

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

Appeal No: 48 of 2022

In the matter of:
Roy Thomas,
S/o Thomas Joshu

-----Appellant

-VS-

Union of India,
MoEF &CC, Rep by its
Deputy Director General of Forest,
Banglore and Ors. ----Respondent(s)

**REPORT FILED BY THE DISTRICT COLLECTOR,
PATHANAMTHITTA/4TH RESPONDENT**

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Dated at Chennai on this the 11th day of September, 2023.

For. G. Joshu
11/9/2023

M/s. E.K.KUMARESAN

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

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189302/2023



DCPTA/5352/2022-C7

Collectorate.Pathanamthitta.

Dated:08-09-2023

**BEFORE THE HON'BLE THE NATIONAL GREEN TRIBUNAL OF
INDIA , CHENNAI**

APPEAL NO:48 OF 2022

Parawise remarks submitted by the 4 th Respondent

Roy Thomas S/o Thomas Joshu (Appellant)

Kulathum Karottu,

Angadikkal North P.O

Pathanamthitta

The District Collector (4 th Respondent)

Pathanamthitta

Brief History of the Case

(2)

The appellant, Mr.Roy Thomas filed an appeal before the Hon'ble The National Green Tribunal of India at Chennai, challenging the order granting re-validation of Environmental Clearance to Mr.K.Sadanandan (11th Respondent) for building stone quarry project in Survey No:s 143/2, 143/4, 144/1, 144/2, 144/3, 146/1, 146/2, 146/3, 147/1,2,3,4,5,6,7,8,9,10,148, 149/4, 152/4, 152/5, 152/6,152/7,152/8, 152/10, 152/11, 152/12, 152/13, 152/14 and 152/15 in V-Kottayam Village, Konni Taluk, Pathanamthitta District by the order issued by the Chairman, SEIAA Kerala (10th Respondent)

Para wise remarks

1.) A letter was sent from this office to Administrator SEIAA in 2018. Translated copy of this letter is attached herewith as Annexure –1. An another letter sent from this office to Administrator SEIAA on 29.07.2021. Translated copy of this letter is attached herewith as Annexure – 2.

In addition to this an another letter sent from this office to Administrator SEIAA on 07-07-2022 regarding granting of license to Mr. K. Sadanandan, Ambadiyil New Bunglow, Pannivizha , Adoor by the panchayat authorities without environmental clearance.

Translated copy of this letter is attached herewith as Annexure – 3.

2.) As per the final order in WP(c) 8358 dated 14/12/2016 of the Hon. High Court of Kerala, the District Collector Pathanamthitta has issued the No-Objection Certificate for the construction of the Thudiyurulipparamala Hanuman temple on 17/01/2017.

3.) The above case stands disposed as per the information published on the

(2)

89302/2023

website of Hon'ble High Court of Kerala. It is also reported that no further communication has been received by this office regarding the above case so far.

4.) The Geologist submitted a report regarding the report on bench mining violations to this office on 07/09/2023. A true copy of the report is attached herewith as Annexure – 4.

Signed by
Dr. Divya S Iyer IAS District Collector
Date: 08-09-2023 20:31:31

Phone : 04682 222515 Fax : 04682 222505 Email : dcpta.ker@nic.in

This document is electronically approved in e-Office by **DR. DIVYA S IYER I
A S** on **08-09-2023**.

Hence it does not require signature in ink.



District Collector

Pathanamthitta

The Member Secretary

State Environment Impact Assessment Authority(SEIAA)

Thampanoor

Thiruvananthapuram-695001

Sir;

Subject: Quarrying-Destructions occurred near Mupramon in V-Kottayam Village on
04.10.2018 afternoon due to flash flood -reg

Ref: 1.Konni Tahsildar's letter no:C4-13278/2017 dated 06.10.2018

2. Your Proceedings No:200/SEIAA/EC4/86/2014 dated 10.08.2015

Inviting your attention to the reference cited. As per the reference (1) Konni Tahsildar reported that the water reservoir (Quarry Pond) having an approximate length of 90M,width of 24 M,depth of 6 M situated in the Government Quarry land located in Survey No:146 in V-Kottayam Village in Konni Taluk,had over brimmed on 04.10.2018 afternoon due to the torrential rainfall. This flood water flowed through the adjacent land having an area of 84.40 Are which is jointly owned by Mr.K .Sadanandan ,Ambadiyil New Bunglow and his son Mr A.S Vipin,and this flood water reached an adjacent stream as a result of this which overflowed causing nearby landholdings,houses were flooded and 200 M of Mesirimuruppu- Mookkanvila road became inconvenient to passengers.

Along with this flood water an approximate of 15 loads of cobblestones deposited through out the land having an area of 84.40 Are of Resurvey No: 145/6 and in the stream flowing nearby. This heavy run off of water shattered the both sides of the protection wall of Mesirimuruppu stream.

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As a result of this ,the flood water along with mud entered the houses of the Sheeja-Vishnu Bhavanam,Vasanthiyamma -Niravathu Veedu,Byju George and Binu George-Ezhuthukaranttayyathu Veedu,Sarasamma-Kaichirakkal,Gireesh-Geetha Bhavan,Savithri Karunakaran -Savi Sadanam and land of Chandrasekharan Nair-Lakshmi Nivas.

The above said water reservoir (Quarry Pond) located in a quarry land has an inclination of more than 80 degree with strenuous and steep hills. This quarry land is unscientifically mined by K.Sadanandan in a vertical rising method instead of bench quarrying. If another heavy rainfall occurs in this area water and rocks will discharge to the low lying areas ,it may cause damages there. It is already reported that huge amount of soil has been deposited in this quarry land as well as the adjacent places of Thudiyurulippara Temple.

The Tahsildar conducted an inspection there and reported that above said disaster had occurred as a result of misuse of unauthorised land utilisation and the water reservoir built for the water resource reserve is in a dangerous situation .At present the quarry pond is filled to its maximum capacity hence a short downpour of rain may cause another disaster. So I request you to conduct an inspection at the above quarry land and take necessary legal proceedings to prevent an another disaster from happening .

Faithfully

(Sd)

Deputy Collector (L.R)

For District Collector

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Annexure -2

C7-266728/2020

Collectorate Pathanamthitta

Date:29-07-2021

The District Collector
Pathanamthitta

The Administrator
State Environmental Impact Assessment Authority(SEIAA)
Fourth Floor
KSRTC Bus Terminal Complex
Thampanoor
Thiruvananthapuram-695001

Sir;

Subject: Complaint of Gram Raksha Samiti Chairman inconNECTION with Quarrying
in V Kottayam Village - Submission of Report – Reg

Ref: 1.)That office letter no.200/SEIAA/EC4/86/ 2014 dated 24.11.2020
2.)The Konni Tahsildar's letter No. C4-360729/22 dated 02/07/2022

Attention invited to the reference cited. An inquiry has been made by the Konni Tahsildar regarding the complaints sent along with the ref (1) and a report has been submitted by the Konni Tahsildar as per reference (2).The land mentioned in the complaint in resurvey no:149/4 of Block No. 31 of V Kottayam Village ,quarrying has been carried out since 2010 and in resurvey no:152/8,152/10,152/12,152/14,152/15 of Block No. 31 of V Kottayam Village having an area of 0.7320 H quarrying has been carried out since 2011 by virtue of quarrying permit.

Environmental clearance has been granted to the land comprised in following resurvey no:s 143/2, 143/4, 144/1, 144/2,144/3, 146/1, 146/2, 146/3, 147/1,2,3,4,5,6 ,

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7,8,9,10, 148, 149/4, 152/4, 152/5, 152/6, 152/7, 152/8, 152/9, 152/10, 152/11, 152/13 , 152/14 and 152/15 having an area 15.3829 hectares .

The Tahsildar Konni reported that the private lands involved in the complaint raised by V-Kottayam Gramaraksha Samithi had been purchased by Mr.K.Sadanandan and his son Mr.Abin A.S from various individuals by virtue of sale deeds from time to time. Upto the financial year of 2016-17 Plantation tax had been paid by the landowners Mr.K.Sadanandan and his son Mr.Abin A.S as defined under the Kerala Plantation Act -1960 by counting the number of rubber trees being tapped.

These lands had been handed over to J&S Granite Company by Mr.K.Sadanandan and his son Mr. Abin A.S . As per the revenue records this land is owned and Possessed by J&S Granite Company. If there is a change in ownership of land, the Plantation tax must be reassessed as per the provisions of Kerala Plantation Act -1960. But on site inspection, there are no taxable plantation crops are found there.

The Tahsildar Konni reported that as per The Kerala Land Reforms Act-1963 no measures were taken to exclude from ceiling area from being considered as a commercial site and no orders were issued to exclude it from the ceiling area.

yours sincerely

-sd-

For District Collector

Annexure -3

DCPTA/2606/2022-C7

Collectorate Pathanamthitta

Phone:04682 222515

FAX:04682 222505

e-mail dcpta.ker@nic.in

Date:07-07-2022

The District Collector

Pathanamthitta

The Administrator

State Environmental Impact Assessment Authority(SEIAA)

KSRTC Bus Terminal Complex

Thampanoor

Thiruvananthapuram-695001

Sir;

Subject: Granting of license by Panchayat for quarrying without environmental clearance-reg

Ref: 1.)That office letter no.200/SEIAA/EC4/86/ 2014 dated 26/04/22

2.)Pramadom Grama Panchayat Secretary's letter No. JC3-197/22 dated 18/05/2022

3.)The Konni Tahsildar's letter No. C4-360729/22 dated 02/07/2022

Attention invited to the reference cited. J&S Granite Quarry which operated in Block 31 of V-Kottayam village in Konni taluk of Pathanamthitta district owned by Mr. K. Sadanandan Ambadiyil New Bungalow, Pannivizha ,Adoor was granted license by the panchayat authorities without environmental clearance.

A complaint was filed by Roy Thomas,Chairman ,V-Kottayam Grama Raksha Samithi against this granting of license to Mr. K Sadanandan .As per the ref (2)

(9)

The Secretary Pramadam Grama panchayat, has been informed that the J&S Granite Quarry which operated in Survey No:s 147/1,2,3,4,5,8,9,10,148,149/4 in Block 31 of V-Kottayam village , license no:1/2022-2023/C-9/975/2022 dated 4/4/2022 has been cancelled due to lack of environmental clearance .As per the ref (3) the Konni Tahsildar has reported that the said quarry is currently not functioning.

yours sincerely

-sd-

For District Collector

(10)

Dept.of Mining & Geology
District Office, Pathanamthitta
Near Kendriya Vidyalaya
KIP Building, Adoor P.O.
e-mail:geo.pat.dmg@kerala.gov.in
Dated:07/09/2023.

No:1556/DOPTA/M/2018

From

Geologist.

To

The District Collector,
Pathanamthitta.

Sir,

Sub:- Status report of granite building stone quarry of Sri. Sadanandan - forwarding
of - reg.

Ref:- That office letter no. DCPTA/5352/2022-C7 dated 26/08/2023.

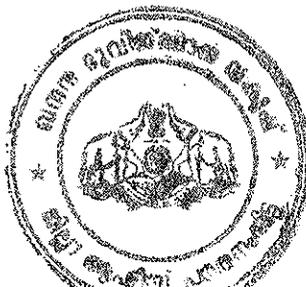
Kindly see the reference cited above. The quarry owned by Sri. Sadanandan is situated in the flank of a hillock namely Thodiyurulipara. As per available office reports it is seen that the quarry owner Sri. Sadanandan started the quarry operation in the area from 2014 onwards. Several quarrying leases are issued in this area from Director of Mining & Geology in the name of J & S Granites & Ambadi Granites. At present M/s J & S Granite Company (represented by Mangaing partner Sri. K Sadanandan) owns a quarrying lease for extraction of granite building stone over an area of 6.0980 hectares of land in Block no. 31, Re-survey Nos. 148, 147/10, 147/9, 147/8, 147/5, 147/4, 147/3, 147/2, 147/1 & 149/4 of Vallicodu Village of Konni Taluk. The validity of the lease is from 27/03/2023 to 26/03/2033.

It is seen that several complaints are received in this office from Gramarakshasamithi against the quarrying operation of Sri. Sadanandan. On close verification of the quarry it is seen that several benches are developed but the lenth-width ratio of the benches are not proper. A temple is seen on the North-East boundary of the quarry which includes a permanent building and 2 temporary buildings. The distance of the temple from the J & S granites mining area is approximately 87 metres.

This is for your kind information.

Yours faithfully,


GEOLOGIST





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2016:KER:53770

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 14TH DAY OF DECEMBER 2016/23RD AGRAHAYANA, 1938

WP(C).No. 8358 of 2016 (T)

PETITIONER(S):

K.SADANANDAN, AMBADIYIL NEW BUNGLOW,
PANNIVIZHA, ADOOR P.O., PATHANAMTHITTA.

BY ADVS.SRI.BECHU KURIAN THOMAS (SR.)
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN

RESPONDENT(S):

1. DISTRICT COLLECTOR,
CIVIL SATION, PATHANAMTHITTA - 689 645.
2. SUB DIVISIONAL MAGISTRATE, ADOOR,
PATHANAMTHITTA - 689 693.
3. VILLAGE OFFICER, V.KOTTAYAM VILLAGE,
PATHANAMTHITTA - 689 656.
4. PRAMADOM GRAMA PANCHAYAT, LAKKOOR, MALLISSERY P.O.,
PATHANAMTHITTA DISTRICT - 689 646.
5. N.SHEKHARAN NAIR, SHAILAJA BHAVAN, V. KOTTAYAM,
PATHANAMTHITTA - 686 656.
6. KANJIRAPARA THUDIYURULIPARA DEWASOM TRUST,
REG.NO.PTM/TC/257/2014, V. KOTTAYAM,
PATHANAMTHITTA - 689 656,
REPRESENTED BY ITS PRESIDENT SRI.KUNJUKUNJU.

R1-R3 BY GOVERNMENT PLEADER SRI.RON BASTIAN
R4 BY ADVS. SRI.JACOB P.ALEX
SRI.JOSEPH P.ALEX
R6 BY ADVS. SRI.P.SUJITH KUMAR
SRI.N.KRISHNA PRASAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-12-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

msv/



WP(C).No. 8358 of 2016 (T)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER DATED 15/11/2014 AND NUMBERED AS 5981/2014/C1 ISSUED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF THE GIFT DEED NO.2395/2015 OF KONNI SRO DATED 30/11/2015 EXECUTED BY THE 5TH RESPONDENT IN FAVOUR OF THE 6TH RESPONDENT.

EXT.P3: TRUE COPY OF THE APPLICATION DATED 24/02/2016 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.P4: TRUE COPY OF THE REPLY DATED 27/02/2016 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

EXT.P4(A): TRUE COPY OF THE APPLICATION DATED 22/02/2016 SUBMITTED BY THE 6TH RESPONDNET BEFORE THE 4TH RESPONDENT.

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 02/02/2016 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5(A): TRUE COPY OF THE RECEIPT DATED 03/02/2016 ISSUED BY THE 1ST RESPONDENT.

EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 02/02/2016 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P7: TRUE COPY OF THE STOP MEMO DATED 05/02/2016 AND NUMBERED AS C7.884/16 ISSUED BY THE 4TH RESPONDENT TO THE 5TH RESPONDENT.

RESPONDENT(S) ' EXHIBITS

EXT.R6(a): TRUE COPY OF THE APPLICATION SUBMITTED BY THE 6TH RESPONDENT FOR BUILDING PERMIT DTD.27.2.2016.

EXT.R6(b): TRUE COPY OF THE REPORT OF TAHSILDAR, KONNI DTD.19.2.2016 TO THE DISTRICT COLLECTOR, PATHANAMTHITTA.

//TRUE COPY//

P.S.TO JUDGE

msv/



SHAJI P. CHALY, J.

W.P.(C) No.8358 of 2016

Dated this the 14th day of December, 2016

JUDGMENT

This writ petition is filed by the petitioner seeking direction to respondents 1 to 6 to stop all construction activities being carried out in Survey No.152/17 of V. Kottayam Village by respondents 5 and 6 forthwith, and for other related reliefs. Brief facts required for the disposal of the writ petition are as follows:

2. Petitioner is conducting a quarry with all valid licenses. The 5th respondent who owns property adjacent to the quarry has been compelling the petitioner to purchase his property at an exorbitant rate. When petitioner refused, he filed several complaints to various authorities, but of no avail, since the petitioner was conducting the quarrying operations with all statutory requirements. Thereafter, 5th respondent registered a Devaswom Trust viz., 6th respondent with himself as the Trustee, and tried to erect a temple in the adjacent puramboke. Due to the intervention of the authorities, it did not materialize.



3. Thereafter, 5th respondent crafted a method of gifting 5 cents of his own property to the 6th respondent and is now constructing a temple therein. On verification by the petitioner, it was informed vide Ext.P4 that a building permit has not been even applied for, and Ext.P7 stop memo has been issued against the construction activity. It is contended, in blatant violation of the stop memo, construction is being carried out by respondents 5 and 6 in a hasty manner. The attempt of respondents 5 and 6 is to erect a temple adjacent to petitioner's property, and thereafter complain before the authorities that petitioner is carrying out quarrying activities adjacent to a temple and thus close down petitioner's unit. These are the materials projected by the petitioner to seek the reliefs in the writ petition.

4. Fourth respondent has filed a counter affidavit stating that on 22.02.2015 4th respondent has received Ext.P4 (a) application from the 6th respondent seeking to number a pre-existing building. The said application was numbered as C2-1337/16. The said application was considered, and on 03.03.2016 the building referred therein was regularized after receiving tax and was assigned Building No.XIV/491A. On

(15)



2016:KER:53770

W.P.(C) No.8358 of 2016

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29.02.2016, Ext.R6(a) application was submitted by the 6th respondent to the office of the 4th respondent seeking permission for construction of a temple. Immediately after receipt of the application, the same was forwarded to the 1st respondent for necessary action. Further steps in the said application can be taken only if the same was approved/sanctioned by the 1st respondent. As on today, 4th respondent has not received any communication in this regard from the office of the 1st respondent. The other contentions so far concerning the 4th respondent are disputed.

5. The 6th respondent has filed a counter affidavit contending that the writ petition is only to forestall the Panchayat from taking any action on the application for building permit submitted by the 6th respondent, more particularly, in view of the concerned Revenue authority returning a favourable report pursuant to the enquiry initiated by the 1st respondent. It is also stated that the construction of the proposed temple by the 6th respondent is on its own land. It is also stated, 6th respondent is not proposing to make any illegal construction and in order to secure the permit only 6th respondent has submitted Ext.R6(a) application seeking



building permit. It is further contended that the justifiability of the construction of the proposed temple by the 6th respondent is premature in the entire gamut of issues, and it could be very well raised by the petitioner before the 4th respondent. That apart, it is submitted, on the basis of the application submitted by the petitioner for building permit and since the same was for the purpose of construction of temple as provided under the Manual of Guidelines to Prevent and Control Communal Disturbances and to Promote Communal Harmony, 2005, 4th respondent has forwarded the application for building permit for consideration of the 1st respondent and the 3rd respondent has submitted a favourable report evident from Ext.R6(b). It is also stated that petitioner is attempting to make a communal colour to the issue by filing the writ petition, and objecting to the proposed construction. These are the materials available in the writ petition to consider the issues raised by the petitioner.

6. Heard learned counsel for the petitioner, learned Government Pleader, learned counsel appearing for the Panchayat and the learned counsel appearing for respondents 5 and 6. Perused the documents on record and the pleadings



W.P.(C) No.8358 of 2016

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put forth by the respective parties.

7. Even though various contentions are raised by the petitioner in respect of the illegal construction carried out by the 6th respondent in the premises in question, the Panchayat has stated that the application submitted by the 6th respondent was considered by the Panchayat, and even though the construction was without a permit, the building was ordered to be numbered by the Council. Therefore, already existing construction is concerned, it cannot be said that the construction is illegal and it will have to be demolished. So far as the proposed construction of the temple is concerned, already the 6th respondent has submitted an application before the Panchayat seeking building permit. The Panchayat has forwarded the same to the 1st respondent for appropriate action in accordance with the aforesaid Manual of Guidelines and in accordance with the Panchayat Building Rules for securing necessary permission/sanction. So far the 1st respondent has not provided sanction, without which the 4th respondent cannot consider the building permit submitted by the 6th respondent.

(18)



2016:KER:53770

W.P.(C) No.8358 of 2016

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8. Therefore, in my considered opinion, it is only appropriate that a direction is issued to the 1st respondent to consider the application forwarded by the 4th respondent Panchayat in accordance with the provisions of Manual of Guidelines stated aforesaid, and convey the same to the 4th respondent, within four weeks from the date of receipt of a copy of this judgment. On receipt of the orders from the 1st respondent accordingly, the 4th respondent Panchayat, in accordance with the order, shall consider the application of the 6th respondent and take a decision within three weeks thereafter.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-
15.12.2016

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

Appeal No: 48 of 2022

In the matter of:

Roy Thomas,
S/o Thomas Joshu

-----Appellant

-VS-

Union of India,
MoEF &CC, Rep by its
Deputy Director General of Forest,
Banglore and Ors.

----Respondent(s)

REPORT FILED BY THE
DISTRICT COLLECTOR,
PATHANAMTHITTA/4TH
RESPONDENT

E.K. KUMARESAN,
Standing Counsel for Government
of kerala

No.6, Indian Chambers (SICCI)
Annex Building, Ground Floor,
Esplanade, Chennai - 600 108.

Cell No: 94443 98701