

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE, CHENNAI**

Original Application No.75 of 2020 (SZ)

IN THE MATTER OF :

Tribunal on its own motion Suo Motu based on the : Applicants
news item in The Hindu Newspaper dated
30.05.2020, "Kerala Forest Department told to
permit sand Removal from Pampa"

Vs.

Chief Secretary of Kerala Government Secretariat : Respondents
Central Stadium, Mahathma Gandhi Road,
Thiruvananthapuram, Kerala and Ors.

**STATEMENT FILED ON BEHALF OF THE FOREST DEPARTMENT BY
THE COUNSEL**



COUNSEL FOR THE RESPONDENTS

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1. The above statement is filed as directed by the Honourable Tribunal on 15.09.2021 in the above OA.

2. During the flood disaster in Kerala 2018, flash floods occurred in Pamba river passing through the Pamba -Triveni area of Sabarimala during August, 2018. Consequently, huge quantity of sand and silt accumulated at Pamba – Triveni area submerging many infrastructures including two bridges in the said area. As part of the emergency relief operations to restore the connectivity between Pamba and Sannidhanam, Government had engaged M/s. Tata Projects Limited (*hereinafter referred to as "TPL"*)

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during September- October 2018. The quantity of sand and silt collected and deposited in the above places by TPL was about 90,000 m³ and TPL, themselves arranged for the protection of this sand and silt by paving sand – filled bags on the lower sides. The Forest Department vide letter No. FC2/63200/2018 dated 13.12.2018 sought the permission of the Central Government for the removal of the above sand having quantity of 90,000 m³. The Government of India, Ministry of Environment, Forests and Climate Change (FC Division), New Delhi vide letter F. No. 8-2/2019- FC dated 26.02.2019 accorded permission for removal of the sand and silt under the Forest (Conservation) Act, 1980. The permission granted was "one time permission".

3. Consequently, Government of Kerala vide G.O (Rt) no. 48/2019/ F&WLD dated 06.02.2019 accorded sanction for disposal of the sand and silt at seigniorage rate at ₹ 2777/m³. Sanction was accorded for transporting of about 15000 m³ of sand from Pamba- Thriveni to dumping sites at the forest periphery for conducting e-auction retails sales to own use customers and the remaining quantity of sand and silt was ordered to be sold to bulk customers through e-auction. Subsequently, Government sanctioned 20,000 m³ of sand to Travancore Devaswom Board (*hereinafter referred to as "TDB"*) for their construction at Nilakkal Base Camp vide G.O (Rt) No. 169/2019/ F&WLD dated 13.05.2019 and the said sand was sanctioned to TDB free of cost vide G.O. (MS) No. 12/2019/F&WLD dated 22.05.2019 and extended the same for use at Pamba and Sannidhanam vide G.O (Ms) No. 15/2019/F&WLD.

4. In the meantime, the Government reduced the selling price of sand for the e-auction bulk sale and retail sales to the prevailing (Delhi Schedule Rate) of ₹ 1,200/ m³ instead of the seigniorage rate of ₹



2,777/m³, considering the low quality of sand vide GO (Ms) No. 11/2019/F&WLD dated 22.05.2019.

5. The Forest Department conducted 18 e-auction bulk sales at the rate of 2 auctions per day from 06.02.2019, to 01.08.2019. In these auctions, 3000 m³ of sand could be sold. Moreover, Forest Department has transported 1000 m³ of sand to Areekkakavu Depot (under Punalur Timber Sales Division) which is about 50 KM away from Pamba for the e-auction retail sales to the own use customers, for which around 80 Torrus vehicle loads were required to remove 1000 m³ of sand. After the initial ones, the e-auction sales were not successful. So additional sand was not transported from Pamba due to lack of progress of the e-auction retail sales. The sale of sand and silt by e-auction or from Areekkavu Depot was not successful, for which one of the reasons could be the low quality of the sand accumulated.

6. Though the expert report of the Centre of Earth and Studies has found the sand so collected is suitable for construction and allied activities, response to e-auction was slow due to the occurrence of silt in the sand and low quality of sand as assessed by the potential buyers. In the meantime, the Pathanamthitta District Disaster Management Authority (*hereinafter referred to as "DDMA"*) vide order dated 18.05.2019 issued under Section 34 (d) of the Disaster Management Act 2005 directed TDB authorities to remove and collect an additional 20000 m³ sand from the river basin immediately and keep the same in safe custody in a secure place. It was specifically stated in the said order that it shall not be taken out of the forest area and that sand should be removed and collected under the supervision of the Forest, Revenue and Irrigation authorities.



7. Though there were directions to the TDB to remove 40000 M³ quantity of sand and silt from the river, only 2287.1 M³ of sand and silt was removed by TDB. In addition, TDB had transported 86 m³ of sand from the river bed, which was not from the stored quantity allotted to them.

8. Subsequently, the Principal Secretary, Revenue in the Video conference held on 29.04.2020 directed the District Collector, Pathanamthitta to examine the possibility of removing debris from the area by Kerala Clays and Ceramic Products, Kannur (*hereinafter referred to as "Kerala Clays Ltd."*), which is a public sector Government company. Subsequently the DDMA at its meeting held on 15.05.2020 approved removal of 75000 M³ of silt, clay, plastic and cloth waste from Pamba-Triveni area and the same to be taken by Kerala Clays Ltd. free of cost after availing necessary passes of the concerned department.

9. Consequently, Kerala Clays Ltd. removed 49.50 M³ of sand and silt from the river banks to Erumeli on 03.05.2020 and 01.06.2020 and removed another 47.16 M³ from the river banks and deposited the same in Pamba forest area on 21.05.2020 and 22.05.2020. Thus the total sand and silt removed from the river bank by Kerala Clays Ltd. was 96.66 M³.

10. Out of the 75248.16 M³ of accumulated sand, silt and debris, collected under the orders of the District Collector in 2020, 75198.66 M³ is deposited inside forest land and has not been taken out of the forest land. Thus 99.93% of the sand, silt and debris removed from the Pamba River are still lying inside the forest and have not been removed to any place outside the forest. Only 0.07 % of the sand, silt and debris removed from the river, have been moved out of forest. Earlier, though permission was granted by the Central Government for 90000 M³ quantity of sand/silt to be moved out of forest, nearly 93% of the same could not be moved out of

Nayyar

forest. It appears that may be in this context, the District Administration may have allowed Kerala Clays Ltd. to move the sand and silt outside forest. The said activity was stopped by Kerala Clays Ltd from 02.06.2020. Only a negligible quantity of sand and silt was moved out of forest by Kerala Clays Ltd., which is a Company owned by the Government of Kerala and working under the Administrative control of the Industries Department, Government of Kerala. Only a negligible quantity of 49.5m³ of sand mixed with silt and debris was transported out of forest area in the exigency situation apprehending the issues which arose during the previous flash flood disasters which occurred during August, 2018 and August-September, 2019 in the Sabarimala - Pamba area and in good faith of facilitating the Sabarimala pilgrim season which was fast approaching. The remaining sand mixed with silt and debris still remain in the forest and has now become part of the forest also. In these circumstances the OA may be closed.

Dated this the 6th day of October, 2021.



COUNSEL FOR THE RESPONDENTS