

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE,  
CHENNAI

Original Application No: 17 of 2023

Link Valley Residents Association,  
Represented by its General Secretary : Applicant  
Kochi.

Vs

Union of India, MOEF & CC  
Rep. by its Dy. Director General  
Of Forests[C]  
Bangalore & Others : Respondents

*Copy Recd for Rb  
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for Rb*

REPLY FILED BY THE 5<sup>TH</sup> RESPONDENT IN COMPLIANCE TO THE  
ORDER DATED 18/7/2023 IN THE ABOVE CASE

S. J A M A L - K/253/1992. [J-46] SC-2230

Advocate & Standing Counsel

Chamber No: 325

KHCAA Chamber Complex

Near to High Court of Kerala

Ernakulam

Cochin-31

Cell-98471 59092

E mail: advsjamal@gmail.com

*Received Copy  
M  
24/8/23  
For P.B. Sebastian  
Account*

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I N D E X

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Sl. No:	Date	Particulars	Page Nos:
1	23-8-2023	REPLY STATEMENT FILED BY 5 <sup>TH</sup> RESPONDENT	1-6
2.	23-8-2023	Affidavit	7
3	25-11-2022	Exhibit R5-1: Notice issued by the 5 <sup>th</sup> respondent	8-9

Dated this 23<sup>rd</sup> day of August, 2023

S. J A M A L

COUNSEL FOR THE 5<sup>TH</sup> RESPONDENT

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE,  
CHENNAI

Original Application No: 17 of 2023

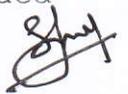
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REPLY FILED BY THE 5<sup>TH</sup> RESPONDENT IN COMPLIANCE TO THE  
ORDER DATED 18/7/2023 IN THE ABOVE CASE

1. I am the Secretary, Thrikkakara Municipality and I know the facts of the above case and filing this reply statement in compliance to the direction of this Hon'ble Tribunal in the above case dated 18/7/2023.
2. The above Original Application has been filed by the applicant seeking direction to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to take action against the 6<sup>th</sup> respondent for the alleged violations of the conditions in the Environmental Clearance certificate dated 30/1/2017. However by the interim order dated 18/7/2023, this Hon'ble Tribunal directed this respondent to address the storm water drain issue claimed to have existed at the site by the applicant. In this regard, the following facts submitted before the Tribunal for consideration.
3. The construction of a residential project has carried out by the 6<sup>th</sup> respondent in Resurvey Nos: 671/1, 674/1 and 675/4 in 5.05 Hectors of land in Kakkanad Village as per building permit No: BA/1337/2013 dated 6/10/2015 issued by this respondent. The building permit was issued



consequent to the lay out approval order dated 30/9/2015 of the Chief Town Planner and no objection certificates obtained and produced by the 6<sup>th</sup> respondent from various statutory agencies such as SEIAA, Pollution Control Board, Department of Fire and Rescue, Airport, Naval etc.

4. When the construction was in progress, complaint was received this respondent from the Applicant Residents Association alleging various building rules violations in the construction of the 6<sup>th</sup> respondent. Based on the complaint the Municipality conducted a site inspection and on noticing the construction of a column abutting the drive way and installation of some electrical equipment under the Tower No: 2 of the building, notice dated 1/11/2021, was issued to the 6<sup>th</sup> respondent directing them to remove the same and also to mitigate the grievance of the nearby residence caused by fall of debris and harmful dust from the construction site.
5. While the Municipality was pursuing further proceedings on receipt of reply dated 11-11-2021, submitted by the 6<sup>th</sup> respondent, the Ombudsman for the Local Self Government Institutions, Kerala has directed this respondent in O P No: 465/2021 to stop the construction of the building in question with police assistance and accordingly a stop memo was issued to the 6<sup>th</sup> respondent and have also filed request before the Commissioner of Police, Ernakulam to provide necessary police assistance, if the 6<sup>th</sup> respondent continue the construction in violation of the stop memo.
6. On receipt of the stop memo, the 6<sup>th</sup> respondent took necessary remedial measures as regards the complaints of the nearby residents and preferred Writ Petition No: 26781/2021 before the Hon'ble High Court of Kerala, seeking to quash the stop memo. The Hon'ble High Court was pleased to permit to continue the construction on inspection by this respondent. Accordingly on further inspection on 18/12/2021, it is noticed that the construction site of the 6<sup>th</sup> respondent is covered by using garden net to prevent construction materials, dust and debris falling beyond the construction site. And also that effective measures have been made to spray water by putting sufficient number of sprinkles to keep the garden net wet at regular interwells.



7. It is also noticed that works to dismantle the aerial crane is swiftly underway. The electrical equipments are shifted from Tower No: 2. A drainage facility having 1.2 mtr width is also constructed along the boundary on the side of Link Valley to ensure drain out storm water and a Sewage Treatment Plant installed and operational in the labor camp at the construction site. The inspection revealed that the grievances voiced by Applicant Residents Association as regards the matters falling within the ambit of powers of the Municipality stands mitigated and effectively redressed. On that findings this respondent has granted permission for for further constructions of the building.
8. And on 8/11/2022, the 6<sup>th</sup> respondent have filed a partial completion certificate of the building claiming occupancy certificate. Along with partial completion certificate they have produced final Fire NOC and NOC from Kerala Pollution Control Board etc. On receipt of such application, this respondent have conducted further inspection at the site and have issued notice dated 23/11/2022, directing the 6<sup>th</sup> respondent to produce details regarding the widening and reconstruction of the size of the drainage in existence and storage facility provided at the site to store the rain water for two weeks etc. A true copy of the notice dated 23/11/2022 issued by this respondent to the 6<sup>th</sup> respondent is produced and marked as Exhibit R5-1
9. Based on Exhbit R5-1, the 6<sup>th</sup> respondent have submitted a reply on 25/11/2022, wherein they have claimed that the drainage already existed having 60 cent meter width and passing through the property of the 6<sup>th</sup> respondent has been reconstructed and widened by 1.20 meter, by following the direction from SEIAA, at the basement of Tower No: 6 a pond has constructed with a storage capacity of 8 Lakhs Litre and another total storage facility having capacity of 4.47 Lakhs Litre for rain water harvesting tanks were constructed in basement of all other Towers etc. Based on that a further inspection was done by this respondent at the site of the 6<sup>th</sup> respondent and found the submissions are true and the construction is executed in accordance with the permit and fit for occupation, a partial occupancy certificate has been issued to the 6<sup>th</sup> respondent on 20/12/2022,



wherein this respondent have directed the 6<sup>th</sup> respondent to do all further works related to flood mitigation by using their CSR funds before the completion of the final construction.

10. It is submitted that, the Link Valley area, where the applicant is occupying is existed in the lowest part of Ward No: 9 of Thrikkakara Municipality surrounded by elevated boundaries on three side. As per the geography of the area, during rain the storm water will flow from the elevated area to the lower side through the natural drain sharing the boundaries of the applicant and other private parties on either side and will reach at the Link Valley area. In early days storm water has been flow through the natural drainage having 60 cm width to the drainage constructed inside the Infopark compound having 1.50 meter width and then reached to the PWD road in front of Info Park, wherein rain water will flow through the pipes having 60 cm width, laid down under the PWD Road and will finally reached at "Edachira Thodu". Since the ground level of Link Valley is below the flood level of "Edachira Thodu", the narrower natural drain and the narrower two pipes laid down under the PWD road have no enough capacity to carry out the storm water effectively. Hence the gravity of water logging at Link Valley is always high due to the scarcity of facilities to carry storm water.

11. It is true that the 6<sup>th</sup> respondent has widened the drainage to 1.20 meter width in their property by following the direction of SEIAA. However after that drainage, the area has only narrower natural drainage with less capacity. The width of the natural drainage on the southern and northern side of the Link valley has to be widened and should extend to meet with the drainage inside the Info Park. As stated earlier the boundary of the natural drainage has been shared with the properties of private parties also, there are disputes and objections from those private parties in the matter of widening of the width of the natural drainage by releasing land from their custody. Since the beneficiary of the widening of natural drainage is the applicant alone, if they are willing to provide land from their own premises it is possible to widened the width of the



natural drainage and to extend and connect the drainage inside the Infopark.

12. This respondent has already studied the water logging issue in detail and have found solution also. Accordingly by following the Municipal Council decision No: 18 dated 29/5/2020, this respondent have issued letter to the Executive, Engineer, PWD Road Division , Ernakulam and the Chief Executive Officer, Infopark, Kakkanad regarding the measures to be taken to mitigate the water logging at Link Valley. In our view the following three options would be more practical to mitigate the water logging issue in the area in question.

(a) The storm water can be drained off from the Link valley premises by constructing a drainage to the extend of 280 meter through the compound of Infopark and then the drainage has to cross the PWD Road by constructing a culvert and then to reach at the Edachira thodu, finally.

(b) Since the ground level of Link Valley is below the water level of Edachira thodu, construction of one collection chamber at the premises of Link Valley to store the storm water is also good.

(c) To prevent the flow of water from Edachira thodu to Link valley a shutter can be constructed inside the drainage and the rain water stored in the collection pit can be drained off to Edachira thodu by using motor pump.

13. It is further submitted that this respondent while granting partial occupancy certificate to the 6<sup>th</sup> respondent has directed them to do all works related to flood mitigation by using their CSR funds before the completion of the final construction of the building. The construction of the building has not been completed finally and sofar no final occupancy certificate has been issued by this respondent.

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the application. This respondent reserves its right to file detailed objections if found necessary or as directed by this Hon'ble Tribunal.

Dated this 23<sup>rd</sup> day of August, 2023



Secretary  
Thrikkakara Municipality  
5<sup>th</sup> Respondent

**PRASAD P.N.  
MUNICIPAL SECRETARY  
THRIKKAKARA MUNICIPALITY**

I, Prasad. P N., aged 47 years, Secretary, Thrikkakara Municipality, Kakkanad P O, Ernakulam, PIN-682030, do hereby declare that I am the Secretary of the 5<sup>th</sup> respondent, Municipality and I know the facts of the case and competent to sign and verify this reply and the facts stated in Para 1 to 13 therein are true and correct to the best of my knowledge, information and belief.

Dated this 23<sup>rd</sup> day of August, 2023



Secretary  
Thrikkakara Municipality  
5<sup>th</sup> Respondent

**PRASAD P.N.  
MUNICIPAL SECRETARY  
THRIKKAKARA MUNICIPALITY**

*S. J A M A L*  
S. J A M A L  
COUNSEL FOR THE 5<sup>TH</sup> RESPONDENT

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Bangalore & Others : Respondents

**A F F I D A V I T**

I, Prasad. P N, aged 47 years, Secretary, Thrikkakara Municipality, Kakkanad P O, Ernakulam, PIN-682030, do hereby solemnly affirm and state as follows:

1. I am the Secretary of the 5<sup>th</sup> respondent Municipality and I know the facts of the case and competent to swear to this affidavit.
2. All the facts stated in para 1 to 12 of the reply statement are true to the best of my knowledge, information and belief.

All the facts stated above are true

Dated this 23<sup>rd</sup> day of August, 2023

**PRASAD P.N.  
MUNICIPAL SECRETARY  
THRIKKAKARA MUNICIPALITY**

DEPONENT

Solemnly affirmed and signed before me by the Deponent who is personally known to me on this 23<sup>rd</sup> day of August, 2023 at my office at Ernakulam.

S. J A M A L

ADVOCATE

K/253/1992

23.11.2022

ബി.എ-1337/13

**നോട്ടീസ്**

വിഷയം : തൃക്കാക്കര നഗരസഭ- എഞ്ചിനീയറിംഗ് വിഭാഗം-ഒക്യുപൻസി അപേക്ഷ - ന്യൂനത പരിഹരിക്കുന്നത് സംബന്ധിച്ച്.

- സൂചന : 1. താങ്കളുടെ 04.11.2022 ലെ അപേക്ഷ  
 2. നഗരസഭ ഓവർസിയറുടെ റിപ്പോർട്ട്

താങ്കൾ സമർപ്പിച്ചിട്ടുള്ള കംപ്ലിഷൻ സർട്ടിഫിക്കറ്റിനുള്ള അപേക്ഷ പ്രകാരം പ്രകാരം സ്ഥലപരിശോധന നടത്തിയിട്ടുള്ളതാണ്. ടി നിർമ്മാണത്തിന് പാരിസ്ഥിതികാനുമതി ലഭിച്ചിട്ടുള്ളതായി കാണുന്നുവെങ്കിലും പാരിസ്ഥിതികാനുമതിയുമായി ബന്ധപ്പെട്ട് പരാതികൾ ഉള്ളതിനാൽ ഇതുമായി ബന്ധപ്പെട്ട് താഴെ പറയുന്ന കാര്യങ്ങളിൽ വിശദീകരണം നൽകേണ്ടതാണ്.

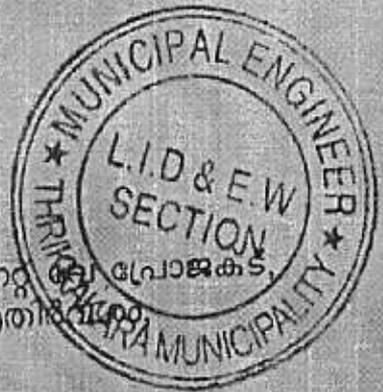
1. "SEIAA" യുടെ ഉത്തരവ് പ്രകാരം നിലവിലുള്ള കാന വീതി കുട്ടിയിട്ടുണ്ടെങ്കിൽ ആയത് സംബന്ധിച്ചുള്ള വിശദവിവരങ്ങൾ.
2. "SEIAA" യുടെ ഉത്തരവിനനുസൃതമായി രണ്ട് ആഴ്ച കാലത്തേയ്ക്കുള്ള മഴവെള്ളം സംഭരിക്കുന്നതിനായി നിർദ്ദേശിച്ചിട്ടുള്ള സംഭരണി സ്ഥാപിച്ചിട്ടുണ്ടോ എന്ന് വ്യക്തമാക്കുക. ആയതിന്റെ പ്ലാൻ സഹിതമുള്ള വിശദവിവരങ്ങൾ
3. ടി കോമ്പൗണ്ടിൽ നാട്ടുചെടികൾ സ്ഥാപിച്ചിട്ടുള്ളതിന്റെ വിവരങ്ങൾ

കൂടാതെ റിക്രിയേഷൻ ഏരിയ വ്യക്തമായി അടയാളപ്പെടുത്തിയ പ്ലാൻ ഹാജരാക്കേണ്ടതാണ്.

ഇതുമായി ബന്ധപ്പെട്ടുള്ള മറുപടി ഈ നോട്ടീസ് കൈപ്പറ്റി 7 ദിവസത്തിനകം നഗരസഭ യിൽ രേഖാമൂലം ഹാജരാക്കേണ്ടതാണെന്ന് അറിയിക്കുന്നു.

സ്വീകർത്താവ്

M/s പ്രസ്റ്റീജ് ഹിൽ സൈഡ് ഗേറ്റ് കൗസുമഗിരി ഹോസ്പിറ്റലിന് എതിർവശം കാക്കനാട്.



അസി.എക്സി.എഞ്ചിനീയർ  
 തൃക്കാക്കര നഗരസഭ  
 അസി. എഞ്ചിനീയർ  
 L.I.D & E.W  
 തൃക്കാക്കര നഗരസഭ

**THRIKKAKARA MUNICIPALITY**

KAKKANAD P O, KOCHI-682030

ERNAKULAM DISTRICT PHONE-0484-2422383

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B.A-1337/13

23-11-2022

NOTICE

Sub: Thrikkakara Municipality-Engineering Section-Occupancy Certificate- rectification of defects- Regarding:

- Ref: 1.Your Application dated 4-11-2022  
2. Report of the Overseer of the Municipality

An inspection has been done as per your completion certificate. Though Environmental clearance has been obtained by you in your construction, complaints are pending in respect of environmental issues, hence you are directed to produce the following explanations in this regard.

1. If the drainage has been widened as per the order of "SEIAA", please provide the details.
2. Explain and produce the plan and details regarding construction of rain water harvesting tanks by following the orders of "SEIAA"
3. Details regarding planting of plants with native species.

Besides to the above Plan may be produce by marking precisely the Recreation area.

This is to inform you that reply to the notice may be produces before the Municipality within 7 days.

Sd/-

Asst. Executive Engineer

Thrikkakara Municipality

To

M/s. Prestige Hillside Gateway

Opposite to Kusumagiri Hospital

Kakkanad.

*True English translated copy of exhibit R5-1.*

*[Handwritten signature]*