

Presented on: - .....

**BEFORE THE HON'BLE GREEN**  
**TRIBUNAL (CHENNAI REGIONAL**  
**BENCH)**

Appeal No. 53/2021

**VAKALATH**

Court Fee:

Sir,

Advocate for,

2<sup>nd</sup> and 3<sup>rd</sup> respondents

- 1. J. S. AJITH KUMAR (A-159 K/365/95)**
- 2. S. ASWAKUMAR (A-932 K/444/83)**
- 3. N. BIJAKRISHNA (K/1497/2003)**

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Ananthapuri  
9/553-L, House No. 45,  
Divine Nagar, South Chittoor,  
Cochin – 682027

**BEFORE THE HON'BLE GREEN TRIBUNAL**  
**(CHENNAI REGIONAL BENCH)**

Appeal No. 53/2021

Against

No: \_\_\_\_\_ of 2021  
(Chennai Regional Bench)

on the file of the Hon'ble Green Tribunal

I/We

1. Sreekumar V, S/o Kuttykrishnan Nair, Aged 53, residing at Chaithram, Vadakke Panangattu Paramba, Near Green Park Colony, Beypore, P.O., Kozhikode 673015.
2. Moinudheen Haneefa, S/o Mohammed Koya, Aged 58, residing at Thengilakathu House, Near RM Hospital, Beypore P.O., Kozhikode 673002.

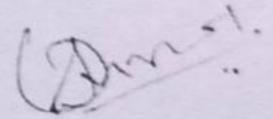
Respondents in the above Appeal do hereby appoint and retain **M/s J. S. Ajith Kumar, S. Aswakumar and N. Bija Krishna.**

Advocates, Ananthapuri, 9/553-L, House No. 45, Divine Nagar, South Chittoor, Cochin - 682027, of the Green Tribunal to appear for us in the above Appeal and to conduct and prosecute (and defend) the same and all proceedings that maybe taken in respect of any application connected with the same or any decree or order passed therein including all application for return of documents or the receipt of any moneys that may be payable to us in the said appeal and also in applications for leave to appeal to the Supreme Court of India.

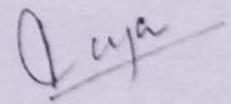
Duly executed before us:

1. Ananthakrishnan A

R2



R3



Literate deponent personally known to me that this Vakalath has read, translated and explained to the executants and signed before me on this the 22<sup>nd</sup> day of August 2021.

Advocate.

Accepted  
Accepted

Advocate

Advocate

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

**Appeal No. 53/2021(S2)**

Kerala Sate Pollution Control Board : Appellant

Vs.

Kerala Water Appellate Authority & others : Respondents

**COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 2 & 3.**

**J S Ajith Kumar Advocate**  
**(K/365/1995)**  
'Ananthapuri',  
House No. 45, 9/553-L,  
Divine Nagar, South Chittoor,  
Cochin- 682027.

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

**Appeal No. 53/2021(S2)**

Kerala Sate Pollution Control Board : Appellant

Vs.

Kerala Water Appellate Authority & others : Respondents

SL/No	Particulars	Page No.
1.	Counter Affidavit	1-3
2.	Copy of the Judgment dated 07-04-2021 in WP(C) No. 3147/2021 on the file off High Court of Kerala.	4-7
3.	Copy of the No Objection Certificate dated 12-01-2021.	8
4.	Copy of the Zonal classification map of Kozhikode Corporation.	9

Dated this the 22<sup>nd</sup> day of August 2021.



Counsel for the Respondents 2 & 3

**J S Ajith Kumar Advocate**  
**(K/365/1995)**  
'Ananthapuri',  
House No. 45, 9/553-L,  
Divine Nagar, South Chittoor,  
Cochin- 682027.

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

**Appeal No. 53/2021(S2)**

Kerala State Pollution Control Board : Appellant

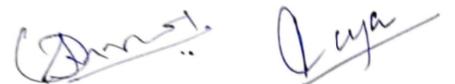
Vs.

Kerala Water Appellate Authority & others : Respondents

**COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 2 & 3.**

I Sreekumar, S/O Kutty Krishnan Nair, Aged 53, residing at Vadakke Panangattuparamba, Near Green Park Colony, Beypore, Kozhikode 673015 do solemnly affirm and state as follows:

1. I am the second respondent in the above appeal, conversant fully with the facts and swearing this counter affidavit for and on behalf of the third respondent also as authorized by him.
2. All the contentions and the grounds in the appeal against us are bereft of truth, lack any bonafides and hence denied.
3. The appellant herein challenged Annexure K dated 21-05-2021 without knowing the facts to cause inconvenience and hardship to us. We have not challenged or questioned any of the circulars of the state pollution control board or central pollution control board in appeal no. 07/ 2021 on the file of Kerala Water Appellate Authority.
4. The appellant herein is bound to comply with and abide by the directions, circulars and orders of the central pollution control board as well as Kerala state pollution control board particularly Annexure A to Annexure G.
5. Vide application Dated 12-09-2020, we sought for granting of No Objection Certificate from the appellant and for which Annexure H was issued by the Environmental Engineer of Kerala state Pollution control board.
6. We have challenged Annexure H by filing Annexure I appeal before the first respondent and the Environmental Engineer Kerala state pollution control Board, Kozhikode, herein filed Annexure J report in Appeal No 07/2021 on 30-03-2021. Originally we have challenged Annexure H



before the Hon'ble High Court of Kerala wherein the pollution control board taken a contention of filing appeal before the first respondent and Hon'ble high court of Kerala directed the first respondent to dispose of Annexure I Appeal within a period of two months as per a judgment dated ..... Copy of the judgment dated 07-04-2021 in WP(C) 3147/2021 on the file of Hon'ble High Court of Kerala is produced herewith and marked as **Annexure R2 (A)**.

7. As per Annexure F (1) for petrol pumps, new retail outlets shall not be located within a radial distance of 50 meters (from Fill point/ dispensing unit/ vent pipe whichever is nearest) from schools, hospitals (from 10 beds and above) and residential areas designated as per local laws. The proposed outlet of the respondents 2 & 3 is located in resurvey no. 40/1B of Beypore village, at ward no. 47, Kozhikode. The additional district magistrate granted No Objection Certificate for establishment of new retail outlet as early as 12-01-2021 to the respondents 2 & 3. Copy of the No Objection Certificate dated 12-01-2021 is produced herewith and marked as **Annexure R2 (B)**. Copy of the Zonal classification map of Kozhikode Corporation is produced herewith and marked as **Annexure R(2) C**. Annexure R(2) C And Annexure R(2) B evident the fact that the proposed outlet of the petitioner is not located in a residential area under the local laws as provided under Annexure F since zonal classification is already made by the town planning authorities and the proposed outlet is not categorized as residential area as contemplated under Annexure F. the rejection of the Application of the respondents by the environment engineer vide Annexure H is arbitrary, unreasonable, irregular improper and amounts to gross violation of the principles of natural justice.
8. The one and only objection contained in Annexure H dated 28-09-2020 by the environmental engineer of Kerala State Pollution Control Board is restriction as provided under Annexure F since the local laws has not designated the proposed site as residential area, Annexure G cannot be imposed as a restriction in this appeal. Annexure G can be considered or imposed in the places where there is no zonal classification made by the local laws under the Town Planning Act otherwise there is no meaning in providing Annexure F based on the direction of the Hon'ble National Green Tribunal in OA No.86/2019.
9. The appellants herein has not raised the objection contained in Annexure G while rejecting Annexure H on 28-09-2020. While passing Annexure H, the appellants is well aware of Annexure G and the same was not considered due to Zonal Classification under the Town Planning Act. We



have produced Annexure R2 (C) before the Environmental Engineer before passing Annexure H.

10. Since there is Zonal Classification at Kozhikode Corporation evident from Annexure R2(C), the Environmental Engineer ought not have rejected our application vide Annexure H.
11. Considering the irregularity, impropriety, and arbitrariness of the environmental engineer of the Kerala state Pollution Control Board, the first respondent complied with Annexure R2 (A), set aside Annexure H and directed the Environmental Engineer Kerala State pollution Control Board to consider our Application in Accordance with Annexure F as per judgment dated 21-05-2021 in Appeal No. 07/2021. The finding of the 1<sup>st</sup> respondent is legal and in accordance with Annexure F and order of the Hon'ble National Green Tribunal in OA No. 86/2019. We have not challenged Annexure F or authority of the appellant but challenged the arbitrariness, irregularity, impropriety, in Annexure H.
12. The appellant is duty bound to comply with the judgment of the first respondent within a reasonable time and ought not cause any delay thereto on a right perspective.

For these and other grounds to be urged at the time of hearing, this Hon'ble tribunal be pleased to dismiss the Appeal No. 53 with cost of respondents 2 & 3 in the interest of justice.

All the facts stated above are true and correct to the best of my knowledge, information and belief.

Deponent

R2

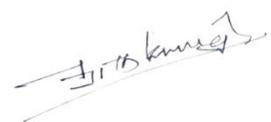


R3



Solemnly affirm and signed before me by the Deponents at my office in Ernakulam on this the 22<sup>nd</sup> day of August 2021

J S Ajith Kumar  
Advocate



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

WEDNESDAY, THE 07TH DAY OF APRIL 2021 / 17TH CHAITHRA, 1943

WP (C) .No.3147 OF 2021(P)

PETITIONERS :

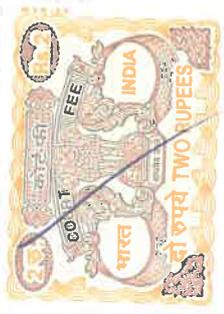
- 1 SREEKUMAR V., AGED 53 YEARS  
S/O KUTTIKRISHNAN NAIR, CHAITHRAM, VADAKKE  
PANANGATTUPURAMBA, NEAR GREE PARK COLONY, BEYPORE  
P.O., KOZHIKODE 673 015.
- 2 MOINUDHEEN HANEEFA, AGED 58 YEARS  
S/O.MUHAMMED KOYA, THENGILAKATHU HOUSE, NEAR R.M.  
HOSPITAL, BEYPORE P.O., KOZHIKODE 673 015.

BY ADVS.

SRI.THOMAS T.VARGHESE  
SRI.THOMAS T.VARGHESE  
SMT.ACHU SUBHA ABRAHAM  
SMT.V.T.LITHA  
SMT.K.R.MONISHA  
SMT.SHRUTHI SARA JACOB

RESPONDENTS :

- 1 THE DISTRICT COLLECTOR  
COLLECTORATE, KOZHIKODE 673 020
- 2 THE ADDITIONAL DISTRICT MAGISTRATE  
COLLECTORATE, CIVIL STATION, KOZHIKODE 673 020
- 3 THE KERALA STATE POLLUTION CONTROL BOARD.  
REP.BY ITS SECRETARY, PATTOM P.O., THIRUVANANTHAPURAM  
695 004.
- 4 THE ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD, KOZHIKODE  
DISTRICT OFFICE, 3RD FLOOR, ZAMORINS SQUARE, LINK  
ROAD, KOZHIKODE 673 002.
- 5 THE CENTRAL POLLUTION CONTROL BOARD  
REP.BY ITS SECRETARY/DIRECTOR, PARIVESH BHAWAN, EAST  
ARJUN NAGAR, ARJUN GALI, VISHWAS NAGAR, SHAHDARA,  
DELHI 110 032
- 6 M/S.NAYARA ENERGY LIMITED, REP.BY ITS REGIONAL  
MANAGER, 6B, 6TH FLOOR, NOEL FOCUS, SEAPORT AIRPORT



ROAD, CHITTETHUKARA, CSEZ P.O., KOCHI 682 037

7 WATER( POLLUTION AND CONTROL OF POLLUTION) ,  
APPELLATE AUTHORITY, REPRESENTED BY ITS SECRETARY,  
R2 SECTION, FOURTH FLOOR, KSRTC BUS TERMINAL,  
THAMPANOR, THIRUVANANTHAPURAM 695 001,

R1 TO R5 BY GP SRI.PAUL ABRAHAM VAKKANAL  
R6 BY ADV. SMT.C.B.SUMA DEVI  
R6 BY ADV. SMT.SUNANDA SUKUMARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
07.04.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**Sathish Ninan, J.**

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**W.P.(C) No.3147 of 2021**

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**Dated this the 7<sup>th</sup> day of April, 2021**

**JUDGMENT**

Challenging the rejection of the petitioners' application for integrated consent for establishing a petroleum retail outlet, the petitioners have preferred an appeal before the additional 7<sup>th</sup> respondent-appellate authority and the same is pending. The petitioner only seeks for an expeditious consideration of the appeal.

Without expressing anything on merits, I dispose of this writ petition directing the additional 7<sup>th</sup> respondent to consider the Appeal No.7 of 2021 and pass appropriate orders thereon after hearing the petitioners, as expeditiously as possible and at any rate within a period of two months from the date of receipt of a copy of this judgment.

**Sd/- Sathish Ninan, Judge**

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

- EXHIBIT P1 TRUE COPY OF LETTER OF INTENT DATED 19.8.2020 ISSUED BY THE 6TH RESPONDENT TO THE PETITIONER.
- EXHIBIT P2 TRUE COPY OF THE NO OBJECTION CERTIFICATE (NOC) DATED 1.10.2020 ISSUED REGIONAL FIRE OFFICER, FIRE AND RESCUE SERVICES, KOZHIKODE.
- EXHIBIT P3 TRUE COPY OF THE LETTER NO.A5/NOC/3025A/2020 DATED 14.10.2020 ISSUED BY EXECUTIVE ENGINEER KERALA PUBLIC WORKS DEPARTMENT.
- EXHIBIT P4 TRUE COPY OF REPORT NO.A-15643/2020 SUBMITTED BY THE TAHSILDAR, KOZHIKODE TO THE 2ND RESPONDENT DATED 28.9.2020
- EXHIBIT P5 TRUE COPY OF PRIOR APPROVAL NO.A/P/SC/KL/114/4188 DATED 6.10.2020 GRANTED BY PESO TO THE 6TH RESPONDENT.
- EXHIBIT P6 TRUE COPY OF NO OBJECTION CERTIFICATE BEARING FILE NO.DC KKD/3946/2020-D4 DATED 12.1.2021 ISSUED BY THE 2ND DEFENDANT.
- EXHIBIT P7 TRUE COPY OF ORDER NO.PCB/KKD/DO/GEN-ONLINE/2019 DATED 28.9.2020 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.
- EXHIBIT P8 TRUE COPY OF THE CIRCULAR DATED 24.2.2020 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P9 TRUE COPY OF GUIDELINES FOR SETTING UP NEW PETROL PUMPS ISSUED BY THE 5TH RESPONDENT DATED 7.1.2020
- EXHIBIT P10 TRUE COPY OF ORDER DATED 18.1.2019 IN O.A.NO.86/2019 PASSED BY THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI.



**No objection certificate**  
(see rule 144)

Date :- 12/01/2021  
subject :-No objection certificate

With reference to the application dated 21-05-2020 submitted by Ajith Pal Singh Patel Joint GM Divisional Manager Retail BD Cochin Division Nayara Energy Limited and in pursuance of rule 144 of the Petroleum Rules, 2002, there is no objection for granting licence under the Petroleum Rules, 2002 to Joint GM Divisional Manager Retail BD Cochin Division Nayara Energy Limited for storage of petroleum products in their premises at Re. Survey No. 40/1B (40/55) in Beypore Village Kozhikode Taluk Kozhikode District Kerala State as shown in the site plan duly endorsed and enclosed herewith.

(1) The following particulars have been considered while issuing this no objection certificate, that -

(a) Possession of the site by the applicant is lawful and authorisation from land owner or lease holder for developing premises under these rules for storage of petroleum products.

(b) interest of public, specially the facilities like schools hospitals or proximity to places of public assembly and the mitigating measures, if any, is provided

(c) traffic density and impact on traffic;

(d) conformity of praposal to the local or area development planning;

(e) accessibility of the site to fire tenders in case of emergency and preparedness of fire services for combating the emergencies;

(f) genuiness of the purpose;

(g) any other matter pertinent to public safety;

Additional District Magistrate

Kozhikkode

To  
✓ Joint GM Divisional Manager Retail BD Cochin Division Nayara Energy Limited

Copy to,

- 1) The District Police Chief City Kozhikode
- 2) The Tahsildar, Kozhikode
- 3) The Divisional Officer , Fire & Rescue service ,Kozhikkode
- 4) The Ex Engineer PWD Roads, Kozhikode
- 5) Stock File

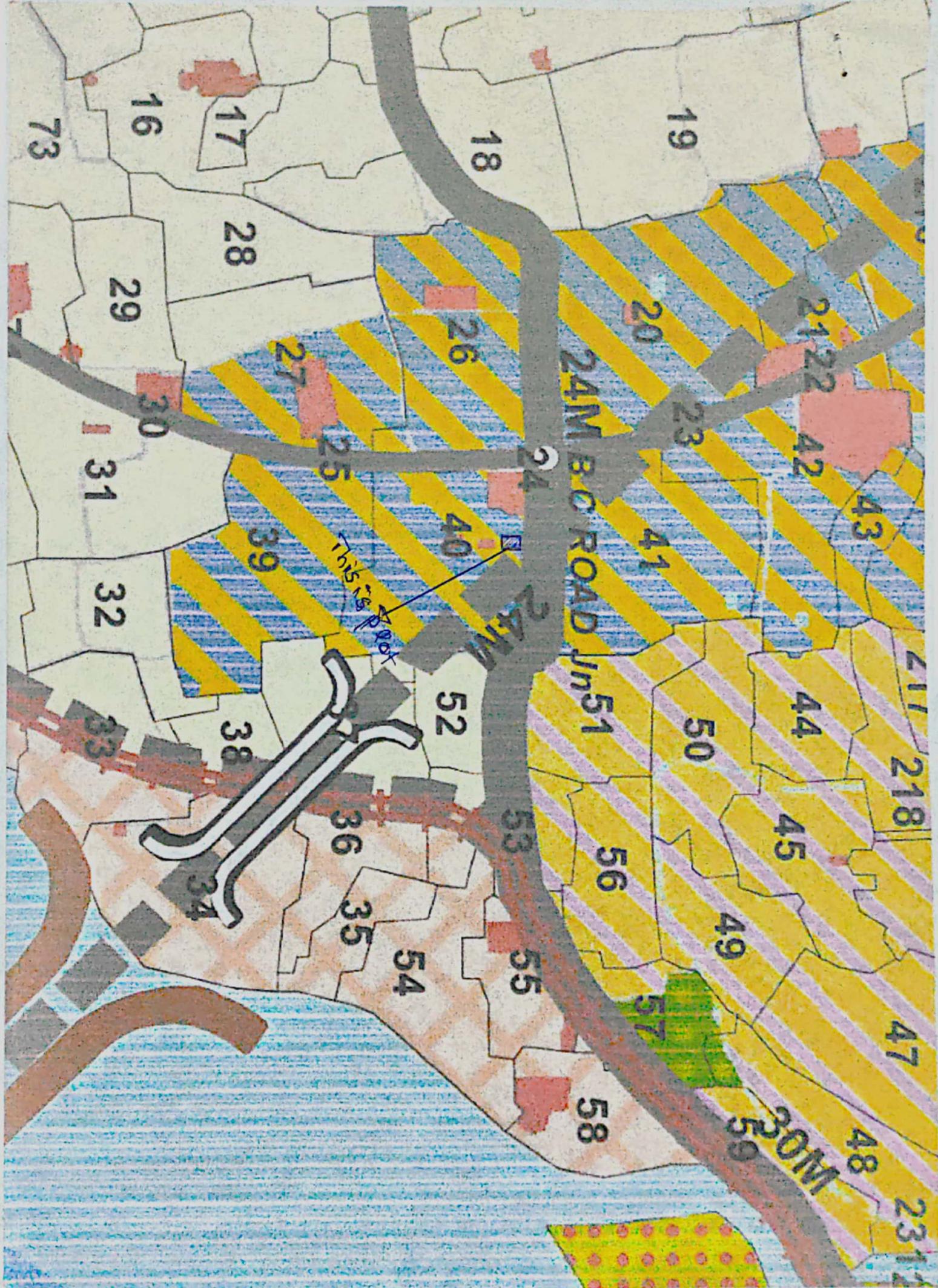


Signed by Roshni

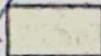
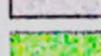
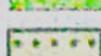
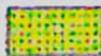
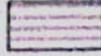
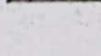
Narayanan

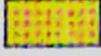
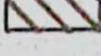
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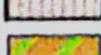
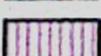
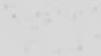


## PROPOSED LAND USE ZONES

- ✓  RESIDENTIAL ZONE I
-  RESIDENTIAL ZONE II
-  RESIDENTIAL ZONE III
-  MULTI FUNCTIONAL ZONE
-  COMMERCIAL ZONE
- ✓  MIXED ZONE (RESIDENTIAL CUM COMMERCIAL)
-  PUBLIC AND SEMI PUBLIC ZONE
-  TOURISM PROMOTION ZONE
-  TOURISM ZONE
-  SMALL INDUSTRIAL ZONE
-  INDUSTRIAL PROMOTION ZONE
-  DRY AGRICULTURAL ZONE
-  RECREATIONAL ZONE
-  WATER BODY
-  TRANSPORT ZONE
-  PARK AND OPEN SPACE ZONE
-  WET AGRICULTURAL ZONE
-  CYBER PARK

-  ENVIORNMENTALLY SENSITIVE AREA
-  GREEN BELT
-  DEFENCE LAND
-  PORT AND ALLIED DEVELOPMENTS
-  HERITAGE ZONE

## SPECIAL ZONES

-  MOBILITY HUB
-  PARKING PLAZA
-  EDUCATIONAL COMPLEX
-  KNOWLEDGE PARK
-  NIRDESH
-  GARBAGE TREATMENT PLANT
-  BUFFER ZONE
-  SLAUGHTER HOUSE
-  MARINE PARK
-  TRUCK TERMINAL
-  WATER THEME PARK

