident in 1984, ensure that it does not happen again?** If the present application is not

allowed then the applicants will suffer irreparable loss, injury and pollution which cannot be compensated by any means whatsoever.

8. Twenty fourth standing committee on Petroleum and Natural Gas in the Lok Sabha (2017-2018) recommendation of the M.B. Lal Committee was to create a buffer zone around installations and regulating land use pattern around high hazard petroleum installations. Accordingly, all the Chief Secretaries of States/UTs were requested in April 2013 to ensure adequate provisions in their land allotment rules to prohibit habitations to come up within a band of at least 250-300 meters around the periphery of the oil installations and to maintain a buffer zone to minimize the impact on the surrounding areas in case of a major accident. In this regard, the Committee were informed that no feedback has been received from the state governments. **The Committee understand that buffer zones around petroleum installations are an important aspect for maintenance of safety** and therefore, desire that there should be no let-up in pursuing the matter with the States/UTs and the importance of creation of buffer zones should be impressed on them so that M.B. Lal Committee recommendation regarding safety of high hazard installations is implemented without any further delay.
9. According to the twenty sixth Standing committee on Petroleum and Natural Gas in the Lok Sabha (2018-2019), Action Taken by the Government on the recommendations contained in the Twenty Fourth Report (Sixteenth Lok Sabha) of the Standing Committee on Petroleum and Natural Gas (2017-18) on the subject Safety, Security and Environmental Aspects in Petroleum Sector. In this report it is stated that a communication was sent to all the Chief Secretaries of States/UT in the matter on 02.04.2013 wherein it was requested to issue appropriate instructions to the concerned authorities to make adequate provision under the relevant Acts and Rules to prohibit proliferation of unauthorized hutment, shops or residential houses within a band of at least 250-300 meters around periphery of the Oil installation.

**10. Sound Pollution:** - Since this is an industry working on 24x7 basis, near proximity to thick residential area are facing acute noise issues which will have severe health issues. The State Government categorized the areas into industrial, commercial, **residential** or silence areas / zones for the purpose of implementation of noise standards for different areas. The noise levels in any area / zone shall not exceed the ambient air quality standards in respect of noise as specified in the Schedule. it is pertinent to note that the unit was allowed industrial standard of 75-70 d B A Leq whereas it's our constructional right not to suffer noise in exceedance of residential maximum standard of 55 dBA Leq Nd 45 dBA Leq in daytime and nighttime respectively. It may be noted that the Board is insisting residential standard for other units viz. crusher etc. where residential plots are available nearby. This is a serious discrimination and a public undertaking shall not be allowed to continue with this type of violations. To overcome there are options that include acquisition of nearby areas where noise level exceeding residential standard especially during night hours which we cannot afford anymore. also, it's an immediate necessity that surprise inspection or surveillance systems shall be strengthened by the Board as we are suffering from severe noise due to sudden accidents or intermittent poisonous gas leaks. Here it's crucial to note that no safety arrangements are made till date by BPCL viz Greenbelt or Buffer zone though mandated through regulatory agencies like MoEF&CC, CPCB, SPCB and PESO. it's also pertinent to note that their technical report also does not taken into consideration though it is self-explanatory that BPCL is a polluting industry.

**11. Expert Committee Report:** - The 1st respondent pinpointing the report of the expert committee as per the order of the petitions committee and the dissent note of PESO in the technical committee through their affidavit as objections on "Technical Committee" findings. But as of now the expert committee reports have not been accepted by the petitions committee. The 2<sup>nd</sup> Applicant in OA 17 of 2021 has lodged a complaint against the submission of the report of the Expert

Committee before National Green Tribunal as a document without the permission or approval of the Petition Committee. This is against the privilege of the petition committee. Until the report of the expert committee is approved/rejected by the petitions committee, it is a confidential data. Copy of the complaint letter dated 7<sup>th</sup> October 2021, produced herewith and marked as **Annexure 2**

- 12. Dissent Note by PESO:** - The individual report submitted by PESO clearly states that the recommendation of the M B Lal committee was completed in the year 2016 as applicable to the refinery. By this statement it is clear that the M B Lal Committee is not some other Committee. The M B Lal committee constituted as per Ministry of Petroleum and Natural Gas directive and Bharat Petroleum Corporation Limited is also a public sector under Ministry of Petroleum and Natural Gas. Then it is not clear “why the buffer zone should be deleted” as per the dissent note.
- 13.** It is imperative to make necessary arrangements to develop Green Belt and buffer Zone **whichever is more shall be made applicable**. Based on our complaint against the 1<sup>st</sup> respondent, the inspection conducted by various statutory authorities clearly mentions the **absence of Green Belt and Buffer Zone around the project site**. Hence the recommendation of technical committee which includes almost all the regulatory authorities shall be enforced immediately. So, I pray before the Hon’ble National Green Tribunal to stop all the activities in BPCL- Propylene Deratives Petrochemical Project until the Green Belt and Buffer Zone is developed.
- 14.** Considering Bharat Petroleum Corporation Limited as a single unit they should develop Green Belt or Buffer Zone around the unit whichever is more shall be applicable to protect the environment and the families living closer to the project.

15. Any committed violations shall be treated as non-compliance of Environment Clearance conditions and also addressed by imposing Environmental compensation and assessing environmental damage.
16. If the present application is not allowed then the applicants will suffer irreparable loss, injury and pollution which cannot be compensated by any means whatsoever.
17. Pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.



Vipin Nath A V  
First Applicant



Sinu C Jacob  
Second Applicant

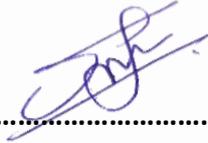
**Signature of Applicant**

**VERIFICATION**

We, Vipin Nath A V and Sinu C Jacob the applicants herein, do hereby verify that the contents of the above paragraphs are true to the best of my Knowledge and we have not suppressed any material fact.

**Date: 19-10-2021**

**Place: Kakkad Kara, Mamala**

1.  ..... 2.  .....  
**Vipin Nath A V**                      **Sinu C Jacob**  
**Applicants**



Google Map Image: 1 of 3



Google Map Image: 2 of 3



Google Map Image: 3 of 3



Mamala PO, Ernakulam District, Kerala (South Side of PDPP)-682305  
Email: sinujacob2012@gmail.com; Mob: 8281492012

---

**Date: 07<sup>th</sup> October 2021**

To  
Shri. M B Rajesh  
Hon. Speaker of Kerala Legislative Assembly  
Neethi, Legislature Complex  
Vikas Bhavan PO  
Thiruvananthapuram- 695033

**Subject: Complaint against the submission of Expert Committee report before the Hon'ble Green Tribunal (SZ) without the approval of the Petition Committee**

Respected Sir,

Over the past few years, several petitions were brought to the notice of the Government of Kerala through various office by residents near **Bharat Petroleum Corporation Limited (Kochi Refinery)**. The complaints were mainly on safety and health related issue owing to alleged pollution in the vicinity of BPCL-Kochi Refinery and its new project site.

The Government petition committee recommended the formation of the committee for the scientific study of the health and safety of the residents living near BPCL-Kochi Refinery. The Kerala LA Secretary vide letter No: 21206/PetitionA1/2018 dated 01/10/2019 and MD, KSIDC vide letter No: KSIDC/INFRA/63/272 dated 24.07.2020 has also recommended for the formation of the committee. The Government of Kerala considered these recommendations of the Petitions Committee, of Kerala Legislative Assembly and MD, KSIDC and vide GO (Ord) No:669/2020/Industries, Thiruvananthapuram Dated 20/08/2020 formed the Expert Committee presided over by the Secretary (Industries).

(PTO)



Mamala PO, Ernakulam District, Kerala (South Side of PDPP)-682305

Email: sinujacob2012@gmail.com; Mob: 8281492012

---

Following this, the Expert Committee conducted an inspection and submitted a report before petition committee. But as of now, the report of the “Expert Committee” has not been approved or rejected by the petitions committee. Furthermore, the petition committee has the sole right to approve or reject the report of the Expert Committee. It is noteworthy that there has been no discussion on the part of the petition committee since the submission of the Expert Committee report and only the petition committee has the right to publish the report.

However, without the consent of the petition committee, the report of the expert committee was submitted as a document before the Hon’ble National Green Tribunal (SZ) in the case against Bharat Petroleum Corporation Limited (OA 17/2021). This is against the privilege of the petition committee. Until the report of the expert committee is approved/rejected by the petitions committee, it is a confidential data. It will erode the confidence of the people in the petition committee. Submission of a copy of an incomplete report to the Hon’ble National Green Tribunal (SZ) can never be justified. This is something that calls into question the transparency of the Expert Committee report itself.

The members of the expert committee have not yet heard the complaints of the people in this area or inspect the area where the petitioners live in the above-mentioned case (Kakkad Kara, South side of PDPP). Moreover, further action of the petition committee has not yet taken place in the Expert Committee report.

PTO)

**KAKKAD**  **KARA**

Mamala PO, Ernakulam District, Kerala (South Side of PDPP)-682305

Email: sinujacob2012@gmail.com; Mob: 8281492012

---

Therefore, I hereby request the Hon'ble speaker to take action against those who acted in the manner that violated the privilege and confidence of the people in Petition Committee and cancel the Expert Committee report as the current report has lost its confidentiality. I would be highly obliged if you take appropriate action in this matter as soon as possible.

Sincerely,



Sinu C Jacob

Thondattil H, Kakkad Kara,  
Mamala PO, South Side of PDPP  
Ernakulam District, Kerala- 682305  
Email: sinujacob2012@gmail.com  
Mob: **+918281492012**

Copy : National Green Tribunal – Chennai

-----END-----