

BEFORE THE NATIONAL GREEN TRIBUNAL(SZ)

CHENNAI

O.A.No. 151 of 2020

Between:

Akhila Kerala Dheevara Sabha

... Applicant

Vs

State of Kerala and others

... Respondents

With

O.A.No. 102 of 2020

Between:

Nishant Gopal

...Applicant

Vs

Union of Indian and others

...Respondents

REPORT FILED BY IREL (India) Limited, (formerly INDIAN RARE EARTHS LIMIED)

(RESPONDENT 7 & 11 IN O.A/151/2020 AND O.A/102/2020 RESPECTIVELY)

The Respondents above named submit as follows:

1. During the hearing on 03.01.2022, this Hon'ble Tribunal had directed the Respondent No. 11th in OA No.102 of 2020 and Respondent 7th in OA No.151 of 2020 (both Respondents are the same company and are referred hereinafter as "IREL") to file a report on the manner in which the dredged materials from the Thottapally Harbour and Spillway are collected and disposed of. Accordingly, IREL is filing the present report.

Thotttapally Spillway

2. Flood water in Kuttanad area is drained through the Thottapally spillway into the Arabian sea. A spillway is a regulatory mechanism to control the flow of water. During the time of high tide, water level in the sea increases and it is pushed to the river. This is controlled by the spillway whereby saline water from the sea is



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blocked by the spillway shutters from entering into the agriculture fields. Similarly, water from the river side can also be regulated by opening the spillway gates, so that flooding in that area can be averted and the water course will have a free flow towards the sea.

3. To avoid the risk of flooding in respect of Kuttanad region, Govt. of Kerala decided to deepen and widen the Thottapally Spillway channel and Pozhy mouth. Being the mouth of the river from which the river opens into the sea, a detailed report was submitted by renowned agronomist M.S. Swaminathan who collaborated with IIT Madras and recommended the deepening and widening of the pozhi mouth to allow free flow of water so as to prevent the flooding of low-lying plains in and around the Kuttanad area during the monsoon. Accordingly, the State Government accepted the recommendation of M.S.Swaminathan Committee and took a decision under the Disaster Management Act to deepen and widen the Pozhi . Since, the sand contains atomic minerals, the Govt. of Kerala allowed KMML and IREL to deepen and widen the Thottapally Spillway channel and Pozhy mouth seasonally, thereby facilitating free flow of flood waters to the Arabain sea and to collect and transport desilted sand vide G.O. (Rt) No. 385/2019/WRD dated 31.05.2019 .

Based on the above referred GO issued by the Government of Kerala, IREL has been carrying out dredging operations at the spillway. The dredged sand is removed from Thottapally spillway to IREL's unit at Chavara where the minerals are separated from the sand. The remaining sand which is now free of atomic minerals are disposed of as per the Govt. directions. For the year 2020-2021, the deepening and widening activity was carried out from 20.05.2020 to 12.12.2020 during which 1,23,078 metric tons of sand was desilted and transported to IREL. Similarly, for the year 2021-2022, deepening and widening activity was carried out from 16.05.2021 to 04.12.2021 and transportation of the desilted sand is still going on.

4. The desilted sand is then fed to the mineral separation plant of IREL at Chavara along with the mineral sand received from other sources. For the period between 20.05.2020 to 12.12.2020, approximately 28,517 metric tons of minerals were produced from the desilted sand.




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5. Similarly, for the period between 16.05.2021 to 09.02.2022, a total of 1,83,401 metric tons of desilted sand was transported to Chavara plant of IREL, out of which approximately 1,00,000 metric tons of desilted sand is fed to the mineral separation plant along with the mineral sand received from other sources and approximately 21,840 metric tons of minerals were produced from the desilted sand.

Thottapally Harbour

6. Periodical desilting by dredging is a seasonal requirement for the smooth and safe operation of the harbour and since the desilted sand from the Thottapally harbour contains atomic minerals, IREL being a Govt. of India Company, authorized to handle and process atomic minerals, has been entrusted by the Govt. of Kerala to carry out dredging operations since 2014 under various GOs.
7. The last of such GOs was issued on 31.01.2018 by the Government of Kerala bearing No. G.O.(Gen) No. 73/2018/FPD and on 06.08.2018, G.O. (Gen) No. 645/2018/FPD by which the Fisheries and Ports (B) Department. Govt. of Kerala permitted IREL to carry out dredging operations in the Thottapally Harbour to desilt the accumulated sand at the entry point and the channel of the harbour for smooth and trouble-free operations, thereby facilitating free and safe ingress and egress of the fishing boats in the harbour, as several boat accidents occurred in the past due to the formation of silt in the channel leading to the Harbour and the harbour berth area.
8. A spiral unit has been set up at the harbour for which permission was granted by the 12th Respondent in the year 2014. This permission is however subject to the outcome of W.P.(C) No. 36925 of 2017 subjudice before the Hon'ble High Court of Kerala. It is to be noted that IREL continues to deploy the spiral unit at the harbour pursuant to the interim orders of the Hon'ble High Court of Kerala dated 16.11.2017 and 04.09.2018. The spiral unit segregates the impurities and trashes from the desilted sand and this sand, free from atomic minerals, is handed over to the Harbour Engineering Department, Government of Kerala for their disposal. The segregated sand is transported to the mineral separation plant of IREL at Chavara.

For the year 2021-2022, approximately 47469 cubic meter (80697 metric tons) of sand was desilted and after segregating the impurities and trashes, transported 24583 metric tons of segregated sand to IREL Chavara Plant. Approximately 8621 metric ton of minerals were produced from the same.





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Conclusion

9. IREL has been carrying on the dredging operations at the Thottapally Harbour and Thottapally Spillway in accordance with the permissions and GOs granted by the Government of Kerala. It is also to be noted that under the notification issued by the Ministry of Environment and Forest vide S.O. 1224(E) dated 28.03.2020, no environmental clearance is required to carry out such dredging operations.
10. It may also be noted that, widening and deepening of spillway for which IREL is carrying out dredging operations is only pursuant to a decision taken by the Government of Kerala under the Disaster Management Act. IREL further submits that since the sand dredged from the Thottapally Harbour as well as the Spillway contain atomic minerals such as Ilmenite, Rutile, Zircon, Monazite, Leucoxene, Sillimanite and Garnet etc., such minerals can be handled only by Public Sector Undertakings as per statute. Therefore, the Government of Kerala had no other option but to approach a Public Sector Undertaking like the 11th Respondent and 7th Respondent to remove the sand dredged lest it be commercially exploited by private parties which could have a bearing on National Security.
11. The dredging operations carried out by IREL in the Thottapally Harbour and Thottapally Spillway are in accordance with law.

Dated at CHAVARA on this the 17th day of February 2022.



RESPONDENT NO.11& 7



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REPORT FILED
BY THE 7th and 11TH RESPONDENT

**M/s. S. RAMASUBRAMANIAM &
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COUNSEL FOR 7th and 11th RESPONDENT
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