

FILED ON:

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI**

**Original Application No. 182 of 2021**

Mahesh Kumar : Applicant

Vs.

Kerala State Pollution Control Board & others: Respondents

**PRELIMINARY OBJECTION FILED BY RESPONDENTS 9 AND 10 IN  
THE ABOVE CASE**

**M/s. VIRUKSHAM LEGAL**

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**M/s.VIRUKSHAM LEGAL**

Advocates for Respondents 9 &amp;10

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI****Application No. 182 of 2021**

Mahesh Kumar: Applicant

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Kerala State Pollution Control Board &amp; others: Respondents

**PRELIMINARY OBJECTION FILED BY THE RESPONDENTS 9 & 10 IN  
THE ABOVE CASE**

I, Bismith Mohamed Alingal, aged 49 years, S/o Late Abdul Rahman, Director, Edayar Zinc Ltd (formerly "Binani Zinc Ltd"), having registered office at 37/2, Chinnar Park, New Town, Rajarhat Main Road, P.O. Hatiara, Kolkatta-700157, do hereby solemnly affirm and state as follows:

1. I am the director of the 9<sup>th</sup> Respondent company and am conversant with the facts of the above case and specifically authorized to swear this affidavit on behalf of 9<sup>th</sup> Respondent company as well as the 10<sup>th</sup> respondent holding company.
2. The above case has been filed by the applicant without any bona fide and suppressing pendency of similar matter (OA No.143/2020) filed by his fellow member of the NGO, in which the applicant is associated with.
3. The above case is liable to be dismissed with exemplary cost.
4. The above case is a "copy-paste" of the O.A No. 143/2020 filed by Mr. K.K. Muhammed Iqbal before this honourable Tribunal in which a joint committee has been constituted by this honourable Tribunal by order dated 13/04/2021.
5. The applicant in OA No. 143/2020 swears that he is an active volunteer of Janajagratha, a peoples' initiative for environmental protection and social awareness working mainly focused in Eloor-Edayar industrial area. The applicant in the above case, Mr. Mahesh Kumar is also an active associate of the NGO 'Janajagratha'. True printout of the news report titled "Kerala continues to see fish deaths in the Periyar as authorities pass the buck" appeared in The News Minute, online news portal on 08/04/2019 is produced herewith and marked for reference as **Annexure-R9A**. In the said news item, Mr. Mahesh Kumar, applicant in the above case, is quoted as the spokesperson of Janajagratha, a collective working towards protection of rivers.
6. Our industrial plant is situated in 110 acres of land in EdayarIndustrial Development Area. Another resident of Edayar, Mr.



P.E.Shamsudheen, Pallimittath House, Binanipuram P.O., Edayar much earlier in July 2018 Counsel for filed a public interest litigation before the Hon'ble High Court of Kerala vide W.P. ( C ) No. 22772/2018 through Adv. K.K. Ashkar, the same counsel appearing for the applicant in OA No. 143/2020. Pollution Control Board and State Government have filed various status report showing the progress of removal of hazardous chemicals from the industrial premises of this Respondent company. The said public interest Writ petition is pending under the consideration of honourable High Court and various orders have been passed by the High Court. The status report of the W.P. (C) No. 22772/2018 taken from the website of High Court of Kerala on 25/10/2021 is produced herewith and marked for reference as **Annexure-R9B.**

7. The petitioner filed the writ petition before the Hight Court relying on the judgement of apex Court in *Vaamika Island vs Union of India and others (2013 (8) SCC 760)* holding that High Court can entertain writ petitions in environmental matters considering the largest public interest involved in, seeking the following reliefs:

i) *issue a Writ of mandamus or any other appropriate Writ or direction directing the Respondents 1(KSPCB), 7 (Factories & Boilers Directorate), 9 (MoEF) and 11 (State of Kerala) to constitute a multidisciplinary committee headed by a scientific experts from the Hazardous Substance Management Division (HSMD) for inspecting the factory premises of the 12<sup>th</sup> Respondent company (9<sup>th</sup> Respondent herein) to make an inventory of hazardous and obnoxious substance stored therein in the presence of parties in the writ petition and their representatives and to prepare a time bound action plan for environmental is sound disposal of the hazardous substances and a war footing;*

ii) *issue a Writ of mandamus or any other appropriate Writ or direction directing the multidisciplinary committee to conduct appropriate test and sampling for ensuring toxic leachate from three capped jarosite pond covering 20 acres the factory premises of the 12<sup>th</sup> Respondent and to prepare an action plan for its environmental sound and safe removal and disposal with a concrete action plan.*

iii) *issue a Writ of mandamus or any other appropriate Writ or direction directing the Respondents to implement the action plan for removal and disposal of vast storage of jarosite stored in 4 huge ponds and all other hazardous*



substances stored in the factory premises of the 12<sup>th</sup> Respondent and to recover the cost of such activity from Respondent 12 to 17.

iv) direct the 18<sup>th</sup> Respondent (FEDO) to produce the action plan for removal of chemicals and other hazardous substances stored in the factory premises of the 12<sup>th</sup> Respondent, if any prepared by them and that may be directed to be scrutinized by the proposed multidisciplinary committee regarding its feasibility and adequacy.

v) issue a Writ of mandamus or any other appropriate Writ or direction directing the 10<sup>th</sup> Respondent (CPCB) to produce the detailed project report prepared under NCEF project for remediation of hazardously contaminated sites of Edayattuchal and Chakkarachal paddy fields, before this Court.

vi) issue a Writ of mandamus or any other appropriate Writ or direction directing the 9<sup>th</sup> Respondent Central government and the 11<sup>th</sup> Respondent state Government to deposit their respective share 40% and 60% of the total cost of remediation as per the final DPR produced by the 10<sup>th</sup> Respondent CPCB within 2 months ensuring timely and smooth implementation of the remediation project.

vii) Direct the multidisciplinary committee to quantify the environmental damage caused by the operation of 12<sup>th</sup> Respondent industry in Edayar Area and river Periyar and its remediation cost and direct the Respondents 1, 2, 5, 7, 8, 9, 10 and 11 to recover the same from Respondents 12 to 17;

viii) direct the 1<sup>st</sup> and 2<sup>nd</sup> Respondent to initiate criminal prosecution against Respondents 12 to 16 for contravention of the provisions of Water (Prevention and of Pollution) Act, 1974, Air (Prevention and of Pollution) Act, 1981 and Environmental Protection Act, 1986 and Rules made thereunder.

ix) direct the 7<sup>th</sup> and 8<sup>th</sup> Respondent to initiate criminal prosecution against the Respondents 12 to 16 for contravention of the provisions of the Factories Act, 1948.

x) direct the Respondents 1 and 2 to ensure that all



*industries in Eloor- Edayar Industrial Cluster involved in hazardous chemicals and generating hazardous wastes, display online data outside the main factory gate on quantity and nature of hazardous chemicals being used in the plant, water and air emissions and solid waste generated within the factory premises within 3 months and direct them to serve show cause notice for closure against those industrial units failing to do so;*

*xi) direct the Respondents 1 and 2 to upload on its website the consent conditions of all the industrial units along with their compliance status (updated half yearly) with respect to prescribed norms.*

*xii) direct the Respondents 1 and 2 to comply with all the directions issued by CPCB vide Exhibit P7 within a fixed timeframe without any fail and to contact environmental quality monitoring as directed by the CPCB in Eloor -Edayar industrial cluster.”*

**8.** The reliefs sought by Mr. K.K. Muhammed Iqbal through his counsel Adv. K.K. Ashkar in OA No. 143/2020 are similar and identical to the reliefs sought in the pending W.P.(C) No. 22772/2018 and the subject matter of the 2 litigations are the same. A true copy of the order dated 11/07/2018 issued by division bench of honourable High Court in W.P.(C) No. 22772/2018 admitting the case and directing the respondents to swear affidavit statement as to the steps taken to remove hazardous substance stored in the premises of 12<sup>th</sup> Respondent (9<sup>th</sup> Respondent herein) and also the future course of action to be taken to avoid the menace posed by the storage of such hazardous chemicals taking into account the urgency of the issue, is produced herewith and marked for reference as **Annexure-R9C**. The admission of the public interest litigation by the honourable High Court was widely reported in all the newspapers. A true printout of the News item titled “Plea in High Court seeks removal of hazardous Waste from Edayar Factory” reporting admission of Public Interest litigation in the same subject matter before High Court appeared in the Hindu daily dated 9/07/2018 is produced herewith and marked for reference as **Annexure-R9D**.

**9.** The subject matter and reliefs sought in W.P. (C) No. 22772/2018 and O.A No. 143/2025 pending before this Tribunal are same seeking remediation of hazardously contaminated sites in Edayar, and environmental sound disposal of jarosite stored in the industrial premises of this Respondent company. Both cases are made through the same counsel



Adv. K.K.Ashkar, who also represented Mr. Mahesh Kumar, applicant in the above case in another environment litigation pending before the High Court of Kerala vide W.P. (C) No. 28465/2014. True copy of the Malayala Manorama daily dated 31/10/2014 reporting admission of Writ Petition filed by Mr Mahesh Kumar, applicant in the above case through Adv. K.K. Ashkar challenging setting up of industries in violation of High Court order in Edayar industrial area along with its English translation is produced herewith and marked for reference as **Annexure-RE**.

**10.** The Writ petition was filed by the writ petitioner in public interest. The OA No.143/2020 has also been filed by the applicant in public interest of the residents of Eloor-Edayar industrial cluster. The orders passed by the honourable High Court in W.P (C) No. 22772/2018 has been widely covered by the media and pendency of that writ petition was under the active notice and knowledge of the applicant in O.A No.143/2020. Moreover, the counsel for the applicant in O.A No.143/2020 on the files of this Tribunal is also appearing for the petitioner in W.P. (C) No.22772/2018 in High Court. But the applicant in OA No.143/2020, suppressed pendency of the similar matter in a parallel proceeding before the honourable High Court.

**11.** Honourable Supreme Court in *Hope Plantation Ltd vs Taluk Land Board (1999 (5) SCC 590)* held that legal principle of estoppel and res judicata are equally applicable even before administrative authorities as they are based on public policy and justice. Even though, provisions of Civil Procedure Code are not applicable to this honourable Tribunal, doctrine of res sub judice and res judicata applicable to this honourable Tribunal. Res sub judice as a doctrine has the main purpose of reducing the burden of courts from abundance of cases and to avoids conflicting decisions and to minimize the waste of resources of courts. The court can exercise this power and put a stay on the subsequent suit. The test of applicability for res sub judice is whether the decision in a former given case would operate as res judicata (decided case) in the subsequent suit. If this happens, then the latter suit must be stayed. It is settled legal position that res judicata applies to public interest litigations by apex court in *V. Purushotham Rao v. Union of India [(2001) 10 SCC 305]*, *Moumita Poddar v. Indian Oil Corporation Limited [(2010) 9 SCC 291]* etc. Since the subject matter in O.A No.143/2020 has been pending consideration of Honourable High Court in W.P. (C) No. 22772/2018, the trial of O.A No.143/2020 is to be stayed to avoid conflicting decisions.

**12.** The reliefs sought in O.A No.143/2020 are as follows:

- 1) *Direct the Respondents 1 to 4 to ensure implementation of Annx-A4 DPR for remediation of hazardously contaminated*



sites in Edayar in Kadungalloor Village, Parur Taluk, Ernakulam District in state of Kerala within a timeframe.

2) Direct the 9<sup>th</sup> respondent to not remove plant and machineries from their industrial premises, before their environmental liability for Annx-A4 remediation project is quantified and settled by respondents 1 to 4;

3) Direct the respondents 1 to 4 to constitute a team of experts to inspect the Jerrosite ponds covering 20 acres of land in the premises of 9<sup>th</sup> respondent whether there is toxic leachate from the ponds.

4) Direct the 2<sup>nd</sup> respondent Government to deposit 40% of the Annx-A4 project cost to 4<sup>th</sup> respondent CPCB for implementation of the project in time.

5) Direct the Respondents 1 & 2 to collect 60% of the Annx-A4 project cost from 9<sup>th</sup> respondent and deposit the same to 4<sup>th</sup> respondent CPCB for implementation of the project in time.

6) Direct the 8<sup>th</sup> respondent to restore the joining portion of Chakala thodu to the river Periyar on upstream of Pathalam Regulator cum Bridge by removing the earth filled in it, enabling easy inflow and outflow of water through the channel to and from Edayattuchal paddy fields.

7) Direct the respondents 1 to 4 to quantify the other environmental damages caused by the operation of 9<sup>th</sup> respondent industrial unit in Edayar area and river Periyar and its remediation cost and to recover the same from the 9<sup>th</sup> respondent or 10<sup>th</sup> respondent, its holding company.

**13.** Reliefs (1) to (5) and (7) sought in O.A No.143/20 are the only reliefs sought in the above case and those reliefs are reproduced in the above case without any grammatical or punctuational variations. Factual pleadings, legal grounds and cause of action averred in the above case are “cut, copy, paste” of the pleadings in O.A.No.143/20. More than 95% of the pleadings in the above case are copy paste from the pleadings of O.A.No.143/20. The applicant in the above case is a fellow activist of the applicant in O.A.No.143/20 and both of them are associated with same NGO Janajagratha.

**14.** The applicant has instituted the above case solely relying on the pleadings of O.A No.143/2020 by copycatting its pleadings, but willfully suppressed the pendency of the said O.A No.143/20 before this honourable



Tribunal and the pendency of W.P. (C) No. 22772/2018 before the High Court in the same subject matter also. Applicant in the above case also suppressed the orders of this Honourable Tribunal in the pending O.A No.143/2020 constituting a team of experts to inspect the alleged contaminates site, for remediation which the above case is also preferred. He cannot plead ignorance about the pendency of the said matter, as his application is the xerox copy of OA No.143/2020 pending before this Tribunal. Moreover, the order constituting committee to inspect the alleged contaminated site was widely reported in the leading dailies in local language and English having wide circulation in Eloor- Edayar as well as in the state of Kerala on 24/04/2021. True printout of the News item titled “NGT panel to probe pollution of Edayar paddy fields” appeared in the Hindu daily dated 22/04/2021 reporting the order dated 13/04/2021 of this Tribunal in OA No. 143/2020 is produced herewith and marked for reference as **Annexure-R9F.**

**15.** When OA No. 143/2020 came up for admission before this honourable Tribunal, when the applicant canvassed interim order restraining transfer of industrial land, plant and machineries, this Tribunal observed that if removal of plant and machineries and transfer of land initiated on the basis of orders of Debt Recovery Tribunal or any other Court of law, this Tribunal cannot allow the plea in a parallel proceeding and the remedy available to the aggrieved is to challenge such orders before the appropriate forum where the matter is pending.

**16.** As part of Corporate Social Responsibility, this Respondent provided piped free drinking water to the residents of ward No. XV (New Ward No. XVIII) of the 6<sup>th</sup> Respondent panchayat wherein our industrial plant locates. One beneficiary of the drinking water scheme, namely Mr. P.E. Shamsudheen, Pallimittath House, Biananipuram P.O., Edayar filed a writ petition before the honourable High Court of Kerala through Adv. K.K. Ashkar, for ensuring uninterrupted supply of piped drinking water to the beneficiary families at the cost of this Respondent, after closure of the industrial plant in 2014 by W.P. (C) No. 39940/2015. The Honourable High Court by order dated 04/01/2016 stayed shifting of plants and machineries from the premises of this Respondent until disposal of the Writ petition. Thereafter, this Respondent replenished the deposit it made before the Kerala Water Authority for providing drinking water to the beneficiary families without fail and the writ petitioner was made convinced about the same in the meeting held in the chamber of Executive Engineer, Kerala Water Authority, Ernakulam and that his grievance in the writ petition was solved. A true copy of the I.A. No. 2/2020 in W.P. (C) No. 39940/2015 filed



by the writ petitioner before the High Court on 09/06/2020 for dismissing the writ petition as not pressed and the judgement dated 05/08/2020 of the High Court dismissing the writ petition as not pressed are produced herewith and marked for reference as **Annexure R9G & R9H respectively.**

**17.** OA No. 143/2020 was filed by Mr. K.K. Muhammed Iqbal through Adv K.K. Ashkar on the very next day after filing of I.A No.2/2020 in W.P. (C) No. 39940/2015 to dismiss the writ petition as not pressed. In para 7 of Annexure-R9G affidavit prepared by Adv. K.K Ashkar, pendency of a comprehensive writ petition filed by the petitioner in public interest regarding the issues with respect to the environmental liability of this Respondent is mentioned. But suppressing the pendency of the public interest litigation in the subject matter, the O.A. No. 143/2020 has been filed by the applicant through the same counsel very next day seeking order restraining this Respondent from removing plant and machinery from our industrial premises, in anticipation of the judgement of honourable High Court vacating its order dated 04/01/2016 which stayed removal of plants and machineries from our premises.

**18.** In the Writ Petition filed in public interest through Adv K.K. Ashkar, the fact that land and plants of this Respondent has taken into possession by Punjab National Bank has been averred and Punjab National Bank was made, a party in the Writ petition as 17<sup>th</sup> Respondent and the auction notice published by the bank for sale of land and machineries was produced as Exhibit-P2 in the writ petition. A true copy of the counter affidavit filed by 17<sup>th</sup> Respondent Punjab National Bank W.P. (C) No. 22772/2018 is produced herewith and marked for reference as **Annexure-R9I.** But the securitization proceedings under SARFAESI Act, 2002 initiated by the bank has been suppressed by the applicant in OA No. 143/2020 and canvassed order restraining transfer of land, plant, and machineries behind their back without impleading them. When applicant in OA No.143/2020 was unsuccessful in obtaining restraining orders against removal of plant and machineries at the time of admission of the above case on 07/08/2020, the applicant was constrained to file a petition to delete such relief from the case by filing I.A. No. 106/2020 on 20/10/2020, before the next posting of the case, to save his face from the accusation of abusing the process of this Tribunal.

**19.** The plants and machineries are being removed from the premises of this Respondent as per the sale Certificate issued by the Bank pursuant to the order dated 07/02/2020 of honourable Debts Recovery Tribunal-1, Mumbai in SA No.13/2016. When the removal of plants and machineries from the premises were obstructed by the revenue officials and some trade



union members and other local residents at the behest of someone who have rival interest or having an eye upon the land and plants of this Respondent, the successful auctioneer M/s. Fine Fab Engineering and Constructions, who were issued sale Certificate dated 18/03/20 by the Bank, approached honourable High Court seeking direction to permit them to dismantle and remove materials sold by the Punjab National Bank to them under securitization proceedings and plants and machineries are being removed from the site as per the interim order dated 01/10/2020 of honourable High Court obtained by them in W.P. (C) No.19291/2020 specifically permitting the auctioneer to remove the goods covered under the sale Certificate issued by the bank from the premises of this Respondent under the supervision of the monitoring agency appointed by the bank.

**20.** Even after the order of the High Court permitting shifting of machineries from the premises, people naming themselves environmental activists, public-spirited persons, so and so, obstructed the trucks carrying off scraps from the premises of this Respondent. Some people used to demand money for permitting the vehicle to carry away scraps from the industrial premises. The existing industrial units in the area and other agencies somehow managed to make this respondent company a scapegoat to bear the blunt for all the contamination of the area per incuriam to the enquiry reports of various agencies, since this respondent unit was closed during the remedial investigation conducted under NCEF project. The Local Area Environment Committee Constituted by the Supreme Court monitoring committee on hazardous waste conducted environmental audit in Edayar area and identified about 4 companies as major source of contamination in Edayar.

**21.** In January 2008, one resident of Edayar, Mrs.Omana, Edaykattil House made a complaint before the Chief Minister seeking compensation from this Respondent for contaminating land in Edayar which made lose her livelihood. Pollution Control Board submitted a report before the District Collector after conducting an enquiry upon her complaint stating that contamination of Edayattuchal area is confirmed by study reports made by various agencies. It also reported that this large tract of paddy fields remains as a dump site, vulnerable for littering any kinds of waste by anyone, which is easily accessible by road. These paddy fields have become not suitable for cultivation by receiving pollutants from about 200 industrial units in the area. It also reported that Hazardous Waste (Management and Handling) Rules originally came into force in India in 1989 and after enforcement of the Rules, the company has constructed a pond to store jarosite as per the CPCB guidelines and same is leakproof. The old 3 ponds were constructed



before the enactment of the Rules were not in compliance of the present guidelines for storage ponds prescribed by CPCB under HW Rules, hence they were capped and not in use. PCB also admits that the contamination of land in Edayar was due to the historical operation of industries before the commencement of pollution control laws and that board is trying to secure assistance of national and international agencies for remediation of the soil and water in Edayar. A true copy of the report submitted by PCB Chief Environmental Engineer before the district collector dated 22/03/2008 along with its English translation is produced herewith and marked for reference as **Annexure-R9J**

**22.** The applicants in the above case and the former OA 143/2020 pending before this Tribunal is selectively targeting this respondent alone, is with a malafide intention to help other industries in the area to evade from the liability for remediation of contaminated land in Edayar which was reported to be an area susceptible to receive discharge from about 200 industrial units of various sizes. It is easy to put culpability on a dead for all the sins. Since this respondent's industrial operation was closed since November 2014, entire burden for contaminated sites in Edayar is being put upon the shoulder of this Respondent without any prudent reasoning or any scientific basis. This Respondent has filed a detailed counter affidavit in OA No. 143/2020 refuting such orchestrated act by the board under the influence of other existing industries in Edayar Industrial Development Area.

**23.** This Tribunal after considering the detailed counter affidavit filed by this Respondent and the report submitted by the State Level Monitoring Committee in OA No. 395/2013 mentioning about existence of more than hundred industrial units in the stretch which are also contributing for the contamination, constituted a 4 member committee to ascertain as to whether any of the activities of this Respondent had contributed to the alleged contamination of agricultural lands and whether there are any other factors and other sources for contamination and if so, who are responsible for such contribution. The order constituting a committee to probe the contamination of sites in Edayar was widely covered by the media as evident by Annexure R9F.

**24.** The above case has been instituted by the applicant only on 5<sup>th</sup> June 2021, 2 months after issuance of the aforesaid order by this Tribunal in OA No. 143/2020. The entire pleading in the above case is wholesale copy paste of pleadings in OA No. 143/2020 and applicant in the above case associated with the same NGO in which the applicant in the former case is involved in. Therefore, he must be aware of the proceedings and orders passed by this



Tribunal in OA No. 143/2020. The orders passed in OA No.143/20 is accessible to the applicant in the above case from the website of this Tribunal. Applicant cannot plead ignorance about pendency of OA No.143/2020 since he filed the above case by copying the pleadings and documents of that case. But suppressing the pendency of the former case and the order passed by this Tribunal setting up a committee for conducting fact-finding enquiry in the subject matter of the case, petitioner filed the above case afresh, despite there is no change in cause of action or he has a better locus standi than the applicant in the earlier case. He sought interim order restraining removal of plant and machineries from the premises of this Respondent. The applicant in the above case is also having client counsel relationship with Adv. K.K. Ashkar, the counsel for the applicant in OA No. 143/2020 in a writ petition pending before the High Court with respect to environmental issue in Edayar area. These facts lead to an apprehension that all these repeated litigations on the same cause of action are made in collusion with each other to obtain a restraining order against this respondent by however means and to deter our new industrial project in the land.

**25.** It is a fact that our zinc smelting factory at Edayar was closed in 2014 due to financial crunches, as it became financially not viable due to the change of time and the changes in the national and international market conditions. But our company is not wound up, we were trying to settle our liabilities incurred during the operation of the factory, which generated employment opportunities and revenue to the state and in pursuit for molding a sustainable growth plan by utilizing the industrial land of this Respondent in Edayar. We have already settled 40% of our liabilities. In discharge of our commitment for providing piped drinking water, given to Edayar residents as part of our corporate social responsibility in 2005 while we were in operation, we have given additional deposit for increasing monthly limit of free drinking water supplied to the beneficiaries, even after closure of the factory. This Respondent may be the pioneering industry in Kerala who set up a storage pond as per CPCB guidelines under HW Rules for storing industrial wastes.

**26.** We are in active discussions with Government of Kerala/KINFRA to set up an industrial cum logistics park and township in the name and style "Edayar Eco Industrial and Logistics Township" which will house environment friendly industries and provide direct employment of about 3000 above and indirect employment of 10,000. A true copy of the conceptual note for the new revival project Eco Industrial and Logistics Township is produced herewith and marked for reference as **Annexure-R9K**.



The businesspeople who are keeping an eye upon 110 acres of land of this Respondent in Edayar Industrial Development Area, since no more land is left in Edayar industrial development area for expansion of the existing industries or setting up of new industries, may be behind these litigations. This Respondents apprehends that these litigations were made with the malafide intention to obstruct the growth plan envisaged by us.

**27.** In a recent public interest litigation filed before Hon'ble High Court of Delhi challenging the appointment of Delhi state Police chief, pleadings of the Writ petition was found to be "cut, copy, paste" of an earlier litigation filed by another before the Supreme Court, the Hon'ble division bench of Delhi High Court observed that such a practice is certainly unhealthy and deserves to be deprecated and the petitioner was reprimanded that heavy cost will be imposed on such instance in future. (*Sadre Alam v Union of India*, **(2021 SCC OnLine Del 4691)**).

**28.** The above original application is a verbatim reproduction of the pending OA. No.143/2020 filed earlier by Mr. K.K. Muhammed Iqbal, a fellow activist of the applicant in the above case. This is gross abuse of the process of law, and it reflects no application of mind by the applicant and creates serious doubts on the bonafides of the applicant. Both cases are not bona fide litigation but flagrant abuse of the august forum of this Tribunal on account of some hidden vendetta either of the applicant or someone whose behest attempts are being made to jeopardize and obstruct removal of plants and machineries from the premises of this Respondent in order to repay the debt owed to the Punjab National Bank and thereby defeat the business growth plan of this respondent. We strongly suspect that the present application as well as the pending one is proxy litigation made on behalf of some undisclosed rival interest who is keeping an eye on the land and other assets of this Respondent.

**29.** The fact that applicant in the above case is employed as Foreman in a private company in Edayar Industrial Development Area, namely M/s. Indo German Carbon Ltd (IGCL) located near to the industrial premises of this Respondent, is also to be taken special note of. Nowadays environmental prosecutions just like public interest litigation has been brazenly mis-utilized by persons with personal agenda as Honourable apex Court observed in *Tahseen Poonawalia & Others v. Union of India & Others* **(2018(6) SCC 72)** thus:

*"At one end of that spectrum are those cases where public interest petition for motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle*



*scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled.”*

**30.** It also emphasized on the earlier judgement of apex court in *State of Utharanchal vs Balwant Singh Chauhal (2010 (3) SCC 402)* which held thus:

*“We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we must take effective steps to prevent and cure its abuse, on the basis of monetary and no monetary directions by the courts.”*

These observations are applicable in environmental litigations also.

**31.** *A bona fide litigant must disclose all material facts without any reservation even if they against him. He cannot be allowed to play hide and seek or pick and choose the facts he likes to disclose and to suppress or not to disclose other facts. Suppression or concealment of material fact is not an advocacy. It is a jugglery, manipulation, maneuvering or misrepresentation which has no place in equitable jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states that in a distorted manner and mislead the Court, the Court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the Court does not protect the petition on the ground, the Court would be failing in its duty. In fact, such an applicant because to be dealt with for contempt of for abusing the process of that court. (Sharma K.D v Steel Authority of India Ltd & others (2008 (12) SCC 481).*

**32.** The pendency of a public interest litigation on the same subject matter before the Hon’ble High Court of Kerala and an original application pending before this Tribunal was under the active knowledge and notice of the applicant in the above case. But the applicant filed the above case suppressing pendency of those cases and orders passed in those cases. The prosecution of the above application by this Tribunal would be sheer wastage of its precious time and may lead to conflicting orders. Applicant has not served copy of the original application to the standing counsels of the official Respondents even at the time of admission or in the next posting, despite specific direction was issued by this honourable Tribunal to do so in order dated 16/08/2021, as revealed by daily orders dated 16/3/2021 and 02/09/2021 the above case. It is by the submission of the standing counsel of the State Pollution Control Board regarding pendency of another matter against this Respondent company, possibility of allowing interim order in oblivious of the true facts about the orders issued by DRT as well as



honourable High Court of Kerala, which has been deliberately concealed by the applicant, could be averted.

**33.** In *Krishna Lal Chawla and Others v. State of U. P. and Another* (**AIR 2021 SC 1381**) Honourable Supreme Court held that it is the litigant's bounden duty to make a full and true disclosure of facts and it is a matter of trite law that suppression of material facts before the Court amounts abuse of the process of the Court and shall be dealt with a heavy hand. Therefore, the act of the applicant by filing above case reproducing the pleadings of the OA No.143/2020 pending before this Tribunal, but suppressing pendency of such litigation before this Tribunal and various orders passed in that case, has to be dealt with an iron hand.

**34.** The applicant in the above case misrepresented this honourable Tribunal in Para 14 of the application that this Respondent is dismantling its machinery, equipment and plant and is shifting to some other place outside the state of Kerala, to secure a restraining direction from this Tribunal against the removal of plant and machineries from the premises of this Respondent. The said allegation is absolutely baseless and made with malafide intention. The plants and machineries are removed as "scraps" from the premises of this Respondent as per the auction sale proceedings initiated by Punjab National Bank under SERFAISI Act on the basis of the orders of Debt Recovery Tribunal, Mumbai and Hon'ble High Court of Kerala by another firm whose favour sale Certificate has been issued by the bank. This fact is under the active or constructive knowledge of the applicant in the above case as this Honourable Tribunal deleted the prayer for injuncting removal of plant and machineries from the premises of this Respondent in the pending OA No. 143/20 by order dated 13/04/2021 and the same is accessible for the applicant from the website of this Tribunal.

**35.** The above application has been preferred by the applicant seeking remediation of jarosite pond existing in our industrial premises and remediation of paddy fields located in Edayar. The applicant has no case that he is personally aggrieved by the alleged contamination of Paddy land and there is nothing in the pleadings shows how he is personally aggrieved. He did not claim that is having land in the alleged site or soil and water attached to his property is polluted by the operation of this respondent or its jarosite storage. He claims locus standi to prosecute the matter in public interest and as part of his fundamental duty to protect environment, as specifically averred under paragraph 16 of the application. Since a litigation filed by his colleague in the interest of public and environment is already pending on the same subject matter and cause of action, filing a repetitive case as above by xeroxing the pleadings and documents of the earlier one, it



is sheer wastage of precious time of this honourable Tribunal, and it is made with the dishonest intention to harass this respondent, being a stooge of rival business interests.

**36.** By Annexure-R9J, pollution control board reported that the allegedly contaminated paddy land lies spreading over a vast area, susceptible to dumping of waste from different sources and was contaminated by the pollution load from about 200 various industries located in the industrial belt. In Annexure-A2 report produced by the applicant itself, refers to other four industrial units in the area as major pollution sources. The said report has been made in 2005 while this Respondent's industrial unit was in operation. Government of Kerala is proceeding with the proposal to set up a common effluent treatment plant at Edayar, pursuant to the stringent direction of this Tribunal, since many industrial units engaged in various type of industrial activity were not having adequate effluent treatment plants. The Central Pollution Control Board conducted a detailed inspection of all the industries situated along the bank of Periyar pursuant to the order of this Tribunal in OA 409/2016. In the Inspection report submitted by CPCB in February 2017, it is observed that effluent treatment plants are the most neglected area in many of the industries in Eloor-Edayar industrial area and operation and maintenance of ETP are very poor in most of the units. It also reports that the condition observed during the inspection indicates that the treatment systems are intermittently or rarely operated in many units. Due to unsatisfactory operation and maintenance of ETPs, many of the industries are not meeting the prescribed discharge standards. It further reports that many industries have stored effluents to maximum levels in delay ponds and huge heaps of waste sludge/solid wastes and other waste materials are stored near to the riverbank. Most of the industries situated on the banks of river Periyar have no compound walls, so during monsoon season and heavy downpours, the high possibility of effluents, sludge, run off from process area and other materials are likely get discharged to the river in the form of run off. It is pertinent to note that, this Respondent's industrial unit was closed since November 2014 and was not in operation during the inspection made by CPCB.

**37.** It is also pertinent to note that applicant in the above case is employed in a carbon manufacturing industry located in the Edayar industrial belt, namely M/s. Indo German Carbon Ltd, a large-scale red category industry. In summary of findings of the aforesaid inspection made by CPCB, it observes thus:

*"M/s. Indo German carbon has been imposed with zero effluent discharge as per the consent issued by KS PCB, but the unit is discharging treated effluent to a percolation pit on the bank of river Periyar. The consent conditions have not mentioned*



*anything on the file discharge of effluents and the location of percolation pit vicinity of the river does not appear to be environmentally sound disposal mode.”*

A true copy of the relevant pages of the inspection report submitted by CPCB before this honourable Tribunal in application No. 409/2016 February 2070 showing summary of findings with respect to the direction of this Tribunal is produced herewith and marked for reference as **Annexure-**

**R9 L.** If the applicant is bonafidely prosecuting environmental causes, why he shut his eyes upon the pollution issue of the factory, where he is employed in a supervisory cadre, despite negative remarks were made by an expert body in a litigation made by the NGO in which the applicant was associated with.

**38.** The applicant in the above case is lacking bona fide. If the applicant is sincere and bona fide prosecute the environmental cause by assisting this Tribunal, the fair and proper procedure he has resorted to is to implead in the pending case in the same subject matter, rather than copying and pasting the entire pleadings of the pending case without any qualm or remote remorse. The only intention of the Applicant is to harass this respondent because of his or those persons', whose behest the above application is made, enmity towards this respondent. The Applicant has misled the Court with suppression and misleading averments. This preliminary objection is filed, reserving these respondents' right to file detailed objection, if necessary and for the interest of Justice.

In the above circumstances, it is most humbly prayed that this Honourable Court may be pleased to dismiss the above frivolous application with exemplary cost to deter others from venturing into such proxy litigations camouflaging bona fide environmental prosecution.

All the facts stated above are true and correct

Dated this 25<sup>th</sup> day of October 2021.

Deponent: Mohamed Bismith Alingal

Solemnly affirmed and signed by the deponent who is personally known to me, on this the 25<sup>th</sup> day of October at my office at Chennai.

Adv Vidya,  
Partner, Viruksham Legal,  
Counsels for the Respondents 9 &10

For Viruksham Legal

*A. Vidya*

Partner





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## Kerala continues to see fish deaths in the Periyar as authorities pass the buck

^  
Hundreds of fishes were found to be dead along the banks of Periyar River on Monday morning.



NEWS ENVIRONMENT | MONDAY, APRIL 08, 2019 - 17:19

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Incidents of fish deaths in the Periyar river passing through Kerala's Ernakulam district have become quite frequent over the past months, raising concerns about the pollution levels in the water body. However, despite numerous protests by environment activists as well as the fishing community, no concrete action has been taken.

In the most recent incident, about hundred Indian anchovies (Kozhuva) were found dead along the banks of the Muttar river, a tributary of the Periyar, at Manjummel on Monday morning.

According Jana Jagratha, a collective working towards protection of rivers, the river water in that area had turned black on Sunday. "We had also seen many fish coming to surface of the water to gulp air. We strongly suspected then that there will be fish death the next day. Our suspicions were confirmed," Mahesh Kumar, member of Jana Jagratha, told TNM.

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Another member of Jana Jagratha and former councillor of Eloor municipality, Subaidha Hamsa, told TNM that fish deaths have been happening for many years now. "Pollution in Periyar river has always been a problem for the people living in the Eloor-Edayar industrial belt. After frequent protests by people, authorities took measures to reduce air pollution. But pollution in Periyar river has not changed a bit. Fish deaths continue to occur as before without any change," she said.





*Periyar River turned black on Sunday*

According to Kerala State Pollution Control Board (KSPCB) officials, the fish deaths are a result of eutrophication. Eutrophication happens when a water body becomes excessively rich in nutrients, promoting algae growth. This results in depletion of oxygen in the water for organisms such as fish.

However, the KSPCB has passed the buck to the Irrigation Department on the matter. The latter is in charge of operating the regulator-cum-bridge that regulates the quantity of water in the Muttar.

"The water quantity in the river was less, and with the shutters of the Pathalam regular-cum-bridge not being opened, it's possible that organic waste got accumulated in the river's downstream leading to eutrophication," explained PB Sreelakshmi, environmental engineer of KSPCB's surveillance centre in Eloor. "Operating the shutters of Pathalam regulator-cum-bridge on a daily basis is the only way to solve the problem," she added.

Reacting to the blame by KSPCB, the Irrigation Department officials told TNM that it was not possible for them to operate the shutters of the regulator daily.

"Water from Periyar is used by people in the district for drinking and other purposes. Our main aim is to maintain the water quantity in the river. At present, the water level in Periyar is very low and we have closed the shutters of the regulator so that salt water intrusion from the sea can be prevented. If we open the shutters regularly as the Pollution Control Board says, it will lead to salinity and the water will become unusable for people," said Radhakrishnan, executive engineer of Irrigation Department.

He added that shutters are presently being opened thrice in a week when there is high tide.

Meanwhile environmental activists urge that both KSPCB and Irrigation Department should seek out a solution for the issue. "There is no point in blaming one another. This is not a new issue which they are facing. Both the bodies have to reach a consensus and take action to stop recurrent fish deaths," Mahesh Kumar said.

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This is the true computer printout of the original document marked as Annexure-R9A in the accompanying affidavit.



## Annexure-R9B (1)

CASE DETAILS			
Case Type	WP(C)	Case Status	PENDING
Filing Number	WP(C) 22772/2018	Filing Date	06-07-2018
Registration Number	WP(C) 22772/2018 (S)	Registration Date	06-07-2018
CNR Number	KLHC010543592018	E-File NO	Offline

CASE STATUS				
First Hearing Date	Wednesday, the 11th day of July 2018			
Case Status	PENDING			
Coram	4526-HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR,HONOURABLE MR. JUSTICE SHAJI P.CHALY			
Bench	Division			
Last listed Details	Date : 22-10-2021	Bench: 4526 - HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR,HONOURABLE MR. JUSTICE SHAJI P.CHALY	List : Chamber list 1	Item : 4

CONNECTED CASES	
Connected List	WP(C) No.23218/2018
PETITIONER AND ADVOCATE	
1	<b>Petitioner : P.E.SHAMSUDHEEN , Age : 65 Years</b> Petitioner Advocate : K.K.ASHKAR,SMT.ASHIRA MOHAMED ASHROF

RESPONDENT AND ADVOCATE	
1	<b>Respondent : KERALA STATE POLLUTION CONTROL BOARD</b> Respondent Advocate : M.AJAY,SRI.M.AJAY,SRI.P.S.BIJU,SMT.SREEKALA K.L. CGC,SRI.M.HARISHARMA,SRI.SREEJITH S.NAIR,SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,
2	ENVIRONMENTAL ENGINEER Advocate : SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD, (7384)
3	KADUNGALLOOR GRAMA PANCHAYAT Advocate : SRI.DINESH MATHEW J. MURIKKAN, SC, KADUNGALLOOR GRAMA PANCHAYAT (7453)
4	THE GENERAL MANAGER Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
5	THE DISTRICT COLLECTOR Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
6	THE CHAIRMAN Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
7	DIRECTOR Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
8	INSPECTOR OF FACTORIES AND BOILERS GRADE-1 Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
9	MINISTRY OF ENVIRONMENT Advocate : SMT.SREEKALA K.L., CGC (0)
10	THE CENTRAL POLLUTION CONTROL BOARD Advocate : SRI.M.AJAY (0) Extra Advocate : SMT.SREEKALA K.L., CGC (5403)
11	STATE OF KERALA Advocate : GOVERNMENT PLEADER (5460) Extra Advocate : SRI.K.V.SOHAN, STATE ATTORNEY (5025)
12	MS.EDAYAR ZINC LIMITED Advocate : SURAJ.S (0)



## Annexure-R9B (2)

13	MR.R.S.JOSHI Extra Advocate : SURAJ.S (0)
14	MS.BINANI INDUSTRIES LTD. Extra Advocate : SURAJ.S (0)
15	MR.RAKESH KUMAR RAWAL Advocate : SRI.P.S.BIJU (0)
16	MR.VINOD KUMAR R.
17	THE CHIEF MANAGER Advocate : SRI.SREEJITH S.NAIR (0) Extra Advocate : SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK (7108)
18	MS.FACT ENGINEERING DESIGN ORGANISATION FEDO
19	MS.KERALA ENVIRO INFRASTRUCTURE LTD Advocate : SRI.M.HARISHARMA (0)

SERVED ON	
GOVERNMENT PLEADER- SERVED ON	
SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK- SERVED ON	
SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,- SERVED ON	
SRI.DINESH MATHEW J. MURIKKAN, SC, KADUNGALLOOR GRAMA PANCHAYAT- SERVED ON	
SRI.M.GOPIKRISHNAN NAMBIAR- SERVED ON	
ASSISTANT SOLICITOR GENERAL- SERVED ON	

ACTS	
Under Act(s)	Under Section(s)
OTHER ACTS	1

IA DETAILS						
#	IA Number	Date of Filing	Status	Classification	Party	Date of Disposal
1	CM.Appl/2/2018	18-12-2018	PENDING	CONDONATION OF DELAY	THE CHIEF MANAGER	
2	IA/1/2018	15-11-2018	PENDING	TO DECLARE SERVICE OF NOTICE AS SUFFICIENT	P.E.SHAMSUDHEEN	

DOCUMENTS						
Document No	Date	File Type	Description	Party Name	Advocate Name	Files
1/2018				R19	SRI.M.HARISHARMA	
2/2018	10-08-2018	REPORT		KERALA STATE POLLUTION CONTROL BOARD	SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,	
3/2018	07-12-2018	STATEMENT	R5 AND R6	THE DISTRICT COLLECTOR	SRI.K.V.SOHAN, STATE ATTORNEY	
4/2018	07-12-2018	STATEMENT		KADUNGALLOOR GRAMA PANCHAYAT	SRI.DINESH MATHEW J. MURIKKAN, SC, KADUNGALLOOR GRAMA PANCHAYAT	
5/2018	07-12-2018	REPORT		ENVIRONMENTAL ENGINEER	NAVEEN.T	
6/2018	18-12-2018	COUNTER AFFIDAVIT		THE CHIEF MANAGER	SREEJITH S.NAIR	
7/2018	18-12-2018	REPORT		KERALA STATE POLLUTION CONTROL BOARD	SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,	
8/2019	11-01-2019	REPORT		KERALA STATE POLLUTION CONTROL BOARD	SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,	
9/2019	12-03-2019	REPORT		ENVIRONMENTAL ENGINEER	SRI. T.NAVEEN SC, KERALA STATE POLLUTION CONTROL BOARD,	



## Annexure-R9B (3)

HISTORY OF CASE HEARING						
#	Cause List Type	Hon: Judge Name	BusinessDate	NextDate	Purpose of Hearing	Order
1	Part Two	HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR. JUSTICE A.M.BABU	11-07-2018	11-07-2018	ADMISSION	
2	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	04-12-2018	07-12-2018	PETITIONS	POST ON 07/12/2018 A/W CONN CASE. - Adjourned
3	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	07-12-2018	11-12-2018	PETITIONS	POST ON 11/12/2018 A/W CONN CASE. - Adjourned
4	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	11-12-2018		PETITIONS	POST ON 18/12/2018 A/W CONN CASE. - Interim orders extended
5	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	18-12-2018	11-01-2019	PETITIONS	POST ON 11/01/2019 A/W CONN CASE., - Adjourned
6	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	11-01-2019	25-01-2019	PETITIONS	POST ON 25/01/2019 A/W CONN CASE. - Adjourned
7	Separate List 2	4398-HONOURABLE MR.JUSTICE C.K.ABDUL REHIM,HONOURABLE MR.JUSTICE T.V.ANILKUMAR	25-01-2019	31-01-2019	PETITIONS	post on 31/1/2019 a/w connected cases
8	Separate List 1	4399-HONOURABLE MR.JUSTICE C.T.RAVIKUMAR,HONOURABLE MR.JUSTICE V.G.ARUN	31-01-2019	05-03-2019	PETITIONS	POST ON 05/03/2019 A/W CONN CASE. - Adjourned
9	Separate List 1	4397-HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON,HONOURABLE MR.JUSTICE N.ANIL KUMAR	05-03-2019	12-03-2019	PETITIONS	post on 12/3/2019 - Adjourned
10	Separate List 1	4397-HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON,HONOURABLE MR.JUSTICE N.ANIL KUMAR	12-03-2019	27-03-2019	PETITIONS	post on 27/3/2019 - Adjourned
11	Separate List 1	4397-HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON,HONOURABLE MR.JUSTICE N.ANIL KUMAR	27-03-2019	22-05-2019	PETITIONS	interim direction. post on 22/5/2019 - Adjourned
12	Separate List 1	4267-HONOURABLE MR.JUSTICE C.K.ABDUL REHIM,HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI	24-05-2019		PETITIONS	it is submitted that the removal of waste .....pcb will take some more time. post after 2 months.....report will be filed before the next posting date.
13	Separate List 1	4267-HONOURABLE MR.JUSTICE C.K.ABDUL REHIM,HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI	30-08-2019		PETITIONS	standing counsel for the pollution board submitted that removal of hazardous materials and other wastes....is under progress. post after two months...r1 and r2 will file a progress report
14	Chamber list 1	4526-HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR,HONOURABLE MR. JUSTICE SHAJI P.CHALY	22-10-2021	03-11-2021	FOR DISPOSAL	order. post on 3/11/2021. wpc 23218/18 is delinked.

INTERIM ORDERS			
Business Date	Hon: Judge Name	Application	

This is the true computer printout of the original document marked as Annexure-R9B in the accompanying affidavit.



## Annexure-R9C (1)

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR  
&  
THE HONOURABLE MR.JUSTICE A.M.BABU

Wednesday, the 11th day of July 2018/20th Ashadha, 1940

WP(C).No.22772/2018(S)

**PETITIONER:**

P.E.SHAMSUDHEEN ,AGED 65 YEARS, PALLIMITTATH HOUSE, BINANIPURAM P.O.,  
EDAYAR-683 502 , SECRETARY, WELFARE PARTY OF INDIA,  
ERNAKULAM DISTRICT.

**RESPONDENTS:**

1. KERALA STATE POLLUTION CONTROL BOARD ,  
PATTO M P.O., THIRUVANANTHAPURAM-695 004,  
REPRESENTED BY ITS MEMBER SECRETARY.
2. ENVIRONMENTAL ENGINEER , ENVIRONMENTAL SURVEILLANCE CENTRE,  
KERALA STATE POLLUTION CONTROL BOARD,  
FACT QR.NO.S-5, ELOOR EAST, UDYOGAMANDAL P.O., ERNAKULAM-683 501.
3. KADUNGALLOOR GRAMA PANCHAYAT ,MUPPATHADOM P.O., ALUVA-683 110,  
REPRESENTED BY ITS SECRETARY.
4. THE GENERAL MANAGER , DISTRICT INDUSTRIES CENTRE,  
KUNNUPURAM, KAKKANAD, KOCHI-682 030.
5. THE DISTRICT COLLECTOR ,  
ERNAKULAM, COLLECTORATE, KAKKANAD-682030.
6. THE CHAIRMAN ,DISTRICT DISASTER MANAGEMENT AUTHORITY,  
COLLECTORATE, KAKKANAD, KOCHI-30.
7. DIRECTOR , DIRECTORATE OF FACTORIES AND BOILERS,  
"SURAKSHA BHAVAN", KUMARAPURAM,  
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 011.
8. INSPECTOR OF FACTORIES AND BOILERS GRADE-1 ,  
NEAR RAILWAY STATION, ALUVA - 683101.
9. MINISTRY OF ENVIRONMENT ,  
FOREST AND CLIMATE CHANGE, GOVERNMENT OF INDIA,  
PARYAVARAN BHAWAN, CGO COMPLEX, LODHI ROAD,  
NEW DELHI-110003, REPRESENTED BY ITS SECRETARY.
10. THE CENTRAL POLLUTION CONTROL BOARD ,  
PARIVESH BHAWAN, EAST ARJUN NAGAR, DELHI - 110032,  
REP. BY ITS CHAIRMAN/MEMBER SECRETARY.
11. STATE OF KERALA , REP BY ITS ADDITIONAL SECRETARY TO GOVERNMENT,  
DEPARTMENT OF FOREST AND ENVIRONMENT, THIRUVANANTHAPURAM-695001.

[P.T



## Annexure-R9C (2)

:-2:-

WP(C).No.22772/2018(S)

- 12.M/S.EDAYAR ZINC LIMITED (FORMERLY BINANI ZINC LTD),  
CIN: U27204WB2000PLC091214,  
REGISTERED OFFICE:37/2 CHINAR PARK, NEW TOWN,  
RAJARHAT MAIN ROAD, P.O.HATIARA, KOLKATTA - 700 157,  
REPRESENTED BY ITS MANAGING DIRECTOR.
- 13.MR.R.S.JOSHI , MANAGING DIRECTOR, M/S.EDAYAR ZINC LIMITED,  
REGISTERED OFFICE: 37/2 CHINAR PARK, NEW TOWN,  
RAJARHAT MAIN ROAD, P.O.HATIARA, KOLKATTA - 700 157.
- 14.M/S.BINANI INDUSTRIES LTD. (CIN:L241 17WB1 962P1C025584),  
REGISTERED OFFICE: 37/2 CHINAR PARK, NEW TOWN,  
RAJARHAT MAIN ROAD, P.O.HATIARA, KOLKATTA-700 157.  
REPRESENTED BY ITS CHAIRMAN MR.BRAJ BHUSHANDAS BINANI.
- 15.MR.RAKESH KUMAR RAWAL ,WHOLE TIME DIRECTOR, EDAYAR ZINC LIMITED,  
CORPORATE OFFICE, MERCANTILE CHAMBERS 12,  
J.N.HEREDIA MARG, BALLARD ESTATE, MUMBAI-400 001.
- 16.MR.VINOD KUMAR R. ,VICE PRESIDENT, EDAYAR ZINC LIMITED,  
(FORMERLY BINANI ZINC LTD),  
BINANIPURAM, ERNAKULAM, KERALA-683 502.
- 17.THE CHIEF MANAGER , PUNJAB NATIONAL BANK,  
PM ROAD, ILLACO HOUSE, FORT MUMBAI,  
MAHARASHTRA, PIN - 400001.
- 18.M/S.FACT ENGINEERING & DESIGN ORGANISATION (FEDO)  
UDYOGAMANDAL, COCHIN-683501,  
REPRESENTED BY ITS DEPUTY GENERAL MANAGER.
- 19.M/S.KERALA ENVIRO INFRASTRUCTURE LTD.,  
COMMON TSDF PROJECT, INSIDE FACT CD CAMPUS,  
AMBALAMMEDU, KOCHI-682 303,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the respondents to immediately remove the hazardous substances from the virtually abandoned industrial plant of 12<sup>th</sup> respondent on a war footing, failing which irreparable injury will be caused to the environment and right to life of the petitioner.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.K.K.ASHKAR & ASHIRA MOHAMED ASHROF, Advocates for the petitioner, SRI.T.NAVEEN, STANDING COUNSEL for R1 & R2, SRI.DINESH MATHEW J.MURIKKAN, STANDING COUNSEL for R3, GOVERNMENT PLEADER for R4 to R8 & R11, ASSISTANT SOLICITOR GENERAL OF INDIA for R9 and of SRI.SANTHEEP ANKARATH, STANDING COUNSEL for R17, the court passed the following :-

Prv/2.

[P.T.O]



**C.T. RAVIKUMAR & A.M. BABU, JJ.**  
 = = = = =  
**WP(C) No.22772 of 2018**  
 .....  
 Dated this the 11th day of July, 2018

**ORDER**

**C.T. RAVIKUMAR J.**

Admit.

2. Sri.T.Naveen, the learned Standing Counsel takes notice for R1 and R2. Sri.Dinesh Mathew.J.Murikkan, the learned Standing Counsel takes notice for R3. The learned Government Pleader takes notice for R4 to R8 and R11. Sri.N.Nagaresh, the Assistant Solicitor General of India takes notice for R9. Sri. Santheep Ankarath, the learned Standing Counsel takes notice for R17. Issue notice by speed post returnable in two weeks to respondents 10,12,13,14,15, 16 and 19.

3. Taking into account the urgency of the issue, the respondents shall swear affidavit or file statement as to the steps taken to remove hazardous substances stored in the premises of the 12<sup>th</sup> respondent and also the future course



*[Handwritten signature]*

## Annexure-R9C (4)

WP(C) No.22772 of 2018

2

of action to be taken to avert the menace posed by the storage of such hazardous substances. Such a statement/affidavit shall be placed on record within a period of three weeks from today. It is made clear that the pendency of this writ petition will not stand in the way of implementation of steps already taken at the instance of the third respondent and any other competent authorities.

Sd/-  
C.T RAVIKUMAR  
JUDGE

Sd/  
A.M. BABU  
JUDGE

/true copy/

  
ASSISTANT REGISTRAR

sks/11.7.20

This is the true copy of the original document marked as Annexure-R9C in the accompanying affidavit.



KOCHI

## Plea in High Court seeks removal of hazardous waste from Edayar factory

**SPECIAL CORRESPONDENT**

KOCHI, JULY 09, 2018 22:38 IST

UPDATED: JULY 09, 2018 22:38 IST

### **Toxic substances in large quantities stored on the premises of the company, says petitioner**

A public interest writ petition was filed in the Kerala High Court on Monday, seeking a directive to remove the hazardous substances stored at the abandoned industrial plant of M/s. Edayar Zinc Limited (formerly Binani Zinc Ltd), a subsidiary company of the Braj Binani Group of industries, located in the Edayar Industrial Development Area.

The petition was filed by P.E. Shamsudheen, a resident near the area. The petition said the company was engaged in the production of zinc at its factory located on 110 acres on the bank of the Periyar. Established in 1967, it had stopped its operations all of a sudden on November 27, 2014, even when the production process was halfway through. The company had virtually abandoned the industrial plant, leaving no staff, even for ensuring safety and security of the plant. It had also disconnected the electric supply to the factory. As a result, no pollution control, safety and fire-fighting equipment could be operated.

The petitioner said that an inspection conducted by the Factories and Boilers Department and the State Pollution Control Board two years ago had revealed that many hazardous substances were stored in the storage tank, process lines, and reactors on the factory premises. These had the potential of polluting the river and causing danger to the life and safety of the public and environment if they were not removed urgently from the premises in a scientific manner.

The direction issued by the PCB in this regard had not been complied with. The PCB and the Factories and Boilers Department were not taking any concrete steps for the removal of the substances except dashing off letters repeatedly to the company. Several lakh tonnes of jerrosite, a hazardous waste, were stored in the open on the factory premises.



**Annexure-R9D (2)**

The petitioner sought a directive to prepare an action plan for the removal and disposal of the hazardous waste stored in four huge ponds and all other such material on the premises.



The petitioners also pleaded for a directive to the State government and the district administration to constitute a multi-disciplinary committee headed by a scientific expert from the Hazardous Substance Management Division for taking an inventory of the hazardous substances stored on the premises of the company.

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**THE HINDU**  
Our code of editorial values

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This is the true computer printout of the original document marked as Annexure-R9D in the accompanying affidavit.



Malayala Manorama 31.10.2014

# എടയാറിൽ വിണ്ടും അനധികൃത വ്യവസായങ്ങൾ

## ഹൈക്കോടതി ഉത്തരവ് ലംഘിച്ചു; സർക്കാരിന് നോട്ടീസ്

● മലിനീകരണ നിയന്ത്രണ ബോർഡ് ചെയർമാനടക്കം 17 എതിർകക്ഷികൾക്കും നോട്ടീസയയ്ക്കും

കളമശേരി ● പെരിയാറിന്റെ മലിനീകരണം കണക്കിലെടുത്ത് ഏല്പൂർ-എടയാർ വ്യവസായ മേഖലയിൽ രാസവ്യവസായങ്ങൾക്ക് അനുമതി നൽകുന്നതു മരവിപ്പിച്ച ഹൈക്കോടതി ഉത്തരവ് ലംഘിച്ചു; എടയാറിൽ രാസവ്യവസായങ്ങൾക്ക് അനുമതി നൽകിയതുമായി ബന്ധപ്പെട്ടു ഹൈക്കോടതി സർക്കാരിന്റെ വിശദീകരണം തേടി.

ഇക്കാര്യത്തിൽ സർക്കാർ രണ്ടാഴ്ചയ്ക്കകം നിലപാടറിയിക്കണമെന്ന് ജസ്റ്റിസ് മുഹമ്മദ് മുസ്താഖ് ഉത്തരവിട്ടു. എടയാർ

സ്വദേശി വി.ബി.മഹേഷ്കുമാർ അഭിഭാഷകരായ കെ.കെ.അഷ്റൂർ, ആഷിറ മുഹമ്മദ് അഷ്റൂർ എന്നിവർ മുഖേന സമർപ്പിച്ച ഹർജി ഫയലിൽ സ്വീകരിച്ചു കൊണ്ടാണ് ഹൈക്കോടതി സർക്കാരിന്റെ വിശദീകരണം ആവശ്യപ്പെട്ടത്.

മലിനീകരണ നിയന്ത്രണ ബോർഡ് ചെയർമാനടക്കം 17 എതിർകക്ഷികൾക്കും നോട്ടീസയയ്ക്കാനും ഉത്തരവിട്ടു.

എടയാർ-ഏല്പൂർ വ്യവസായ മേഖലയിൽ പുതിയ രാസ വ്യവ

**സീമാപനങ്ങളുണ്ട്; അധികവും നിയമവിരുദ്ധം**

435 ഏക്കർ വിസ്തീർണ്ണമുള്ള എടയാർ വ്യവസായ മേഖല ജില്ലാ വ്യവസായ കേന്ദ്രത്തിന്റെ അധീനതയിലാണ്. ഒട്ടേറെ വ്യവസായങ്ങൾ ഇവിടെ പുതിയപ്പോലും വ്യവസായ കേന്ദ്രം അറിഞ്ഞോ അറിയാതെയോ ഭൂമി വിൽക്കുകയോ പാട്ടത്തിനു നൽകുകയോ ചെയ്തിട്ടുണ്ട്. ഒരു ഡസനോളം റെസിൻ ഉൽപാദന കേന്ദ്രങ്ങൾ ഇവിടെ അനുമതിയില്ലാതെ പ്രവർത്തിക്കുന്നു. ക്വെമ്പുഡ് നിർമ്മാണത്തിന് ഉപയോഗിക്കുന്ന യൂറിയ ഫോർമാൽഡിഹൈഡ്രൈഡ് റെസിനാണ് ഈ കമ്പനികൾ ഉൽപാദിപ്പിക്കുന്നത്. പെരുമ്പാവൂരിൽ പ്രവർത്തിച്ചിരുന്ന കമ്പനികൾ സുപ്രീം കോടതി ഉത്തരവിന്റെയും ജനരോഷത്തിന്റെയും അടിസ്ഥാനത്തിൽ അവിടെ നിന്നു പൊളിച്ചു മാറ്റുകയായിരുന്നു.

സായങ്ങൾക്കു സർക്കാർ അനുമതി നൽകരുതെന്നും അടച്ചുപൂട്ടിയവ തുറക്കാൻ അനുവദിക്കരുതെന്നും 2012 ജൂൺ 13ന് ഹൈക്കോടതി ഡിവിഷൻ ബെഞ്ച് ഉത്തരവിട്ടിട്ടുള്ളതാണ്.

## ഹർജിയിൽ പറയുന്ന മറ്റു കാര്യങ്ങൾ

ജില്ലാ വ്യവസായ കേന്ദ്രം ഈ കമ്പനികൾക്ക് എടയാറിൽ ഭൂമി അനുവദിച്ചിട്ടില്ല. നിയമവിരുദ്ധമായാണ് എടയാറിലെ പ്രവർത്തനം. സമീപ വാസികളായ ജനങ്ങൾക്ക് ആരോഗ്യ പ്രശ്നങ്ങൾ ഉണ്ടായിട്ടുള്ളതായും ഹർജി

യിൽ ആരോപിച്ചു. പെരിയാർ മലിനീകരണം തടയുന്നതിനായി മലിനീകരണ നിയന്ത്രണബോർഡിന്റെ ഏല്പൂരിൽ പ്രവർത്തിക്കുന്ന സർവീലൻസ് സെന്ററിന്റെ മുക്കിനു താഴെയാണ് ഈ നിയമലംഘനം നടക്കുന്നതെന്നും ഹർ

ജിക്കാർൻ ചൂണ്ടിക്കാട്ടി. കർഷകർക്കു നൽകേണ്ട 301 ചാക്ക് സബ്സിഡി യൂറിയ എടയാറിലെ അനധികൃത റെസിൻ ഫാക്ടറിയിൽ നിന്നു കൃഷി ഓഫീസറും പൊലീസും ചേർന്ന് സെപ്റ്റംബർ 26ന് പിടി

ച്ചെടുത്തിരുന്നു. ഇവിടെ പ്രവർത്തിക്കുന്ന ഒൻപത് റെസിൻ ഫാക്ടറികളിൽ ആരെണ്ണത്തിനും അനുമതിയില്ലെന്നും അനുമതിയുള്ള മൂന്നെണ്ണം മാനദണ്ഡങ്ങൾ ലംഘിച്ചാണ് പ്രവർത്തിക്കുന്നതെന്നും ഹർജിയിൽ പറയുന്നു.

This is the true copy of the original document marked as Annexure-R9E in the accompanying affidavit.



Malayala Manorama daily dated 31.10.2014

**Unauthorised industries again in Edayar**

**Violated High Court Order: Notice to Government.**

*Notice will be sent to 17 respondents including pollution control board.*

Kalamassery: High Court sought explanation of government with respect to the permission given for setting up chemical industries in Edayar in violation of the High Court order restraining new chemical industries in Eloor-Edayar Industrial Area in consideration of the pollution of Periyar.

Justice Mushtaq ordered that Government shall inform its stand before the court within two weeks. High Court sought Government explanation in a petition filed by Mr. V.B. Mahesh Kumar, resident of Edayar through Advocates K.K. Ashkar and Ashira Mohamed Ashrof.

Notice was ordered against 17 respondents including Chairman of Pollution Control Board. Division Bench of Kerala High Court by order dated 13<sup>th</sup> June 2012 directed that Government shall not permit new chemical industries in Eloor-Edayar industrial area and not to resume the industries which were closed down on account of pollution.

**There are Units, but most of them unauthorised**

Edayar Industrial Development area having an extent of 435 acres is under the control of District Industries Centre, Ernakulam.

Many industries were closed down and its land were sold or given on lease with or without the knowledge of District Industries Centre. About one dozen resin manufacturing units are operating here without permission. These units are manufacturing Urea Formaldehyde resin required for Plywood industry.

The units which were operating in Perumbavoor were removed pursuant to Supreme Court order and public anger.

**Other matters averred in the petition**

District Industries Centre has not allotted land for these industrial units. They are operating illegally. Petition also alleges that operation of these units caused health issues to neighbouring public.

Petitioner points out that this violation is committed under the nose of Environmental Surveillance Centre set up in Eloor by Pollution Control Board for preventing pollution of Periyar.

The Agriculture Officer and Police has seized 301 bags Subsidised Urea to be distributed to Farmers from these units on 29<sup>th</sup> September. Out of the 9 resin manufacturing units operating here, 6 units were not having consent and the 3 consented units are operating in violation of the norms, alleged in the petition.

This is the true translation of the original document marked as Annexure-R9E in the accompanying affidavit.



KOCHI

## NGT panel to probe pollution of Edayar paddy fields

**G. Krishnakumar**

KOCHI , APRIL 22, 2021 18:16 IST

UPDATED: APRIL 22, 2021 18:16 IST

### New expert committee to submit its report before May 31

Remaining articles this month

6 Start 14 Days Free Trial or Subscribe to The Hindu

The Southern Bench of the National Green Tribunal (NGT) has appointed a four-member expert committee to ascertain the source of contamination of Edayattuchal and Chakkarachal paddy fields in Edayar.

The committee will include a senior officer from the regional office of the Central Pollution Control Board in Bengaluru, a senior officer / scientist from the Kerala State Pollution Control Board, a scientist having expertise in soil study from the department of soil science and agricultural chemistry, Kerala Agricultural University, Thrissur, and a senior soil conservation officer from the Department of Soil Survey and Soil Conservation as nominated by its Director.

The Bench comprising Justice K. Ramakrishnan and expert member K. Satyagopal issued the directive on the case pertaining to the allegation that effluents and hazardous waste from Edayar Zinc Ltd. (formerly Binani Zinc Ltd.) were responsible for the contamination of the paddy fields. The petitioner had said that the plant and machinery of the company, which is now shut, should not be allowed to be shifted before remitting its liability as per the 'polluter pays principle' for remediation of the affected sites.

The State Pollution Control Board had fixed ₹47.88 crore as the share of the company towards remediation of the contaminated site and had served notice on the management in 2018-19, asking it to remit the amount.



However, the company authorities claimed that they were not the only industry functioning in the area. They had requested the court to fix the liability only on the basis of proper evidence stating that they were responsible for the pollution of the sites.

The Bench has asked the expert committee to submit its report before May 31. The team will have to find out whether the company had contributed to the contamination of soil in the paddy fields. The joint committee should probe whether the industrial unit was processing waste scientifically and as per rules regarding disposal of hazardous substances. It should also check whether any of the past activities of the company still continued and resulted in the contamination of the fields.

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Printable version | Oct 27, 2021 11:04:23 AM |

<https://www.thehindu.com/news/cities/Kochi/ngt-panel-to-probe-pollution-of-edayar-paddy-fields/article34385719.ece>

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This is the true copy of the original document marked as Annexure-R9F in the accompanying affidavit.



**Annexure-R9G (1)**

**Filed on: 09.06.2020**

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM**

**I.A. No. of 2020**

**In**

**W.P.(C) No. 39940 of 2015**

**P.E. Shamsudheen : Petitioner/Petitioner**

**Vs.**

**Kerala State Pollution Control Board & Others: Respondents/Respondents**

**PETITION FILED UNDER RULE150 OF THE KERALA HIGH COURT RULES OF  
PRACTICE TO WITHDRAW THE ABOVE CASE**

**K.K. ASHKAR (K/371/04, A-851) &  
ASHIRA MOHAMED ASHROF (K/1224/03, A-825)  
COUNSELS FOR THE PETITIONER**

**aash associates**

First Floor, Metro Palace,  
North Railway Station Road, Kochi-18  
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e-mail: aashassociates@hotmail.com



Annexure-R9G (2)

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM  
W.P.(C) No. 39940 of 2015

P.E. Shamsudheen : Petitioner

Vs.

Kerala State Pollution Control Board & Others : Respondents

AFFIDAVIT

I, P.E. Shamsudheen, aged 68 years, Pallimittath House, Binanipuram P.O, Edayar, PIN-683 502, Ernakulam District, do hereby solemnly affirm and state as follows:

1. I am the petitioner in the above writ petition and I am conversant with the facts of the above case.
2. The above writ petition was filed inter alia seeking direction against the respondents to enhance the limit of free drinking water supplied to the residents of Edayar in Ward No. XVIII of Kadungalloor Panchayat under BZL (Binani Zinc Ltd) water scheme in accordance with the number of family members and also seeking direction to ensure benefit of free piped water scheme is being extended to new houses constructed after the agreement under BZL scheme and also to secure the future cost for execution of BZL scheme from the closed down 7<sup>th</sup> respondent company (BZL).
3. The 5<sup>th</sup> respondent Kerala Water Authority, in their counter affidavit dated 03.08.2016, submitted before this Honourable Court that the amount deposited by Binani Zinc Ltd as per Ext. P3 agreement was to meet the cost of 10KL at the rate of ₹22/- and pursuant to the tariff revision subsequent to it, only 5KL water can be supplied to the beneficiaries as per the amount deposited by BZL. It was further submitted that the amount lying with KWA as per Ext.P3 is ₹16,02,635 and the balance amount due is to be realised from the 7<sup>th</sup> respondent company.
4. On 21.03.2020, 7<sup>th</sup> respondent company issued a communication to this petitioner informing that the further amount required to meet the enhanced water charges by 2009 Tariff revision was made by them in the



( 2 )

year 2009 itself by making additional deposit of ₹15.99 Lacs, but KWA billing circle failed to account the same while generation of billing and the Finance Manager, KWA issued a letter to Executive Engineer, KWA, Kochi acknowledging receipt of the said amount with direction to regularisation of billing under the scheme, on account of the deposit replenished by the 7<sup>th</sup> respondent. The 7<sup>th</sup> respondent company guaranteed that they are ready to deposit further amount that deemed to be required in future for execution of the BZL scheme as per the agreement.

5. Petitioner could not verify the veracity of the submission made by the 7<sup>th</sup> respondent from the office of the Executive Engineer, KWA, Kochi, due to lockdown. Meanwhile, the 7<sup>th</sup> respondent has filed an affidavit on 19.05.2020 submitting that they have enhanced the deposit amount so as to cover the rise in the water charges so that the total quantity supplied is maintained and that the main issue involved in the above writ petition has been substantially resolved. They also sought vacation of the interim order in the above writ petition.

6. Thereafter, the above case came up for consideration before this Honourable court on 28.05.2020. Petitioner could ascertain the veracity regarding the further deposit made by the 7<sup>th</sup> respondent company only after that day from the office of Executive Engineer, KWA, Water Supply, Kochi. I was informed that Executive Engineer's office received communication from Finance Manager/Chief Account Officer of KWA acknowledging receipt of deposit of 15.99 Lacs from the 7<sup>th</sup> respondent company for BZL scheme. Regarding the relief for enhancement of monthly water limit under the scheme, Executive Engineer proposed a tripartite meeting of Beneficiaries, Company and KWA tentatively on 09.06.2020 immediately after the lifting of lockdown due to Covid-19.

7. The substantial issue in this writ petition is regarding BZL drinking water scheme and its future execution without interruption, which is almost solved by the further deposit made by the 7<sup>th</sup> respondent and the conciliation proceedings initiated by Water Authority. The issue with respect to environmental liability of the 7<sup>th</sup> respondent company. is



{ 3 }

covered under the comprehensive writ petition filed by me in public interest before this Honourable Court.

8. The tripartite meeting proposed to be convened by KWA to address the demand for monthly water limit enhancement and extension of the scheme to new families within the scheme area, perhaps may be dilated indefinite, on the pretext of pendency of the above writ petition before this Honourable court.

In the above circumstances, it is most humbly prayed that this Honourable Court may be pleased to dismiss the above writ petition as withdrawn, reserving the liberty to approach this Honourable court, if any prejudice is caused to me in the BZL drinking water scheme in future.

Dated this the 8<sup>th</sup> day of June 2020

Deponent:

Solemnly affirmed and signed before me by the literate deponent who is personally known to me on this 8<sup>th</sup> day of June 2020 at my office at Ernakulam

K.K. ASHKAR  
ADVOCATE



BEFORE THE HONOURABLE HIGH COURT OF KERALA AT  
ERNAKULAM

I.A. No. of 2020

in

W.P.(C) No. 39940 of 2015

**Petitioner/Petitioner**

P.E. Shamsudheen, aged 68 years,  
Pallimittath House, Binanipuram P.O, Edayar -683502

**Vs.**

**Respondents/Respondents:**

1. Kerala State Pollution Control Board,  
Pattom P.O., Thiruvananthapuram - 695 004.  
Represented by its Member Secretary
2. Chief Environmental Engineer,  
Kerala State Pollution Control Board, Ernakulam Regional Office,  
Gandhi Nagar, Ernakulam - 682 020
3. Environmental Engineer, Environmental Surveillance Centre,  
Kerala State Pollution Control Board, FACT Qr.No.S-5, Eloor East,  
Udyogamandal P.O., Ernakulam - 683 501
4. The District Collector, Ernakulam  
Collectorate, Kakkanad-30
5. Kerala Water Authority, Jalabhavan, Thiruvananthapuram-695033  
Represented by its Managing Director
6. The Secretary, Kadungalloor Grama Panchayat,  
Muppathadom P.O, Aluva -683110
7. Binani Zinc Ltd. Binanipram, Kochi-683502,  
Represented by its President

**PETITION FILED UNDER RULE150 OF THE KERALA HIGH COURT  
RULES OF PRACTICE**

For the reasons stated in the accompanying affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to withdraw the above writ petition as not pressed since the main issue involved in the case has been solved, reserving liberty for petitioner to approach this Honourable Court, if any prejudice is caused to him under the BZL drinking water scheme, in future.

Dated this the 8<sup>th</sup> day of June 2020

K.K. ASHKAR  
COUNSEL FOR THE PETITIONER

This is the true copy of the original document marked as Annexure-R9G in the accompanying affidavit.



## Annexure-R9H (1)

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

WEDNESDAY, THE 05TH DAY OF AUGUST 2020 / 14TH SRAVANA, 1942

WP(C).No.39940 OF 2015(N)

PETITIONER:

P. E. SHAMSUDHEEN  
PALLIMITTATH HOUSE,  
BINANIPURAM. P. O, EDAYAR-683502.

BY ADVS.  
SRI. K. K. ASHKAR  
SMT. ASHIRA MOHAMED ASHROF

RESPONDENTS:

- 1 KERALA STATE POLLUTION CONTROL BOARD  
PATTOM. P. O, THIRUVANANTHAPURAM-695004,  
REPRESENTED BY ITS MEMBER SECRETARY.
- 2 CHIEF ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD,  
ERNAKULAM REGIONAL OFFICE,  
GANDHI NAGAR, ERNAKULAM-682020.
- 3 ENVIRONMENTAL ENGINEER  
ENVIRONMENTAL SURVEILLANCE CENTRE,  
KERALA STATE POLLUTION CONTROL BOARD,  
FACT QR.NO.S-5, ELOOR EAST,  
UDYOGAMANDAL. P. O, ERNAKULAM-683501.
- 4 THE DISTRICT COLLECTOR  
COLLECTORATE, ERNAKULAM, KAKKANAD-30.
- 5 KERALA WATER AUTHORITY  
JALABHAVAN, VELLAYAMBALAM,  
THIRUVANANTHAPURAM-695033, REPRESENTED BY ITS  
MANAGING DIRECTOR.
- 6 SECRETARY  
KADUNGALLOOR GRAMA PANCHAYATH, MUPPATHADOM. P. O, ALUVA-  
683110.
- 7 BINANI ZINC LTD  
BINANIPURAM, KOCHI-683502,  
REPRESENTED BY ITS PRESIDENT.



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ADDITIONAL R8 IMPEADED

ADDL. CENTRAL POLLUTION CONTROL BOARD  
R8 PARIVESH BHAWAN, CBD-CUM-OFFICE COMPLEX,  
EAST ARJUN NAGAR, DELHI-110032,  
REPRESENTED BY ITS CHAIRMAN.  
(ADDITIONAL 8TH RESPONDENT IMPEADED AS PER ORDER  
DATED 03.10.2016 IN I.A. NO.13301/2016)

R1 TO R3 BY SRI. T.NAVEEN SC, PCB  
R6 BY ADV. SRI.DINESH MATHEW J.MURICKEN  
R5 BY ADV. SRI.GEORGE MATHEW, KWA  
R7 BY ADV. SMT.LATHA ANAND  
R7 BY ADV. SRI.M.N.RADHAKRISHNA MENON  
R5 BY SRI.P.BENJAMIN PAUL, SC, KWA  
R7 BY ADV. SRI.K.ANAND (SR.)  
R4 BY SRI JESTIN N , GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
05.08.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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### **JUDGMENT**

The petitioner, who is stated to be a resident in Ward No.XVIII of the 6<sup>th</sup> Grama Panchayat, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the respondents to enhance the limit of drinking water supplied free to the residents of Edayar in Ward No.XVIII of Kadungalloor Grama Panchayat, at the cost of the 7<sup>th</sup> respondent Binani Zinc Ltd., taking into consideration the number of family members and non-availability of alternate water sources. The petitioner has also sought for other consequential reliefs.

2. On 04.01.2016, when this writ petition came up for admission, the learned Standing Counsel for the Kerala State Pollution Control Board took notice for respondents 1 to 3, the learned Government Pleader took notice for the 4<sup>th</sup> respondent and the learned Standing Counsel for the Kerala Water Authority took notice for the 5<sup>th</sup> respondent. Urgent notice by speed-post was ordered to respondents 6 and 7. This Court has granted an interim order directing respondents 1 to 3 to restrain the 7<sup>th</sup> respondent from shifting the plant, machinery and equipments from its premises and it was ordered that the 4<sup>th</sup> respondent shall ensure that the said interim order is complied with by the 7<sup>th</sup> respondent.



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On 01.06.2016, the 7<sup>th</sup> respondent has filed a counter affidavit opposing the reliefs sought for in this writ petition, along with I.A.No.6917 of 2016 to vacate the interim order dated 04.01.2016. However, no orders were passed in that interlocutory application.

3. On 17.06.2020, the petitioner has filed I.A.No.2 of 2020 seeking an order to dismiss this writ petition as 'not pressed', since the main issue involved in this case has already been solved; reserving his right to approach this Court again, in case of any short supply of drinking water by the 7<sup>th</sup> respondent Company in future.

Having considered the submissions made by the learned counsel on both sides, and also the averments accompanying to the affidavit filed in support of I.A.No.2 of 2020, this writ petition is dismissed as not pressed, without prejudice to the aforesaid right of the petitioner.

In view of this judgment, I.A.No.1 of 2020 is closed.

sd/-

**ANIL K. NARENDRAN**

**JUDGE**

JV

This is the true copy of the original document marked as Annexure-R9H in the accompanying affidavit.



BEFORE THE HON'BLE HIGH COURT OF KERALA AT  
ENRAKULAM

W.P.(C) No. 22772 of 2018

P.E.Shamsudeen : Petitioner

State of Kerala and others : Respondents

COUNTER AFFIDAVIT FILED BY THE 17<sup>TH</sup> RESPONDENT IN  
THE ABOVE CASE

SREEJITH.S. NAIR (S-1715)  
Counsel for the Petitioner



Annexure-R9I (2)

## BEFORE THE HONBLE HIGH COURT OF KERALA AT ERNAKULAM

WP© No. 22772 of 2018

P.E. Shamsudeen : Petitioner

State of Kerala and others : Respondents

COUNTER AFFIDAVIT FILED BY THE 17<sup>th</sup> RESPONDENT IN THE ABOVE CASE

I Mohandas Panikkar S/o T.K.N. Panikkar Aged 59 years, Authorized Officer, Punjab National Bank, P.M. Road, Ilaco House, Fort Mumbai, Maharashtra, 400001, do hereby solemnly affirm and state as follows.

1. The 17<sup>th</sup> respondent herein is body corporate duly constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970 having its registered office at Plot no. 4, Sector -10, Dwarka, New Delhi-110075 and Branch Office at P.M. Road, Ilaco House, Fort Mumbai, Maharashtra, 400001. This respondent is carrying on the business of Banking and extends various banking facilities to the interested customers on request. I know the facts and circumstances of the case and am competent and duly authorized to swearing to this affidavit.

2. All the allegations and averments raised in the writ petition are denied save those which are specifically admitted hereunder. The above writ petition is purportedly filed in public interest by the petitioner, alleging that there has been indiscriminate pollution caused by the 12<sup>th</sup> respondent company and seeking directions to be issued to the official respondents to take immediate measures to frame and implement an action plan in order to remove the alleged toxic materials from the premises of the factory of the 12<sup>th</sup> respondent company. *Inter-alia* two reliefs, among the total of 12 reliefs sought in the writ petition are directed against this respondent also. This respondent is a banking company and is filing this counter affidavit to the limited extent of submitting that the reliefs sought against this respondent are not liable to be granted. This respondent is absolutely not a necessary party to the above writ petition.

3. The only allegation in the writ petition about this respondent occurs only in one single place that is in paragraph 3 wherein the writ petitioner has alleged that this respondent has taken possession of the





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land, building and plant of the 2<sup>nd</sup> respondent company and has issued Exhibit P2 e-auction notice. It is submitted that the understanding of the petitioner that possession mentioned in Exhibit P2 notice is physical possession is patently incorrect and untrue. Even though in Exhibit P2 notice it is submitted that this respondent has taken possession of the secured assets mentioned therein, the possession stated therein is *de jure* possession and not actual physical possession. This respondent has only taken symbolic possession of the secured assets in tandem with the provisions provided under S. 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. As per the provisions of the said act, if the secured creditor has to take actual physical possession of the secured assets, application seeking assistance to take physical possession has to be submitted before the jurisdictional Chief Judicial Magistrate under Section 14 of the act and only with the assistance of the Chief Judicial Magistrate physical possession could be taken. In this case, this respondent categorically submits that physical possession of the factory premises of the 12<sup>th</sup> respondent has never been taken by this respondent and as such even as on date this respondent is not having physical possession or control over the plant, machinery or other toxic and hazardous materials allegedly present in the factory premises.

4. This respondent reiterates the fact that this respondent has a charge on the assets of the company and that symbolic possession under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been taken in tandem the provisions of the said Act. It is respectfully submitted that, this respondent having categorically denied having physical control over the factory premises, the reliefs sought against this respondent, as [iii] in so far as there is a prayer to recover the cost of implementing the action plan for removal and disposal of vast storage of Jerrosite stored in four huge ponds and all other hazardous substances allegedly stored in the factory premises of the 12 respondent is absolutely unfounded and not maintainable as against this respondent, because this respondent neither has stored any hazardous articles nor has any control over where they



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are now alleged to be stored and going a step further this respondent has no *know how* about the chemicals that are stored in the premises.

5. It is submitted that the under a consortiums agreement in which this respondent is the lead bank, financial assistance was availed by the 12<sup>th</sup> respondent herein. It is submitted that the 12<sup>th</sup> respondent availed the aforesaid credit facilities and have utilized the same. Although this respondent supported the 12<sup>th</sup> respondent's requirements in accordance with the sanctioned terms and the loan agreements executed from time to time they have failed and neglected to comply with the terms and conditions of the loan agreements and failed to repay the loan amounts. The 12<sup>th</sup> respondent committed various defaults of its obligations under the documents executed with regard to the said credit facilities and therefore proceedings have been initiated by this respondent for recovery of the amounts due. The original application filed by this respondent is pending before the Debts Recovery Tribunal Ernakulam as O. A No. 356 of 2017 for recovery of a total amount of Rs. 277,77,82,280.14/- (Rupees Two Hundred and Seventy Seven Crores Seventy Seven Lakhs Eighty Two Thousand Two Hundred and Eighty and Paise Fourteen only).

6. It is also submitted that relief number [vii] in the writ petition in so far as it seeks a direction to the multidisciplinary committee to quantify the environmental damage caused by the operation of the 12<sup>th</sup> respondent and its remedial cost and to recover the same from this respondent also among other party respondents is also not maintainable as against this respondent because of the aforesaid reasons.

7. It is submitted that, except for the allegation in paragraph number 3 of the writ petition alleging that this respondent is in possession of the factory premises, there are absolutely no other allegations against this respondent and for that reason, the reliefs sought against this respondent are not maintainable.

8. It is respectfully submitted that this respondent is not a necessary or essential party to the writ petition. As evident from Exhibit P2 this respondent is already in arrears of amounts to the tune of 226.01 crores from the 12<sup>th</sup> respondent company. In the above circumstances it



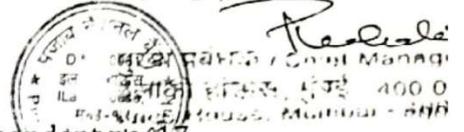
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is most humbly requested and prayed that this Honorable Court may be pleased to delete this respondent from the party array of the above writ petition. The reliefs sought against as against this respondent are not legally maintainable and therefore are liable to be rejected with costs of this respondent in the interest of Justice.

9. Hence this Hon'ble Court may be pleased to dismiss the above writ petition with costs of this respondent.

Dated this the <sup>31<sup>st</sup></sup> day of August 2018

ਕੁਰੇ ਪੰਜਾਬ ਨੈਸ਼ਨਲ ਬੈਂਕ  
For Punjab National Bank



Respondent no. 17

Solemnly affirmed and signed by the deponent who is personally known to me and present before me on this the <sup>31<sup>st</sup></sup> day of August 2018 at my office at Ernakulum

Sreejith S. Nair  
Counsel for the applicant

This is the true copy of the original document marked as Annexure-R9I in the accompanying affidavit.





KERALA STATE POLLUTION CONTROL BOARD  
REGIONAL OFFICE, GANDHI NAGAR, ERNAKULAM - 682 020

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Phone 0494 2207782  
Fax 0494 2207782  
e-mail: kscem@keralapcb.org

www.keralapcb.org

അടിയന്തിരശ്രദ്ധയിൽ

പി.സി.ബി/ആർ.ഒ-ഇ.കെ.എം./ബിനാനി/ജെൻ-43/06

തീയതി: 22.01.2008

പ്രേഷിതൻ

ചീഫ് എൻവയോൺമെന്റൽ എഞ്ചിനീയർ

സീക്രട്ടറി

ജില്ലാ കളക്ടർ,  
എറണാകുളം.

വിഷയം:- ബിനാനി സിങ് കമ്പനിയിൽ നിന്നും ഉണ്ടായ ലീക്കിനെ തുടർന്ന് കൃഷി നാശം സംഭവിച്ചത് സംബന്ധിച്ച്.

- സൂചന:-
1. ശ്രീമതി റ്റി.പി. ഓമനയുടെ പരാതി.
  2. അങ്ങയുടെ ഓഫീസിലെ 3.3.08-ലെ എം.7-12869/08-ലെ കത്ത്.

സർ,

ബിനാനി സിങ് ലിമിറ്റഡ് കമ്പനിയിൽ നിന്നുമുണ്ടായ ജെറോ സൈറ്റ് ലീക്ക് കാരണം നെൽപ്പാടം കൃഷി ചെയ്യാൻ കഴിയാത്തവിധം മലിനപ്പെട്ടതിനെ തുടർന്നുണ്ടായ കഷ്ട നഷ്ടങ്ങൾക്ക് പരിഹാരം ലഭിക്കുന്നതിലേക്കായി എടയാർ ഏടയ്ക്കാട്ടു വീട്ടിൽ ശ്രീമതി റ്റി.പി. ഓമന യുടെ പരാതിയിൽ മേൽ നടത്തിയ അന്വേഷണ റിപ്പോർട്ട്.

ബിനാനി സിങ് ലിമിറ്റഡ് കമ്പനി പ്രവർത്തനമാരംഭിച്ചത് 1967- ലെ കമ്പനിയുടെ പ്രധാന ഉൽപ്പന്നങ്ങൾ ഇപ്പോൾ പ്രതിവർഷം സിങ്ക്, 30000 ടൺ സൽഫ്യൂറിക് ആസിഡ്, 51000 ടൺ കാഡ്മിയം, 65000 ടൺ തുടങ്ങിയവയുടെ ഉൽപ്പാദന പ്രക്രിയയിൽ ഏതാണ്ട് 9000 ടൺ ജെറോസൈറ്റ് വേസ്റ്റ് (ഇരുമ്പ്, സിങ്ക് കാഡ്മിയം, ലഡ്ഡ് തുടങ്ങിയവയുടെ മിശ്രിതം) ഒരു വർഷം ഉണ്ടാകുന്നുണ്ട്. എന്നാൽ മലിനീകരണ നിയന്ത്രണം സംബന്ധിച്ച നിയമം നടപ്പിൽ വരുന്നത് 1974 മുതലാണ്. 1974 ലാണ് കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ് നിലവിലുണ്ടായിരുന്നത്.



Handwritten signature

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വന്നത്. അതിനുശേഷം കാലാകാലങ്ങളിൽ മലിനീകരണ നിയന്ത്രണവുമായി ബന്ധപ്പെട്ട് ഗവണ്മെന്റ് പാസ്സാക്കിയ നിയമങ്ങൾ നടപ്പിലാക്കുക എന്നതാണ് മലിനീകരണ നിയന്ത്രണ ബോർഡിൽ നിക്ഷിപ്തമായിരിക്കുന്ന കർത്തവ്യം. ബോർഡ് പ്രവർത്തനക്ഷമമായ കാലം മുതൽ പ്രസ്തുത കമ്പനിയുടെ പ്രവർത്തനങ്ങൾ നിരീക്ഷിക്കുകയും മലിനീകരണ നിയന്ത്രണത്തിനുതക്കുന്ന നിർദ്ദേശങ്ങൾ നൽകുകയും ചെയ്തു വരുന്നുണ്ട്. 1989 ലാണ് അപകടകാരികളായ മാലിന്യങ്ങളുടെ സംസ്കരണവുമായി ബന്ധപ്പെട്ട Hazardous Waste (Management & Handling) Rules 1989 നിലവിൽ വന്നത്. ഈ നിയമം നടപ്പിലാക്കിയതിനുശേഷം നിർമ്മിക്കപ്പെട്ട അപകടകരമായ മാലിന്യ സംഭരണത്തിനുള്ള ഇപ്പോഴത്തെ പോണ്ട് (പോണ്ട് നമ്പർ 4) കേന്ദ്ര മലിനീകരണ നിയന്ത്രണ ബോർഡിന്റെ നിർദ്ദേശങ്ങൾ അനുസരിച്ചുള്ളതും ലീക്ക് ഇല്ലാത്തതുമാണ്. ഇതിന്റെ കപ്പാസിറ്റി 35000 മീ<sup>3</sup> ആണ്. ഇതിൽ ശേഖരിക്കുന്ന മലിന ജലം (സ്ലഡ്ജ് ഒഴികെ) ട്രിറ്റ്മെന്റ് പ്ലാന്റിൽ ശുദ്ധീകരിച്ചശേഷം പെരിയാരിലേക്ക് ഒഴുക്കുന്നു. എന്നാൽ മുൻ കാലങ്ങളിൽ ജെറോസൈറ്റ് റേഡ്ഡ് സംഭരിച്ചിരുന്ന പോണ്ട് 1 ഉം 2 ഉം ലീക്ക് ഒഴുവാക്കുന്നതിന് ഇപ്പോൾ കേന്ദ്ര മലിനീകരണനിയന്ത്രണ ബോർഡ് നിഷ്കർഷിച്ചിരിക്കുന്ന മാർഗ്ഗനിർദ്ദേശത്തിലല്ല <sup>നിർമ്മിച്ചിട്ടുള്ളത്</sup> ജെറോസൈറ്റ് നിറഞ്ഞ മൂന്ന് പോണ്ടുകളും കമ്പനി ~~നിർമ്മിച്ചത്~~ മുകളിൽ മണ്ണ് വിരിച്ച് സീൽ ചെയ്തു. പോണ്ട് നമ്പർ-4 ആണ് ഇപ്പോൾ ഉപയോഗത്തിലുള്ളത്.

10/3/08 ലും 12/3/08 ലും

പരാതിക്കാരിയെ നേരിൽ കണ്ട് അന്വേഷണം നടത്തിയപ്പോൾ ടി യാർ എടയാറ്റുചാൽ പ്രദേശത്ത് 97 സെന്റ് കൃഷിനിലം കൈവശമുള്ളതായാണ് അറിയാൻ കഴിഞ്ഞത്. എടയാറ്റുചാൽ പ്രദേശം വിവിധ ഏജൻസികളുടെ പഠന റിപ്പോർട്ടുകൾ പ്രകാരം മലിനീകരിക്കപ്പെട്ടതാണെന്ന് സ്ഥിരീകരിക്കപ്പെട്ടിട്ടുണ്ട്. വളരെ വിസ്തൃതമായ ഈ പാടശേഖരം ആർക്കുവേണമെങ്കിലും റോഡു മാർഗ്ഗം ഏതുതരം മാലിന്യങ്ങളും കൊണ്ടുവന്നു നിക്ഷേപിക്കാവുന്ന വിധം സാധ്യമാക്കി ഒരു dumpsite ആണ്. കൃഷിക്ക് ഉപയുക്തമല്ലാത്ത വിധം മലിനീകരിക്കപ്പെട്ട ഈ



Annexure-R9J (3)

പ്രദേശത്തിന്റെ വിവിധ സമതലങ്ങളിലായി എടുത്ത് പരിശോധിച്ചിട്ടുള്ള സാമ്പിളുകളുടെ പരിശോധന ഫലം താഴെ ചേർക്കുന്നു.

	യൂണിറ്റ്	മിനിമം	പരമാവധി	അനുവദനീയമായ അളവ്
സിങ്ക്	mg/l	72	1577.0	300
അയൺ	"	8600	93925	-
ലെഡ്	"	94.0	424	2.0
കാഡ്മിയം	"	2.4	66	2.0
കോപ്പർ	"	20.4	14.8	30.0
നിക്കൽ	"	28	64	500
ക്രോമിയം	"	2.2	19.2	-
ആക്രിക് ക്രോമിയം		28	350	100

ഒട്ടനവധി ഉടമസ്ഥന്മാരുടെ കൈവശമുള്ള വളരെ വിസ്തൃതമായ, ഈ പാടശേഖരത്തിന്റെ ഇന്നത്തെ ശോചനീയാവസ്ഥ വെളിവാക്കുവാൻ കെൽപ്പുള്ളതാണ് ഈ പരിശോധന ഫലങ്ങൾ. ഏകദേശം 200 ഓളം ചെറുതും വലുതുമായ വ്യവസായ സ്ഥാപനങ്ങൾ പ്രവർത്തിക്കുന്ന ഈ വ്യവസായ മേഖലയിലെ വ്യവസായിക മാലിന്യങ്ങൾ ഏറ്റു വാങ്ങേണ്ടിവന്ന ഈ പാടശേഖരം പരതിക്കാരി ഉൾപ്പെടെയുള്ള അനവധിപേരുടെ ജീവന ശ്രോതസ്സായിരുന്നു.

പരാതിക്കാരി, ബിനാനി സിങ്ക് ലിമിറ്റഡ് കമ്പനിയുടെ ഭാഗമായി മലിനീകരിക്കപ്പെട്ട എടയാർ പ്രദേശത്തെ സ്മിര താമസക്കാരിൽപ്പെട്ട ആളും കമ്പനി സൗജന്യമായി കുടിവെള്ളം വീടുകളിൽ പൈപ്പുമുഖാന്തിരം എത്തിച്ചു കൊടുത്തിട്ടുള്ളവരുടെ പട്ടികയിൽപ്പെട്ട വ്യക്തിയും ആകുന്നു. കൂടാതെ



പരാതിക്കാരിയുടെ വീട്ടിൽ സ്വന്തമായി വീട്ടുവശ്യങ്ങൾക്ക് ഉപയോഗിക്കുന്ന ഒരു  
 ചെയ്യുന്നു. പശുക്കളെ വളർത്തി പാൽ വിതരണം നടത്തി ഉപജീവനമാർഗ്ഗം നടത്തുന്ന  
 പരാതിക്കാരി സമർപ്പിച്ചിരിക്കുന്ന പരിശോധന ഫലങ്ങളിൽ പാൽ എവിടെ നിന്നും  
 ശേഖരിച്ചുവെന്നോ, ആർ ശേഖരിച്ചുവെന്നോ ശബ്ദീയമായി preserve ചെയ്തിരുന്നു  
 തുടങ്ങിയ കാര്യങ്ങൾ വ്യക്തമല്ല. എന്നിരുന്നാലും കിണറ്റിലെ ജലത്തിന്റെ  
 പരിശോധന ഫലങ്ങളിൽ നിന്നും ഒരു തീരുമാനത്തിലെത്താൻ കഴിയുന്നതാണ്.

മലിനീകരണ നിയന്ത്രണവുമായി ബന്ധപ്പെട്ട നിയമങ്ങൾ നടപ്പിലാക്കുന്നതിനു  
 വളരെ വർഷങ്ങൾക്കു മുമ്പു സംരംഭിച്ച മലിനീകരണ മേഖലയാണ്  
 ഏടയാർ ഭാഗത്തുള്ള ഭൂമിയിലെ ജലവും മണ്ണും മറ്റും മലിനമാക്കപ്പെട്ടിട്ടുള്ളതും അത്  
 പരിണിതഫലമായി പരാതിക്കാരിയുടെ വീട്ടിലേക്ക് ഇറച്ചാൽ ലഭിച്ചിരിക്കുന്ന  
 കാലാകാലങ്ങളായി മലിനീകരിക്കപ്പെട്ട മണ്ണും ജലവും ശുദ്ധീകരിക്കുന്നതിനുവേണ്ടി  
 മലിനീകരണനിയന്ത്രണ ബോർഡ് രാജിയവും അന്തർദ്ദേശീയവുമായ എഞ്ചിനീയറിംഗ്  
 സഹകരണം ലഭ്യമാക്കുന്നതിനുവേണ്ടി ശ്രമിച്ചുവരുന്നുണ്ട്.

വിശ്വസ്തതയോടെ,

*[Handwritten Signature]*

ചീഫ് എൻവയൺമെന്റൽ എഞ്ചിനീയർ

പകർപ്പ്: മെംബർ സെക്രട്ടറി,  
 കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്,  
 തിരുവനന്തപുരം

This is the true copy of the original document marked as Annexure-R9J in the accompanying affidavit.



**Annexure-R9J (5)**

CEE 04842207782  
 Phone: 0484220783-86  
 fax: 0484220782-83  
 email: [ecce@keralapcb.org](mailto:ecce@keralapcb.org)

Emblem

KERALA STATE POLLUTION CONTROL BOARD  
 REGIONAL OFFICE, GANDHINAGAR, ERNAKULAM-682020  
[www.keralapcb.org](http://www.keralapcb.org)

URGENT ATTENTION

PCB/RO-EKM/Binani/Gen-43/06  
 22/03/2008

Dated

From,  
 Chief Environmental Engineer

To,  
 District Collector,  
 Ernakulam.

Subject:- Agricultural damage due to the leakage from Binani Zinc factory-regarding.

Reference:- 1. Complaint of Mrs T.P. Omana.  
 2. Letter No. M.7-12869/08 dated 03/03/2008 issued from your office.

Sir,

The enquiry report made upon the complaint of Mrs. T.P. Omana, Edaykattu House, Edayar that paddy fields were became uncultivable being polluted from the leakage of jarosite from the factory of Binani Zinc Ltd.

Binani Zinc Ltd commenced its operation in 1967. The major products of the company are Zinc-30,000 tone/year, Sulphuric acid-51,000 tone/year, Cadmium-65,000 tone/year. During the manufacturing process 9000 tone jarosite waste (mixture of iron, zinc, cadmium and lead) is generated annually. The pollution control laws were implemented from 1974. The State Pollution Control Board was established in the year 1974. Thereafter, the duty of the pollution control board was to implement the laws enacted by government for pollution control. Board has been monitoring the operations of the company and giving directions for controlling pollution from time to time since Board came into force. It is in 1989, the law relating to handling of hazardous waste, Hazardous Waste (Management & Handling) Rules 1989 came into force. The pond (pond No. 4) now used for storing hazardous waste is constructed after coming into force of the Rules and in compliance of the directions of Central Pollution Control Board and it is leakproof. It has a capacity of 35,000 m<sup>3</sup>. The effluent collected in this (excluding the sludge) is discharged into Periyar after treating it in treatment plant. But ponds 1 and 2 stored with jarosite waste earlier was not constructed as per the present CPCB guidelines for avoiding leak and therefore those 3 ponds were sealed by filling soil on the top. Pond No. 4 is now in use.



**Annexure-R9J (6)**

When conducted an enquiry after meeting the complainant in person on 10/03/2008 and 12/03/2008, it came to know that complainant is having 97 sent paddy fields in Edayattuchal area. The contamination of Edayattuchal area is confirmed by various study reports conducted by different agencies. Large tract of this paddy fields remains as a dumpsite accessible for anyone to dump any sort of waste by road. The analysis result of samples collected from various spots from this area which became unsuitable for cultivation at different time is produced herewith:

Item	Unit	Minimum	Maximum	Permissible Limit
Zinc	mg/l	72	1577	300
Iron	-do-	8600	93925	-
Lead	-do-	94.0	424	2.0
Cadmium	-do-	2.4	6	2.0
Copper	-do-	20.4	14.8	30
Nickel	-do-	28	64	500
Chromium	-do-	2.2	19.2	-
Total chromium	-do-	28	350	100

This analysis results are capable for showing the sorry state of these vast paddy fields under the ownership of different title holders. These paddy fields happened to receive industrial waste from this industrial area wherein about 200 small and large-scale industrial units are operating, were the source of livelihood for many like the complainant.

Complainant is a resident of Edayar, where groundwater contaminated due to the operation of Binani Zinc and a beneficiary of the free piped drinking water supplied to the houses by the company. In addition to this, complainant is having an open well used for her household needs. The analysis results produced by the complainant who earns livelihood from rearing of cows and sale of its milk, is not clear about the details such as where from she collected the milk? who collected the milk? and whether it was preserved scientifically? Even though a decision can be concluded by the test results of the well water.

The groundwater resources of Edayar area have been polluted due to the pollution caused during years before the implementation of pollution control laws and its end results are reflected in the test reports received now. Board is trying to secure the assistance of national and international agencies for remediation of the soil and water.

Yours truly,  
sign  
Chief Environmental Engineer

Copy to: Member Secretary,  
Kerala State Pollution Control Board, Thiruvananthapuram

This is the true English translation of the original document marked as Annexure-R9J in the accompanying affidavit.



# Project Edayar

Industrial and Logistics Township

A concept presentation



## Project Background

- Edayar Zinc Ltd. (formerly known as Binani Zinc Ltd.) commissioned zinc smelting unit in 1967. During the active years of operations the company employed 450+ permanent workers, contracted workers and management staffs
- After almost 50 years of operations, the Company closed down operations in 2014
- The consolidated liability at the time of closure was INR 480.0 crores
- New investors came onboard in 2019 and took over debt restructuring, settlement and revival
- Already invested around INR 125.0 crores towards various settlements including statutory/ governmental dues, workers' arrears, bank dues and unsecured debts
- The proposed revival project is an eco industrial cum logistics township

## Settlement Status Quo

Department/ Organisation	Payment status	Remarks
Banking	INR 85.0 Crores paid against an OTS of INR 175.0 Crores plus interest	INR 90.0 Crores plus interest to be paid
Kerala Water Department	Fully settled	No dues
Sales Tax	Fully settled	No dues
Motor Vehicle Dept	Fully settled	No dues
BSNL	Fully settled	No dues
Workers (Permanent workers, management staffs,contract workers)	Settlement in progress as per the scheduled timeline and the agreement with the Joint Trade Union.	Paid INR 13.5 Crores
KSEBL	The entire payment of INR 5.29 crores as per the interim order of the High Court fully paid to the KSEBL, and a stay has been secured against revenue recovery.	Honourable High Court Order complied

No revenue recovery proceedings as on date

3

## Proposed Revival Project

**Kerala's first**  
multi – zone, multi – model,  
Eco Industrial & Logistics Township

4



*[Handwritten signature]*

## The Potential



5

## EZL Land Highlights

108 acres of single stretch of undivided land

Hard strata surface with 50% covered by current industrial constructions

Dedicated harbour for cargo loading and unloading

Flood & earthquake resilient

6

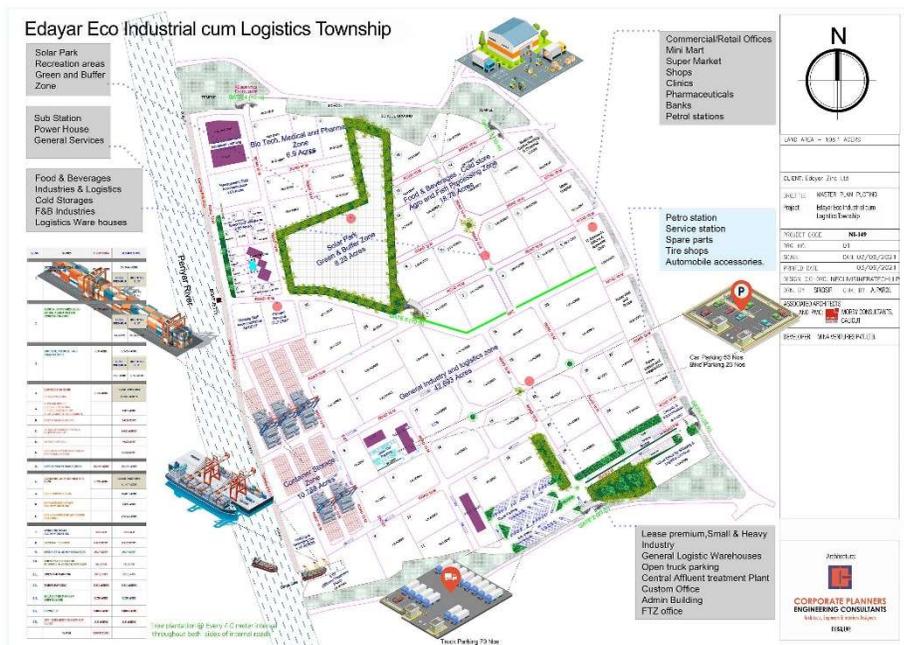


# Location Advantages

- 18 km distance from Airport
- 20 km from International Container Transshipment Terminal (ICTT)
- 26 km from Cochin Port
- 1.5 km from ICTT Road
- 5.9 km from Kalamassery railway station and 10.4 km from Aluva railway station
- 800 metres stretch of Periyar with barge access directly from the port on one side
- 3 sides bordered by wide access main roads



# Project Overview



## Concept and Design

- Based on design thinking principles with sustainability and inclusivity at its core.
- Development to comply with socio-economic, environmental, and management standards
- Sustainable employment & income generation



9

## Project Snapshot

Project	Edayar Eco Industrial cum Logistics Township
Location	Edayar Industrial Area, Edayar, Ernakulam
Total land area	108 acres Patta assigned industrial land
Promoter & Land owner	Edayar Zinc Ltd. (formerly known as Binani Zinc Ltd.)
Existing investor	M/S Mina Ventures Pvt. Ltd. (A subsidiary of Fortune Engineering and Energy Services LLC, Dubai, UAE)
Developer	Developer shall be EZL or an SPV formed by the promoter, existing investor and new investors

Contd...

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<b>Estimated Project Cost</b>	INR 740.0 crores
<b>Commencement of Project</b>	Project development to be commenced by Jan 2022
<b>Project Completion Milestone</b>	Entire project to be completed and commissioned by 2025
<b>Estimated ROI</b>	10 to 12 years

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## Project Highlights

South India's No.1 Industrial cum logistics Township	Multi model, multi – zone	FTZ /Industrial Township for domestic and international manufacturing & export business
Non-processing area (NPA) to accommodate residential facilities, commercial, institutional and public places, retail developments, business parks and recreational amenities	Cluster industrial eco – systems for high potential industries	Designed to optimize cargo throughput and reduce cost

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*[Handwritten signature]*

## Proposed Facilities



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## Target Industries

High growth, high potential



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## Proposed Land Distribution for Industrial Township

Proposed land breakup for various facilities			
Total land area	Area in Acres	Area in Sq ft.	
	108	4700000	
Land allocation for various facilities			
	Facilities	Land allocation in sq ft	Land allocation in %
A	Reserved for common infrastructure such as internal roads, permissible setbacks for various constructions	880000	18%
B	Buffer zone ; green area and berthing zone along-side river (containers laydown yard)	960000	24%
C	Leasable open area for heavy vehicle parking.	150000	3.41%
D	Construction area for leasable office building built-up area 100000 sqft; design : ground + two ( each floor : 33000 sqft)	50000	1.14%
E	Commercial space for minimart & rest area	20000	0.45%

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Proposed land breakup for various facilities			
F	Covered parking for visitors and lease office building	50000	1.14%
G	Labour accomodation with complete facilities of dinning, kitchen, restrooms, recreation & bunk bed @ 8 person per room capacity design : ground + one floor with each floor of 25000 sqft	30000	0.68%
H	Residential apartment for management staff (50 apartment) average 800 sqft per apartment; pattern : ground + two floor ( 20000 sqft) built up area 50000 sqft	30000	0.68%
I	Land lease for ware house and factory units on lease premium basis	1210000	26.0%
J	Constructed area for warehouses and factory units	1100000	25,0%
<b>Total</b>		<b>4400000</b>	<b>100%</b>

16



## Project Costing

1	General infrastructure	70,00,00,000.00
2	Social Infrastructure (Total Construction Area: 5,30,00,000.00)	130,00,00,000.00
3	Container Freight Station & Bonded Warehousing of 100,000 sq.ft.	20,00,00,000.00
4	Built to lease warehouse and factory units; Area. 13,00,000 Sqft @ 1700 / Sq.ft.	220,00,00,000.00
5	Land value	300,00,00,000.00
<b>Total Cost</b>		<b>740,00,00,000.0</b>

The additional cost for setting up of internal infrastructure for logistics operation such as racking facilities, internal cranes, loading and unloading machinery shall be born by the end users and logistics operators

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## Key Economic Indicators

Total project value: INR 740.00 Crores

ROI within 10 to 12 years

Direct employment: more than 3000

Indirect employment: more than 6000

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## Proposed Ownership Structure

JV partnership between the existing promoters and new investors

The new project is led by M/s Mina ventures Pvt. Ltd. a sister concern of M/s Fortune Energy and Engineering Services, UAE, an EPC company with pan global track record in high value refinery and construction projects and annual turnover of USD 800 million

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## Way Forward

Settlement of banking liabilities	Dec 2021
Site readiness for commencing the project	Dec 2021
Final submission of perspective, contour, 3D model and DPR	Nov 2021
Signing of MOU with the Government of Kerala	TBD
Official announcement of the project	TBD

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## Proposal to the Government

Soliciting the participation of the Government of Kerala as a XX% equity holder

Total infrastructure cost expected to be invested by the Government – INR 70.0 Crores

Share value against 70.0 Crores – 19%

Sweat equity – XX%

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## Proposed Financing Structure

1	Equity	Land value + General infrastructure	370.00 Crores
2	Borrowing	For the development of commercial infrastructure from which revenue can be generated	370.00 Crores
3	Debt : Equity ratio		50 : 50 (370 Cr : 370 Cr)
4	Proposed Government participation	Towards the cost of general infrastructure	INR 70 Cr against 19% Stake

22



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## Advantages to Kerala

Positioning Kerala as one of the foremost Industrial friendly destinations globally

Huge employment opportunity

Accelerated social economic progress

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## Discussions

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This is the true copy of the original document marked as Annexure-R9K in the accompanying affidavit



# Inspection Report of industries located on the banks of River Periyar

In the matter of NGT case

Application No. 409 of 2016

Volume I (Report)

S. No	Description	Page No
1	Preamble	1-3
2	Methodology of monitoring and analysis of samples	4-6
3	Observations on River water quality	7-12
4	Phase wise inspection of industries located on bank of River Periyar	13-15
5	Important findings of industries monitored in three phases	16-49
6	Summary of findings with respect to direction of honourable NGT order	50-68
7	Conclusions of the study	69
8	Limitations/constraints of the study	70

Submitted to

Before the National Green Tribunal  
Circuit Bench, Kochi



Central Pollution Control Board  
South Zonal Office, Bengaluru  
February, 2017



**Annexure-R9L (2)*****9.0 Summary of findings with respect to directions of honorable NGT order***

The honorable NGT, Circuit bench – Kochi (SZ), in its order dated 5th August, 2016 on application no. 409 of 2016 had directed to inspect all industries situated on the banks of River Periyar. Accordingly, officials from CPCB, Zonal Office, Bengaluru along with KSPCB officials inspected **71 industries** located along the banks of River Periyar in Eloor-Edayar industrial belt, Kalamassery industrial estates, Aluva and Perumbavoor area during September to October 2016 in three phases. The details of industries inspected with respect to compliance status of treated effluent is annexed in **Annexure 7**. Apart from this the River Periyar stretch (122 Km) from Panamkuttu (Idukki district) to Eloor ferry (Ernakulam district) was monitored at 16 points and nine major drains joining into river. The summary of the study is given below as per the following specific directives in the honorable tribunal order:

- 1. To inspect industries situated along the banks of River Periyar***
- 2. To assess the quantum of sewage generated***
- 3. Effluents generated as well as the efficacy of the effluent treatment plants in the industries***
- 4. Compliance status of effluents quality being discharged into the river from industries***

***9.1 Important observations and findings of the industries inspected***

During the first phase of inspections, **16 rice mills** were inspected operating in and around Perumbavoor area. Since, the study was undertaken immediately after Onam festival, many rice mills were found closed or in start-up condition due to low demand of product. The rice mill cluster in Perumbavoor/ Kalady was directed by KSPCB to augment its treatment systems before 31<sup>st</sup> December, 2016 due to inadequate treatment facilities and frequent public complaints on unauthorized discharges. During the inspection of rice mills located near to River Periyar, it was observed that most of the units were not operating ETPs. The treatment systems in these units were in defunct state and very few units operated ETP and that too for name sake only. Many of the units indiscriminately discharging effluent without proper treatment to adjacent lands in the name of irrigation and possibility of reaching these unauthorized discharges to river through natural drains are very high. Many units lack proper segregation of streams for storm water & effluents. In almost all these units, the management of boiler ash is poor and found dumped haphazardly without proper storage facility or shelter in open area. ***It is recommended that all Rice mills shall upgrade/ augment ETPs to meet the stipulated effluent discharge standards and also to explore the possibility of reusing the***



**Annexure-R9L (3)**

*same. KSPCB shall be directed to review the status of the ETP augmentation in all rice mills and initiate stern action against defaulting units. The mills shall be instructed to close all its operations till the commissioning of full-fledged ETP. A time bound action plan may be obtained for providing upgraded treatment system and complete reuse of treated effluent in the process leading to zero effluent discharge.*

During the first phase of inspection, it was observed that *M/s Supreme Food Industries, Perumbavoor*, had dismantled the existing ETP for constructing new ETP. It is mandatory to inform the KSPCB authorities and to obtain necessary permission for alteration/ modification of existing treatment systems. It is very much surprising to notice that the unit has not obtained any permission in this regard till date. *During inspection, the unit was found in operation and the effluent generated was discharged without proper treatment to the adjacent field through undefined path. It is recommended to issue a closure notice to stop the production till the new ETP is commissioned and also to make necessary amendment in the consent conditions of KSPCB.*

The Eloor–Edayar industrial area in Ernakulam district has *253 industries*. During second and third phase of inspections, CPCB team inspected *31 industries* under 17 category, red and orange category in the Eloor–Edayar Industrial Area. The criteria for inspecting these industries were proximity to River Periyar. River Periyar is the major source of water to all these industries and many of them are permitted to discharge treated effluent into River. Some of industries inspected are imposed with maximum reuse of treated effluent to achieve zero effluent discharge. But in reality most of them are not reusing treated effluent and effluents are being discharged to the river directly or indirectly through percolation pits and delay ponds. The concept of percolation pit is not a good disposal option due to high water table in the Eloor - Edayar industrial area. KSPCB shall review these treatment options imposed to industries and shall work out on action plan to achieve zero effluent discharge by complete reuse of treated effluents. For many of the industries monitored, there are no flow meters installed to quantify the water consumption, effluent generation and its discharge. Because of this it is very difficult to identify the gaps between the water consumption, effluent generation and discharge. As per observations, *the effluent treatment plants (ETPs) are the most neglected area in many of the industries in Eloor-Edayar industrial area. Operation and maintenance of ETP are very poor in most of the units. The condition observed during the inspections indicates that the treatment systems are intermittently or rarely operated in*



*many units. Due to unsatisfactory operation and maintenance of ETPs, many of the industries are not meeting the prescribed discharge standards and no action has been initiated by KSPCB till date.*

Many industries have stored effluents to maximum levels in delay ponds & huge heaps of waste sludge / solid wastes, by products and other waste materials are stored near to the River bank. Most of the industries situated on the banks of the River Periyar have no compound walls. *During monsoon season and heavy downpours, there are high possibility of effluent, sludge, run off from process area and other materials are likely get discharged to the river in form of runoff.* Appropriate action shall be initiated by KSPCB in this regard.

Most of the industries have not installed Sewage Treatment Plant (STP) to treat domestic waste water / septage and canteen wash water. *Domestic wastewater from many units is directly discharged into the river. In many places soak pits are provided, which are inappropriate treatment system due to high water table on the banks of river. The concept of septic tank followed by soak pit has to be reviewed and action plan for a common treatment facility and common sewage drain network has to be mooted immediately by KSPCB.*

The major industries operating in Eloor-Edayar area like FACT, HIL, IRE, TCC, CMRL etc., lacks proactive efforts to operate & maintain ETPs properly and to prevent unauthorized discharges through runoffs and storm water drains.

ETP of M/s HIL was not operated and maintained properly, the prevailing conditions observed during inspection indicates the intermittent operation of treatment system. *According to the earlier consent documents of HIL, direction was issued to extend the treated effluent discharge pipeline to River Periyar near Eloor ferry area through road and to stop discharging into Kuzhikandam thodu. It is surprising to notice that the industry has not made any efforts to comply with this condition and is still discharging the treated effluent to Kuzhikandam thodu. This fact shall be re-examined by KSPCB and ensure that the unit is complying with the directions.*

Similarly, the operation, maintenance and performance of ETP in M/s IRE were not satisfactory. The physical appearance of stagnated effluent in the collection tank indicates that



the ETP was not in operation for a long time. *IRE was supposed to install zero effluent discharge system before March 31, 2010, but the unit has not taken any steps to comply with this condition. The industry has also not complied with the earlier consent condition to provide delay ponds for storm water drains.*

In M/s TCC, the treated effluent was mixed with the canteen wastewater and discharged to River Periyar when the consent prohibits any discharge to river. *The entire treated effluent has to be reused, but field conditions indicate that TCC is not adhering to this consent condition.*

In M/s Sud Chemie, the water from the filter press is mixed with the clarifier outlet and taken to the sand filter and discharged along with treated effluent. This practice is not acceptable since the filtered water contains high concentration of metals which cannot be removed in the sand filter. The unit is dosing excess chemicals in their treatment system which subsequently gets discharged into the river. *The unit shall be directed to divert the filter press water to the balancing tank (inlet) of ETP for effective treatment and to regulate dosing of chemicals.*

The large industry in Eloor industrial area, M/s FACT was also not an exception to the poor state of affairs. The operation of ETPs in fertilizer & petrochemical divisions were found very poor, without proper maintenance and housekeeping. *The Fertilizer division of FACT was supposed to raise all the treated effluent discharge and storm water outlets above the river water level for its easy identification. However, even after 6 years, outlet-1 (outlet from ammonia plant) and storm water drains towards Idamulla branch of the river are not raised above the river water level.* In the petrochemical division, samples from all storm water drains revealed higher concentration of COD indicating the contribution of pollution load from the process area.

As per the consent conditions, M/s CMRL is permitted for maximum utilization of treated effluent (containing ferric chloride & hydrated titania) for the treatment of other trade effluent and sewage. By virtue of high TDS, chloride & many heavy metals in the effluent, it is unsuitable for treating other wastewaters. *KSPCB shall amend the consent condition of this specific condition.*



**Annexure-R9L (6)**

The huge pile of iron hydroxide (CEMOX) dump in the premises of M/s CMRL is stored near to the bank of river without proper storage facilities and the possibility of accidental discharge to river is high during heavy rain/ monsoon. *KSPCB shall amend the consent conditions incorporating proper handling/ storage and disposal of CEMOX. The analysis results indicate the presence of high levels of heavy metals in CEMOX, which warrants a review study to ascertain its non-hazardous nature. The storm water drain passing between the ETP collection tank and clarifier/ filter press area has to be completely covered to prevent accidental effluent spills from ETP area during monsoon/ heavy rains. KSPCB shall also review the conditions of consent as industry has failed to comply with condition to adopt zero effluent discharge. It is also recommended to incorporate treated effluent tolerance limit for parameters like chloride, hexavalent chromium, heavy metals etc., based on the general discharge standards (Part A, Schedule VI) in the consent conditions.*

*During inspection, it was observed that M/s. TMS Leathers is not utilizing solar evaporation tank for effluent from soaking section (high TDS) and unusual decrease in TDS observed in the treated effluent which indicates dilution arrangement in ETP. ETP was not properly operated and there is no clarity in the water usage, effluent generation & discharge. KSPCB shall direct the unit to operate the treatment systems properly and look into the possible bypass/ dilution arrangements.*

The general environmental performance of most of the crepe / crumb rubber units in Eloor-Edayar area is not satisfactory. ETPs of these units are not operated properly and are holding effluent/ treated effluent in delay pond/ lagoons. Because of poor maintenance of these delay ponds/ lagoons, treated effluent quality is very poor and several seepages / breaches on delay ponds and unauthorized discharges observed during inspections (**Figure 3**). The crumb rubber units M/s Sunrise TSR factory & M/s Mardec golden crumb rubber unit shall be directed to remove all delay ponds/ lagoons on the river bank. M/s Malaya Rubtech & M/s. Essar Enterprises are not adhering with the consent condition to reuse 100% of treated effluent. M/s Njavallil Latex is discharging entire treated effluent into river in the name of irrigation. *All crepe/ crumb rubber/ latex units shall be imposed with a time bound action plan to achieve zero effluent discharge by 100% recycle of treated effluent for process and secondary uses.*





*Breached delay pond & non-operational ETP : Sunrise TSR Factory*



*Treated effluent storage: Malaya Rubtech*



*ETP & lagoons: Mardec crumb rubber*



*Delay pond/ lagoons and storm water drain carrying wastewater: Mardec*

**Figure 3: Delay ponds/ Lagoons in crumb rubber industries in Edayar**

Another industry, manufacturing rubber conveyer belts, M/s. Rubber O Malabar is directly discharging boiler blow down, cooling water condensate, floor wash, domestic wash water and canteen wastes directly to river through storm water drain. *The soak pit for canteen wastewater is provided with a bypass valve leading to the storm water drain. The industry shall be directed to stop operation until proper treatment facility is provided. Unauthorized discharge of process and domestic wastewater through storm water drain is not meeting the BOD limit for discharge to inland surface water.*

*M/s. Indo German Carbon has been imposed with zero effluent discharge as per the consent issued by KSPCB, but the unit is discharging treated effluent to a percolation pit on the bank of River Periyar. The consent conditions have not mentioned anything on the final discharge of effluent and the location of percolation pit in the vicinity of the river does not appear to be environmentally sound disposal mode. This indicates lack of ground reality checks and ambiguity in consent and needs to be examined thoroughly by KSPCB.*

As per the consent condition, M/s. Neptune ready mix concrete has to reuse the treated effluent completely for the process without discharging to the river. *However, the unit has provided underground bypass pipeline from sedimentation tank leading to River Periyar below the water surface. KSPCB has to look into this immediately and shall initiate action against this unit.*

Very poor housekeeping was commonly observed in all bone meal industries inspected in Edayar area. The raw material, byproducts, organic manure are stored in haphazard manner and there are no systems to manage floor wash and accidental spillages of process water. *The bone meal industries shall be directed to develop designated platform / area with collection pit for handling of by-products to avoid spillage & to improve housekeeping and also to avoid pollution load from the floor washing water.* Units shall be directed to collect floor washes/ spillages in collection pit and to explore the possibility of reutilizing the same for organic manure making. With the existing conditions observed in these units, it would be difficult to manage wastewater when dampness & moisture increases during monsoon season.

The Kalamassery industrial estate was the first industrial estate setup by the Directorate of Industries & Commerce, Govt. of Kerala in the year 1960. According to the directorate of industries & commerce, there are 181 units in the Kalamassery industrial estate. In general,



the industries are operating in confined space allotted to them and most of the units are not maintaining or operating its ETPs properly. Due to the space constrains many units have constructed the ETPs in underground and over the terrace of buildings. During inspection, it was observed that ETPs are not properly operated and maintained. *Many small scale industries like engineering unit and food industries were operational without mandatory consent. Though this development area was initiated by the directorate of industries & commerce, there is no field office/ designated agency to oversee the day to day activities of this industrial cluster in Kalamassery. Due to this fact, the basic amenities, like common treatment systems, sewage collection, other common facilities and facilitation/ guidance centres are lacking. During inspection it was observed that this industrial cluster is more like an unorganized industrial cluster rather than an industrial estate managed by Govt. agency. The pollution control measures and other basic facilities are poor in this industrial estate and requires active surveillance and intervention by KSPCB.*

A medium scale paint & coatings manufacturer M/s. Hi Build Coatings was inspected and observed that the housekeeping, effluent treatment system and wastes disposal are very poor. The unit stores a huge stock of expired products, expired chemical, ETP sludge and incinerable wastes in haphazard manner without designated storage facility. *The unit shall be directed to construct a proper and adequate ETP with flow meters, proper storm water drains and also to dispose of the expired / off specification products/ chemicals to the common facility.*

The food industries in Kalamassery industrial estate, such as M/s Elite foods, M/s K R bakers and M/s Central kitchen have installed ETP in underground due to space constraints hindering the effective operation and treatment. *The ETP in M/s Elite foods is inadequate by design, construction and is operating unscientifically. KSPCB shall issue direction to revamp ETP & stop operation until commissioning of new treatment system.*

M/s K R Bakers is jointly treating effluent and sullage in the ETP violating the consent condition. The oil & grease tank, effluent and sullage collection tanks are constructed underground resulting in anaerobic condition hampering the overall treatment efficiency. The sludge generated is dried and disposed as cattle feed, which may pose threat to the animals and this type of sludge disposal method is not mentioned in the consent condition. As per the consent condition, the treated effluent/ sewage should be discharged to soak pit, but the unit is



**Annexure-R9L (10)**

discharging into storm water drain violating the consent condition. *KSPCB shall issue closure direction to the unit, until the ETP is rectified and make provision for environmentally sound disposal option for treated effluent. KSPCB shall also suggest a suitable sludge disposal method.*

M/s Central Kitchen is operating without valid consent to operate from past one year and has installed ETP in underground without approval of KSPCB and the same was observed to be in anaerobic and defunct condition. The unit is discharging the effluent to Idamulla stream of River Periyar without proper treatment. *KSPCB shall immediately issue show cause notice and closure direction until the unit obtains valid consent and ETP is constructed and treated scientifically.*

The only STP installed in the Kalamassery area is by M/s Hindalco, which is grossly underutilized. The 50 KLD facility is used to treat a meagre 1.5 KLD of domestic wash water & the majority of domestic wastewater goes to septic tank/ soak pit. Besides this the operation and maintenance of STP is very poor. *KSPCB shall direct the unit to operate the STP properly and to channelize all domestic wastewater streams from the industry complex to the STP facility.*

*The container freight station in Kalamassery, M/s. Falcon Infrastructure has provided STP only for namesake. At the time of inspection, STP was not in operation and was bypassing domestic wastewater to public drain without any treatment.*

During inspection, it was observed that KSPCB had regularly renewed consents to several industries overlooking non-compliance of its earlier consent conditions imposed (zero effluent discharge). In case of difficulties in implementing/ achieving the consent conditions, a suitable alternate viable options needs to be explored by KSPCB. It is recommended that KSPCB shall carefully review the consent conditions imposed to various industrial units operating in the Eloor-Edayar industrial area and to ensure the compliance of consent conditions. During inspections, at Kalamassery & Aluva it was observed that the conditions prescribed in the consent issued by KSPCB and the ground reality was not at all matching. There were contradictions, ambiguity and lack of clarity in the conditions imposed and for some industries the disposal mode for certain wastes were not at all mentioned. *The consents issued by KSPCB shall be re -examined to incorporate ground realities.*

This is the true copy of the original document marked as Annexure-R9L in the accompanying affidavit.

