

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

**Original Application No.442 of 2013 (SZ)
With
Original Application No.20 of 2017 (SZ)
With
Original Application No.276 of 2017 (SZ)
With
Original Application No.77 of 2021 (SZ)**

Jith Kumar ...Applicant(s)
Versus
The State of Kerala and others.Respondent(s)
With
Abdul Bhasheer ...Applicant(s)
Versus
Kochi Municipal Corporation &Ors.Respondent(s)
With
Lawyers Environmental Awareness Forum ...Applicant(s)
Versus
State Level Environment Impact Assessment Authority,
Trivandrum and others.Respondent(s)
With
Suo Motu Proceedings initiated based on a Letter received from Justice A.V. Ramakrishna Pillai, Former Judge, High Court of Kerala, Chairman, State Level Monitoring Committee, Kerala.
Versus
The Chief Secretary, Government of Kerala, Thiruvananthapuram and Ors.Respondent(s)

**COMPREHENSIVE REPORT FILED BY ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT**

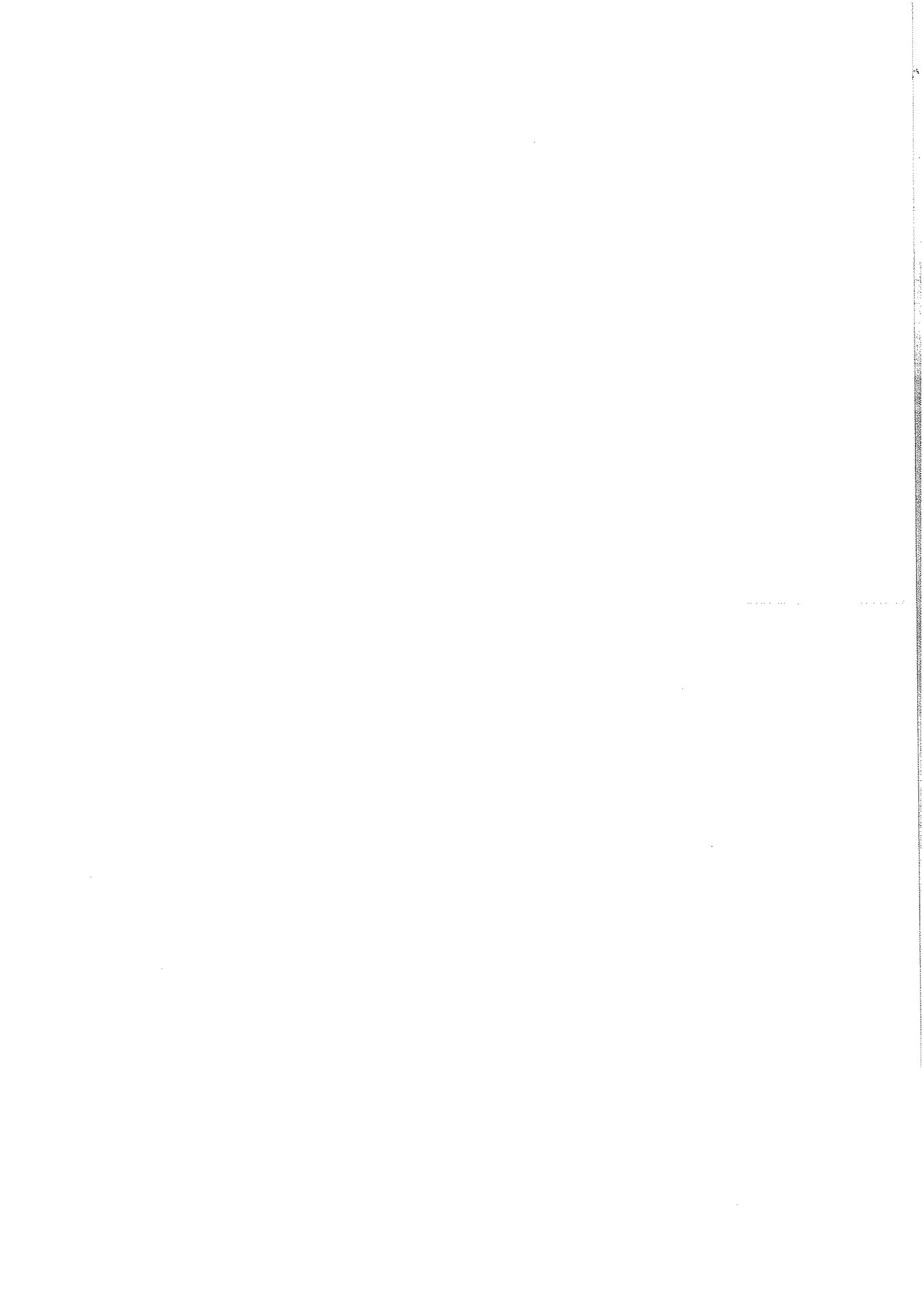
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Dated at Chennai on this the 10th October, 2023.

M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench.



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Comprehensive Report on waste management in the Brahmapuram site as per Order dtd 17.05.2023 of the Hon'NGT in OA No.77/2021(SZ)

In the hearing on 17.05.2023, the Hon'ble NGT directed the Additional Chief Secretary, Local Self Government Department to submit a comprehensive report regarding the handling of waste in the Brahmapuram site in the past, present and future, including the removal of RDF fraction.

Before 02.03.2023

Brahmapuram waste treatment plant with a capacity to treat 250 TPD was started in 2008.

Kochi Municipal Corporation (KMC) was having door to door collection through informal workers and further treatment and disposal at Brahmapuram. The waste management facilities available at Brahmapuram were as follows: A windrow unit of 250 TPD capacity for processing bio waste and an RRF with total plinth area of 2400 Sqmt – for the processing of Non Bio waste. An average of 336 TPD, both bio and non-biodegradable combined was brought to the plant of which 232 tonnes was wet waste and 104 tonnes, dry waste. Apart from Kochi Corporation, the plant serviced Kalamassery, Thrikkakara, Aluva, Angamali, Thripunithura Municipalities and Cheranallur, Kumbalangi and Vadavukode- Puthencruz GPs. Due to structural issues at site, the KMC had contemplated renovation of the Windrow compost plant, and prepared estimate for the purpose.

Also at Brahmapuram, biomining of legacy waste - about 559103 m³ spread over area of approximate 40.24 acre of land, was ongoing by M/s.Zonta Infratech Pvt Ltd. The legacy waste at Brahmapuram has been amplified post 2018 floods, when debris from LSGs all over the State had to be accommodated in Brahmapuram as emergency measure. The concessionaire was to have completed biomining by February 2023 and capping by June 2023. However the progress

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was unsatisfactory and notices had been served time and again upon the agency. At the time of the fire break out at the legacy dump site, around 10 acres of land had been biominated.

Kochi Corporation has taken steps to resume bioremediation and the technical bid was opened on 29.07.2023, Technical evaluation will be completed by 03.08.2023 and it will be placed before the technical committee on the same day. It is expected that the bio mining can resume in the month of August 2023.

While earnest efforts were taken by Government to complete the bioremediation process, fire broke out at Brahmapuram on 02.03.2023 and the Brahmapuram plant went out of action. In this context, emergency measures to manage the waste generated in the city and adjoining areas were undertaken. Transitional plan and long term plan for handling the waste were drawn up, and put into action. The interventions of the Kochi corporation are under the regular scrutiny of the hon'ble High Court since March 2023. A time frame for various activities to be undertaken was drawn up and submitted as per the directions of the hon'ble Court, the progress against which is being monitored independently by the High Court through amicus curiae and the district legal service authorities in respect of all gram panchayats, municipalities and municipal corporations of the State.

Waste management chain Kochi

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Segregation

Consequent upon the Brahmapuram fire, the informal system of waste collectors in KMC was replaced with Haritha karma sena - many of the earlier waste collectors were brought into the formal framework of the haritha karma sena, and trained on segregated collection. The segregated waste is collected by Harithakarmasena. Training was given to 755 HKS. They have started non bio collection from 04.04.23.

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2. Collection and Transportation

Currently the Corporation has 320 handcarts and 9 auto tippers for primary collection of waste. For secondary collection and transportation the corporation has 12 Tipper trucks, 10 Compactors and 27 Ape trucks. Augmentation of the transport facilities used in the handling of waste is proposed in the current year.

Apart from the Windrow compost plant, the City has 2 Material Collection Facilities and 4 Resource Recovery facilities. Technical agencies support were roped in for the management of the non bio waste and new mixed waste that was appearing on the roads during the transitional period.

3. Bulk waste generators

All the bulk waste generators have been issued notice and provided handholding support to develop in situ facilities if not already in place. Brochure on various processing options has been disseminated. Private agencies have been engaged by the BWGs to take waste to pig farms.

Transitional arrangements:

Transitional arrangements are made by the KMC to handle the large volume of MSW pending operationalisation of the CBG plant. These include

- Repair and operationalisation of the existing windrow plant as an emergency measure
- Procuring smaller OWCs and compost units where the thumboormuzhi is unable to come up
- Tie up with agencies undertaking waste management solutions
- Operating temporary MCFs for handling, bailing and transporting non bio waste including mixed waste lifted off illegal dumps.

The KMC has terminated the contract for bioremediation, and tendered afresh. It is estimated that a timeframe of nine months will be required for the new agency to complete the bioremediation of the Brahmapuram dumpsite.

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Tender has been invited under Window No. C200861/2023 for bio-mining of approximately 7 lakh metric tonnes of legacy waste at Brahmapuram. This includes one lakh metric ton of R.D.F. After finalizing the contractor and completing the work, the existing RDF and will be removed from the site completely.

With respect to the Waste to Energy Plant in Brahmapuram, it is respectfully submitted that Govt:have decided to drop the Project as the Kochi Corporation was reluctant to sign the agreement. In its stead, the centralised bio CBG plant for 150 TPD which is to be managed under the aegis of BPCL is being taken up. Government orders to the same have been issued.

Govt:have also started a campaign named" Malinya Muktham Nava Keralam" to declare State as Garbage Free State by March 31 2024.The Campaign is being conducted in a phased manner, phase I activities of the came to an end on June 5th ,2023 which primarily focused on 100% source segregation and Door to Door collection of Non Bio w aste, in situ management of Bio waste, clearing of dumpsites in public places and removing floating debris from water bodies.

Future Plan

As per G.O.(Rt)No.989/2023/LSGD, dated 06.05.2023 all LSGIs were allowed to revise their Annual Plan so as to accommodate new projects in waste management, based on the gap analysis done.

The city Corporation plans the following:

decentralised composting at household level - through in situ devices, either procured by the household or provided by the corporation

community or institutional level composting facilities - where in situ processing is difficult and local facilities like thumboormuzhis, OWCs can be operated

Centralised bio CBG plant to be developed by the BPCL for 150 TPD, to handle the bio waste that is not processed in situ by households or bulk waste generators. Sanction was accorded by Govt to BPCL for setting up a Bio methanation Plant in Brahmapuram which will convert the organic solid waste into Compressed Bio Gas. BPCL will submit the Detailed Project Report by October 2023 and the Plant

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is expected to be commissioned by December 2024.

For non bio waste management, the KMC plans to have MCFs in all wards, and set up mechanised Resource recovery and recycling unit, as well as green facilitation centres, swap shops etc. It also intends to bring in state of the art transport facilities like e karts, LCVs, as well as compactors, road sweeping machines etc.

Following activities are undertaken which are binding upon KMC also.

Detailed operational guidelines was issued for 'Malinya Muktham Navakeralam' Campaign covering the duties and responsibilities of both officials and the members of campaign secretariat, and the various activities to be undertaken to ensure that the commitments made are met and waste management is improved to the extent of making the State waste free by March 2024.

Selection of Haritha Sahaya Sthapanam for Kochi Municipal Corporation and fixation of their rates for services are finalized by Govt:

The projects undertaken under KSWMP also address new bio waste management proposals, renovation of existing bio waste systems, modernisation of existing MCFs, RRFs by area extension, painting and other aesthetics works, constructing boundary walls, procurement of machineries like weighing machines, bailing units, shredding machines, trolleys, sorting tables, conveyor belts etc., procuring protective equipment for workers and installing fire safety mechanisms. The effort is on to set up regional scientific landfills under the project.

Various activities in aid of citizen education, including conduct of seminars and exhibitions, development of content both for print and electronic media, community mobilisation, mass media campaign, production and distribution of printed materials etc have been conducted.

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As part of the campaign, the community network of Kudumbashree was mobilised. They were able to conduct various activities such as cleaning drives, citizen awareness initiatives, and social audits including the community members.

As part of the Campaign, MLA Committee has been constituted to monitor the progress of activities of the solid waste management campaign.

Enforcement teams appointed by the government have been conducting raids on institutions in all LSGs. The defaulters of SWM rules 2016 have been identified and are being given notice and imposed fine. These include institutional defaulters.

An option for the public to report garbage vulnerable points (GVP) has been enabled in the IKM portal in addition to the GVP reported by the volunteers of the campaign.

In continuation of the online meeting conducted by the ACS, LSGD with the Home Department and District Collectors, ACS Home and Vigilance had given instructions to all district police chiefs including Kochi City Police Commissioner to submit the report on action taken on illegal dumping.

A government order, elucidating the responsibility framework of various departments and agencies of the Government in respect of waste management with the intent of working towards behaviour change, effective governance systems and institutionalisation, was issued by the Chief Secretary.

Also senior officers of the State have been assigned to districts to coordinate and monitor the solid waste management effort including regulatory action by Local Self Governments.

There has been significant improvement in the status of action in Kochi

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corporation - the tender for bio remediation has been floated; the tender for bio composting transitional arrangements has been done; the user fee collection has gone up significantly.

Steps to amend the Kerala Municipal Act and the Kerala Panchayati Raj Act introducing amendments to penal provisions have been initiated.

To encourage and promote the message of penalising illegal dumping of waste in public and private spaces and water bodies, as well as to generate a common awareness on the serious implication to environment and human life due to such immoral activities, it was decided to incentivise citizens to report such activities

Phase II of the campaign to achieve the mid term targets set for compliance with the SWM Rules 2016 commenced on June 6, 2023.

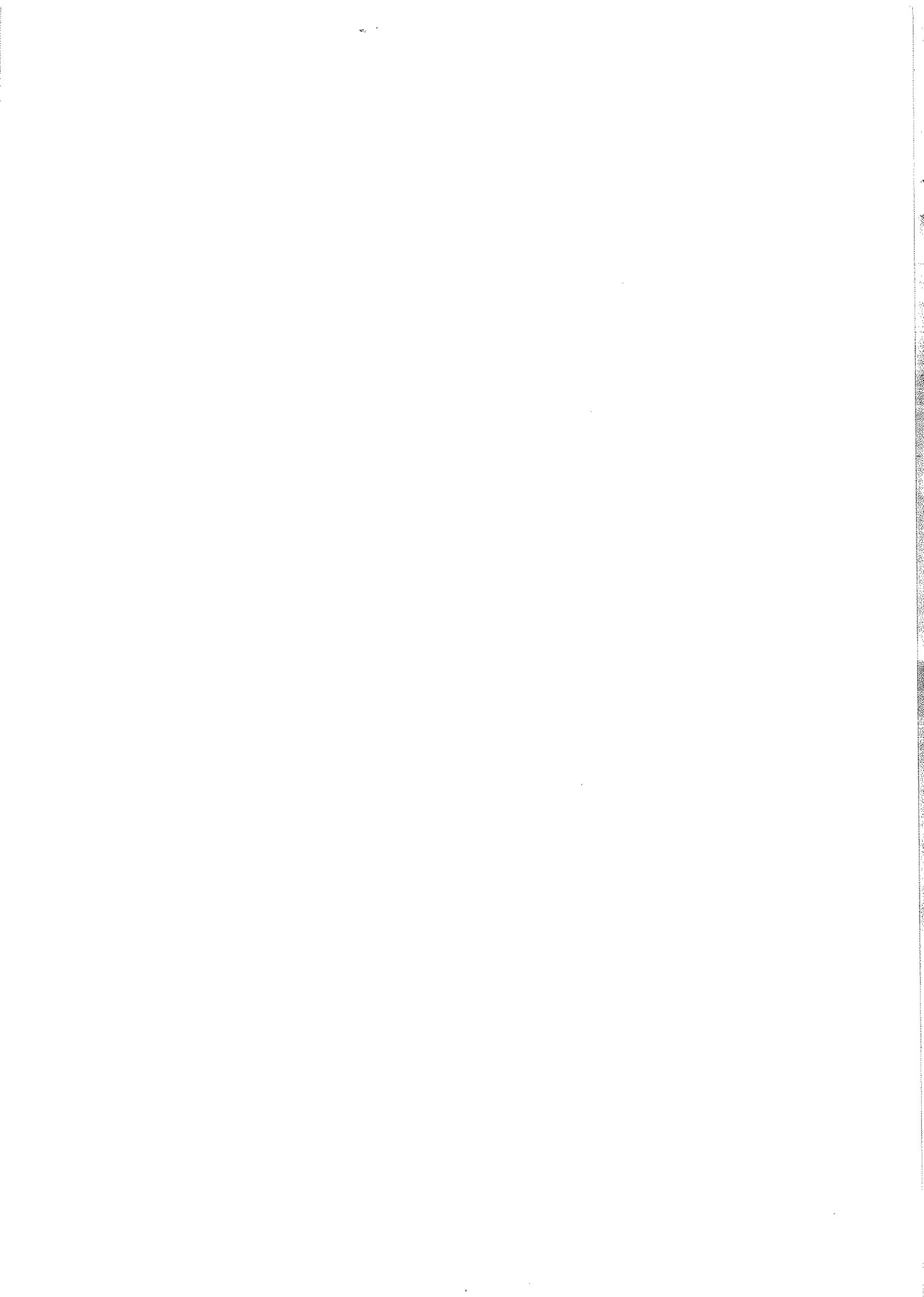
The focus of Phase II of the malinya muktam navakeralam campaign is to institutionalise the improvement that has been achieved, provide the additional infrastructure and equipment needed as arising out of the gap assessment through projects from the funds available to local governments

Sarada 31-07-2023,

SARADA MURALEEDHARAN I A S
ADDITIONAL CHIEF SECRETARY

Sarada Muralaeddharan IAS
Additional Chief Secretary
Local Self Government Department
Government Secretariat
Chinuvannambapuram.







IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
&
THE HONOURABLE MR. JUSTICE GOPINATH P.

Friday, the 4th day of August 2023 / 13th Srawana, 1945
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682 011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD, ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES, HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O., THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPLEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.

ADDL. R7 IS SUO MOTU IMPLEADED AS PER ORDER
DATED 07/03/2023 IN WPC

ADDL. R8 IMPLEADED

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
VYDUTHI BHAVAN, PATTOM-695 004.

ADDL. R8 IS SUO MOTU IMPLEADED AS PER ORDER
DATED 10/03/2023 IN WPC.

P.T.O.

9.

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's order dated 07/07/2023 and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL, for R1, R4, R6 & R7, SRI.RANJITH THAMPAN, SENIOR ADVOCATE, SRI.K. JANARDHANA SHENOY, STANDING COUNSEL for R2, SRI.T. NAVEEN, STANDING COUNSEL for R3 and of SRI.C.E. UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for R5, SRI.ANTONY MUKKATH, STANDING COUNSEL for R8, Advocates SRI.VINU T.V, SRI.VISHNU.S & SMT.POOJA MENON, AMICI CURIAE and of Adv. SRI.MOHAMMED SHAH and SRI.ANTO(PARTY IN PERSON), the court passed the following:



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solution for the treatment of bio-degradable waste. It is also submitted that steps will be taken in association with BPCL to ensure that the plant is operational without any delay.

3. The learned Standing Counsel for the Municipal Corporation of Kochi, and the Secretary of the Corporation, who appeared in person, informed that the proposal for the Black Soldier Fly Technology Project, to be set up is expected to be fully operational within 100 days of handing over of the site. It was submitted that the final approval for this project is to be given by the Council of Municipal Corporation of Kochi. The Secretary assures us that considering the urgency, an emergent meeting of the Council is being convened and that he expects that the final approvals will be obtained before 15.8.2023. The learned Standing Counsel for the Municipal Corporation of Kochi shall ensure that an affidavit of the Secretary regarding this issue will be placed on record on or before 16.8.2023.

4. The Additional Chief Secretary and the Secretary of the Municipal Corporation of Kochi have informed us that the only method of dealing with the existing waste at Brahmapuram is the

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BECHU KURIAN THOMAS, J.
&
GOPINATH P., J.

W.P.(C) No.7844 of 2023

Dated this the 4th day of August, 2023

ORDER

Bechu Kurian Thomas, J.

We have heard Sri.C.E.Unnikrishnan, learned Special Government Pleader, Sri.K.Janardhana Shenoy, learned Standing Counsel for the Kochi Corporation, Sri.T.Naveen, learned Standing Counsel for the Pollution Control Board and the *amici curiae* namely Sri.T.V.Vinu, Sri.Vishnu S. and Ms Pooja Menon. We have also had the benefit of the presence of Smt. Sarada Muraleedharan, Additional Chief Secretary, Government of Kerala & Sri.NSK Umesh, District Collector, Ernakulam, who appeared online and the Secretary, Municipal Corporation of Kochi, who was personally present in court.

2. The Learned Special Government Pleader informed the Court that the Government has accorded sanction to the Bharat Petroleum Corporation Limited (BPCL) to set up a Compressed Bio-gas Plant at Brahmapuram, Ernakulam, and an order has also been issued on 29.07.2023, to that effect. The said order has been produced as Ext.R7(dg) along with the affidavit dated 03.08.2023. It is submitted that the setting up of this plant will be an effective

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process of bio-mining. It was submitted that it is estimated that approximately 7 lakh tons of waste presently at Brahmapuram will have to be bio-mined. The Additional Chief Secretary informs us that much larger quantities of waste have been bio-mined in other States and that the estimated quantity of waste at Brahmapuram by itself poses no challenge for bio-mining.

5. The Secretary of the Municipal Corporation of Kochi informed us that tenders have already been floated for the Bio Mining project at Brahmapuram, and the date for opening of the financial bid has been fixed for today (04.08.2023). Since the financial bid is expected to be opened today, the Corporation will take a decision on the award of the contract on the Bio Mining Project as expeditiously as possible, preferably before the next posting date and make available the decisions in that regard also for the perusal of the court.

6. On a request from the Court, Sri.T.Naveen, the learned Standing Counsel for the Pollution Control Board, has stated that the Pollution Control Board will take immediate measures to analyse the samples of water in some wells in and around Brahmapuram and submit a report to the court. This will be essential to analyse as to

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whether there is substantial groundwater contamination, at present and for verifications in future.

7. The District Collector, Ernakulam, informed us that a socio-economic/health impact assessment study is being carried out in and around Brahmapuram, and a committee has been formed for the said purpose. It was submitted that the study will also be completed within a short time and that a copy of the said report will be placed before the court immediately after such study is completed.

8. Since substantial road development works have been taken up in the State of Kerala (including massive development of National Highways), we are of the opinion that the Government of Kerala should consider the possibility of using non-biodegradable waste/other municipal waste/ Industrial waste in the place of red earth. The possibility of using such waste in making approach roads to bridges/fly-overs etc., along the National Highways/ other roads being developed should also be explored. The State Pollution Control Board may also place their suggestions regarding the use of industrial waste as suggested above. This Court will consider the appointment of an expert committee on the basis of further

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suggestions in this regard from the Government of Kerala / State Pollution Control Board.

9. To continue monitoring of the issues in these cases in a time-bound manner and effectively, we direct that these cases be listed for further consideration on 18.08.2023. Necessary reports and statements that are required to be filed in terms of this order shall be so filed no later than 17.08.2023.

10. The *amici curiae* sought time to make submissions regarding the shortfalls noticed by them in the short-term measures adopted by the Kochi Municipal Corporation at Bhramapuram, after examining the affidavit dated 07.07.2023 of the Secretary of the Municipal Corporation. Report (if any) being filed by the *amici curiae* will be handed over to the learned Special Government Pleader as well.

Post on 18.08.2023 at 2 pm.

Sd/-
BECHU KURIAN THOMAS
JUDGE

Sd/-
GOPINATH P.
JUDGE

vps

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APPENDIX OF WP(C) 7844/2023

EXHIBIT R7(dg)

**TRUE COPY OF GOVERNMENT ORDER G.O.(Ms) No.150/2023/LSGD
DATED 29/07/2023**



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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
&
THE HONOURABLE MR. JUSTICE GOPINATH P.

Friday, the 18th day of August 2023 / 27th Sravana, 1945
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682 011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD, ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES, HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O., THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.
ADDL. R7 IS SUO MOTU IMPEADED AS PER ORDER
DATED 07/03/2023 IN WPC

ADDL. R8 IMPEADED

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
VYDUTHI BHAVAN, PATTOM-695 004.
ADDL. R8 IS SUO MOTU IMPEADED AS PER ORDER
DATED 10/03/2023 IN WPC.

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ADDL. R9 IMPEADED

9. NATIONAL HIGHWAY AUTHORITY OF INDIA,
REPRESENTED BY ITS DEPUTY GENERAL MANAGER AND REGIONAL OFFICER,
NATIONAL HIGHWAYS AUTHORITY OF INDIA
(MINISTRY OF ROAD TRANSPORT & HIGHWAYS)
GOVERNMENT OF INDIA, REGIONAL OFFICE, KERALA T.C. 86/1036-1,
AMBLY ARCADE, S.N.N.R.A-9, PETTAH-P.O.,
THIRUVANANTHAPURAM – 695 024 (KERALA)

ADDL. R9 IS SUO MOTU IMPEADED AS PER ORDER DATED 18/08/2023 IN WPC.

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's order dated 04/08/2023 and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL, for R1, R4, R6 & R7, SRI.RANJITH THAMPAN, SENIOR ADVOCATE a/w SRI.K. JANARDHANA SHENOY, STANDING COUNSEL for R2, SRI.T. NAVEEN, STANDING COUNSEL for R3 and of SRI.C.E. UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for R5, SRI.ANTONY MUKKATH, STANDING COUNSEL for R8, SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA, for R9, Advocates SRI.VINU T.V, SRI.VISHNU.S & SMT.POOJA MENON, AMICI CURIAE and of Adv. SRI.MOHAMMED SHAH and SRI.ANTO(PARTY IN PERSON), the court passed the following:

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**BECHU KURIAN THOMAS, J.
&
GOPINATH P., J.**

W.P.(C) No.7844 of 2023

Dated this the 18th day of August, 2023

ORDER

Gopinath, J.

We have heard the learned Advocate General, Sri.C.E.Unnikrishnan, learned Special Government Pleader, Sri.Renjith Thampan, learned Senior Advocate appearing on the instructions of Sri.K.Janardhana Shenoy for the Municipal Corporation of Kochi, the learned *amici curiae* and Sri.T.Naveen, learned Standing Counsel appearing for the Pollution Control Board. We have also had the assistance of Smt.Sarada Muraleedharan, Additional Chief Secretary, (LSGD), Government of Kerala and Sri.N.S.K. Umesh, District Collector, Ernakulam who appeared online as also Sri.Babu Abdul Khader, Secretary, Corporation of Kochi, who is present in court. We take on record the affidavits filed by the 7th respondent, the Corporation of Kochi as well as the State Pollution Control Board.

2. Regarding the status of the 'Black Soldier Fly Project', it was submitted by the learned Standing Counsel for the Kochi Corporation that the project has already been approved by the Council and that steps are being taken to demarcate the land to be allotted to the selected agency. The District Collector, Ernakulam submitted that the land has been identified by the Corporation and steps to demarcate the land to be allotted to the agency selected for the project as also the land to be demarcated and handed over for the purposes of Bio-CNG Project of BPCL will be completed within one week from today.

3. Regarding the Bio Mining Project, the learned Standing Counsel appearing for Kochi Corporation informed us that within 15 days from today, the Corporation will take steps to finalise the agency to be entrusted with the work. It was submitted that on account of the bad experience in the past, the Corporation has decided to constitute a team (including experts to be nominated by the Government of Kerala) for the purposes of visiting an ongoing project site of the agency (which had quoted the lowest for the work) for the purpose of ensuring the competence and suitability of the agency to be entrusted with the Bio Mining Work. Learned counsel also referred to a letter dated

17.08.2023 addressed by the Mayor, Municipal Corporation of Kochi to the Additional Chief Secretary (LSGD), requesting for the nomination of suitable members for being part of the team for carrying out the inspection as above. The learned Additional Chief Secretary assures us that nominations will be made on the basis of the request made by the Mayor, by tomorrow (19.8,2023).

4. We are happy to note that the State Government has taken immediate steps to consider the proposal for using municipal waste in the road construction projects being undertaken. We hope that a fruitful decision will be taken in the matter without further delay. Our attention has been called to the **Construction and Demolition Waste Management Rules, 2016** which require the formulation of a policy by the State Government for planning and implementation of collection and management of construction and demolition waste. We are informed by the Additional Chief Secretary that such a policy has already been formulated by the State Government. However we are not sure as to whether any of the local bodies have started implementing the Rules, despite the fact that Schedule-III of the aforesaid Rules requires the setting up of facilities for collection

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W.P.(C)No.7844/23

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and for processing of construction and demolition wastes within a specified time frame. The Secretary, Municipal Corporation of Kochi has assured us that an update on this matter insofar as the said Corporation is concerned, will be placed before this Court for its consideration by the next date of posting.

5. Having regard to the averments in the affidavit dated 17.08.2023 filed by the Additional Chief Secretary, We deem it appropriate to *suo motu* implead the National Highway Authority of India as an additional respondent in this writ petition. Therefore the National Highway Authority of India, Represented by its Deputy General Manager and Regional Officer, National Highways Authority of India (Ministry of Road Transport & Highways) Government of India, Regional Office, Kerala T.C. 86/1036-1, Ambly Arcade, S.N.N.R.A-9, Pettah-P.O. Thiruvananthapuram – 695 024 (Kerala) is *suo motu* impleaded as additional respondent No.9 in the writ petition. Deputy Solicitor General Of India accepts notice for the additional 9th respondent. Registry is directed to serve a copy of this writ petition along with copies of the order dated 04.08.2023 and this order to the Deputy Solicitor General of India.

6. The Additional Chief Secretary informs us that

presently 35 projects are in the pipeline for establishing material collection facilities so as to enable the proper collection and management of different kinds of waste. We deem it appropriate that the centres for collection of construction waste be set up on an urgent basis, especially considering the fact that construction waste can also be used in road construction activities carried on in a massive scale, both by the National Highway Authority of India and PWD in the State of Kerala.

7. We note that the **Plastic Waste Management Rules, 2016** permits and possibly mandates the use of plastic in road construction activities. Rule 5(b) of the aforesaid Rules (to the extent relevant) reads as follows:-

"local body shall encourage the use of plastic waste (preferably plastic waste which cannot be further recycled) for road construction as per Indian Road Congress Guidelines or energy recovery of waste to oil etc."

We are clearly of the opinion that in the light of the fact that the Plastic Waste Management Rules themselves contemplate the use of plastic in road projects and on account of the fact that construction waste can also be effectively used in road construction activities, the facilities for collection and use of

these materials must be established on a war footing.

8. The affidavit of the State Pollution Control Board (pursuant to our order dated 04.08.2023) shows that the Pollution Control Board has carried out sampling of water from 6 wells situated within the Brahmapuram waste site as also in the immediate vicinity of the said site within a 2 km radius. The reports of analysis which have been placed on record indicate that there is no serious contamination of groundwater as apprehended.

9. Smt.Pooja Menon, the learned *amicus* has referred to the affidavit dated 03.08.2023 filed by the 7th respondent and has referred to certain issues which require attention. Having regard to the said submission, we request the learned *amicus* to place on record her observations and suggestions in the form of a report to be filed by the next date of posting, so as to enable an effective response from the State Government.

10. We are also deeply concerned about indiscriminate dumping of plastic waste into water bodies in the State leading to contamination of water bodies and other serious health problems. We would therefore direct the Additional Chief Secretary to inform us by the next date of posting as to what

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W.P.(C)No.7844/23

-:7:-

policies are formulated by the State Government for ensuring the prevention of dumping of plastic waste in water bodies.

Post on 18.09.2023 for further consideration.

**Sd/-
BECHU KURIAN THOMAS
JUDGE**

**Sd/-
GOPINATH P.
JUDGE**

vps



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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
&
THE HONOURABLE MR. JUSTICE GOPINATH P.

Monday, the 18th day of September 2023 / 27th Bhadra, 1945
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682 011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM - 695 004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD, ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES, HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O., THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS, THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.
ADDL. R7 IS SUO MOTU IMPEADED AS PER ORDER
DATED 07/03/2023 IN WPC

ADDL. R8 IMPEADED

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
VYDUTHI BHAVAN, PATTOM-695 004.
ADDL. R8 IS SUO MOTU IMPEADED AS PER ORDER
DATED 10/03/2023 IN WPC.

P.T.O

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ADDL. R9 IMPLEADED

9. NATIONAL HIGHWAY AUTHORITY OF INDIA,
REPRESENTED BY ITS DEPUTY GENERAL MANAGER AND REGIONAL OFFICER,
NATIONAL HIGHWAYS AUTHORITY OF INDIA
(MINISTRY OF ROAD TRANSPORT & HIGHWAYS)
GOVERNMENT OF INDIA, REGIONAL OFFICE, KERALA T.C. 86/1036-1,
AMBLY ARCADE, S.N.N.R.A-9, PETTAH-P.O.,
THIRUVANANTHAPURAM – 695 024 (KERALA)

ADDL. R9 IS SUO MOTU IMPLEADED AS PER ORDER DATED 18/08/2023 IN WPC.

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's order dated 18/08/2023 and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL, for R1, R4, R6 & R7, SRI.RANJITH THAMPAN, SENIOR ADVOCATE a/w SRI.K. JANARDHANA SHENOY, STANDING COUNSEL for R2, SRI.T. NAVEEN, STANDING COUNSEL for R3, SRI.C.E. UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for R5, SRI.ANTONY MUKKATH, STANDING COUNSEL for R8, SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA for R9, Advocates SRI.VINU T.V, SRI.VISHNU.S & SMT.POOJA MENON, AMICI CURIAE and of Adv. SRI.MOHAMMED SHAH and SRI.ANTO(PARTY IN PERSON), the court passed the following:

P.T.O.

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**BECHU KURIAN THOMAS, J.
&
GOPINATH P., J.**

W.P.(C) No.7844 of 2023

Dated this the 18th day of September, 2023

ORDER

Bechu Kurian Thomas, J.

We have heard the parties and their respective counsel.

2. The learned Standing Counsel for the Corporation submitted that the 'Black Soldier Fly Project' is being implemented and an agreement has already been signed with the contractor. A memo along with a report regarding the steps being initiated for the treatment of waste at Brahmapuram Ernakulam has already been filed and the same is noted. As per the report, dtd. 15.09.2023, the following have been brought to the notice of this Court.:

"Biomining at Brahmapuram:

- *Kochi Municipal Corporation Council has approved the tender and resolution received on 14.09.2023. Letter of Intent (LoI) issued to the successful agency on 14.09.2023.*
- *Kochi Municipal Corporation Council has entrusted NEERI - National Environmental Energy Research Institute, an agency under CSIR, Ministry of Science & Technology, Government of India, to monitor, evaluate and guide the Biomining process at Brahmapuram.*
- *NIT Calicut has been entrusted with the Drone survey for volumetric analysis as per council decision.*
- *Draft Agreement has been forwarded for legal vetting as per council decision.*
- *Agreement will be signed latest by September 30, 2023.*
- *Resource mobilisation will begin from October 1, 2023. Target is to complete Biomining by 31st January, 2025 (16 months duration).*

Interim Biodegradable Waste treatment facility at Brahmapuram:

- Kochi Municipal Corporation Council has approved two agencies for setting up Black Soldier Fly (BSF) based Biodegradable Waste treatment facility at Brahmapuram.
- Agreement has been executed on 14.09.2023. Land handover is also complete on 14.09.2023.
- Both agencies have committed to complete the project in 100 days.

Construction & Demolition Waste treatment Plant:

- Kochi Municipal Corporation Council has approved the preparation of a Detailed Project Report (DPR) for the Construction & Demolition Waste treatment Plant.
- For time being, a Construction & Demolition Waste collection point has been identified at Paravana mukku junction, Panayapally (Division -8)."

3. It is evident from the above report that the Kochi Corporation has initiated, in all earnestness, steps to clear the waste accumulated at Brahmapuram to avoid recurrence of another disaster. The learned Standing Counsel for Kochi Corporation also informed that its Council had approved the tender for the Bio Mining Project for clearing the legacy waste.

4. On behalf of the Government, it was informed that different sites are being identified by the respective local authorities for setting up yards for dumping construction and demolition (C&D) waste materials. Adv. C.E Unnikrishnan, the learned Senior Government Pleader, pointed out, referring to the affidavit filed on behalf of the Government, that proposals are being received from different local authorities after identifying the dumping sites for the C&D waste. It was also submitted that out of 17 proposals received, approval has already been granted to 8 sites, while the rest are being identified and processed.

5. The Additional Chief Secretary, who was present online, submitted that discussions are going on to explore the possibility of involving and utilising the volunteers of the National Service Scheme (NSS), National Cadet Corps (NCC) and Student Police Cadets (SPC) in imparting awareness on waste disposal and management.

6. The learned *amici curiae* referred to Rule 17(2) of the Solid Waste Management Rules, 2016 and submitted that the said Rules insist on Extended Producers' Responsibilities (EPR) being imposed upon every manufacturer, brand owner and others to provide necessary financial assistance to local authorities for establishing waste management system in the responsible local area. The Additional Chief Secretary submitted that the State Government is also exploring the possibilities of availing benefits of EPR and that they are working with the Pollution Control Board to identify how the said responsibility can be extended to every area in the State. It was assured that the Government will explore the possibility and coordinate with the Pollution Control Board and other agencies to identify ways and means to impose such Extended Producers Responsibilities in the State. It was also informed that the State is considering implementation of the Green Protocol and also responsible usage of plastic and other wastes. It was further pointed out that the vehicle requirements for the local authorities are being met, and the same will be implemented in due course of time. The affidavit filed by the 7th respondent

is taken note of in this context. The LSGD shall continue the close monitoring and supervision of the projects being carried out by the respective local authorities.

7. The Secretary of Kochi Corporation, who was present in person, on being enquired about the vehicles used for collection and transportation of waste, submitted that out of the 97 vehicles owned by the Corporation, only 23 are being used and the rest are unable to be put to effective use due to lack of repair and for other reasons, including the age of the vehicles. We are of the opinion that continued reliance upon private vehicles for the transportation of waste can be a drain on the funds of the Corporation, especially when the Corporation has its own vehicles. Therefore, steps ought to be initiated for repairing the existing vehicles of the Corporation without delay and put them back on the roads. The Secretary of Kochi Corporation shall file a report by the next posting date, regarding the details of the vehicles owned by the Corporation, dates on which each vehicle went into disuse, the nature of repair required and the reasons for the delay if any, in repairing those vehicles.

8. In this context, this Court appreciates the plastic bottle collection booths set up in about 30 areas in Kochi city. Since those collection booths can be effectively used to prevent the menace of random plastic dumping, the State Government shall impress upon the Local Self Government Institutions to set up such collection booths throughout the

State. The local authorities shall thereafter identify appropriate mechanisms to install such plastic collection booths. The State Government shall give special emphasis on installing such plastic collection booths in tourist destinations, especially those around the beaches of Kovalam, Varkala, Alapuzha, Fort Kochi, Cherai, Kozhikode and Kannur and other water bodies in the State. Measures to prevent the rampant dumping of plastic wastes into the water bodies also ought to be identified.

9. Since the National Highway was directed to explore the possibility of using plastic waste and other municipal waste for road filling works during the construction of highways and they have not responded to the State Government after the meeting held on 11.08.2023 with the officials of the NHA, as noticed in the affidavit dated 17.08.2023, the Regional Officer of the National Highway, who has been impleaded as additional respondent No.9, shall be present preferably, online, on the next posting, to report on the feasibility of such a suggestion.

Post this case for further consideration on 06.10.2023 at 2 pm.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

**Sd/-
GOPINATH P.
JUDGE**

vps



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

**Original Application No.442 of 2013 (SZ)
With
Original Application No.20 of 2017 (SZ)
With
Original Application No.276 of 2017 (SZ)
With
Original Application No.77 of 2021 (SZ)**

Jith Kumar

...Applicant(s)

Versus

The State of Kerala and others.

....Respondent(s)

**COMPREHENSIVE REPORT FILED BY
ADDITIONAL CHIEF SECTARY, LOCAL
SELF GOVERNMENT**

E.K. KUMARESAN,

**Standing Counsel for Government
of kerala**

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