

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTH ZONE AT CHENNAI

O.A. NO... 1 2of 2020 [SZ]

BETWEEN

IN THE MATTER OF:

Tribunal on its own motion Suo Motu
based on the news item in *Mathrubumi*,
Malayalam newspaper dated 19.01.2020,
“The removal of debris in *Maradu* not according
to Norms – National Green Tribunal”.....Applicant(s)

With

Government of Kerala,
Rep. by its Chief Secretary, Secretariat,
Central Stadium, Mahathma Gandhi Road,
Near Junction, Palayam, Thiruvananthapuram
Kerala and Ors.....Respondent(s)

I N D E X

S. No.	DATE	DETAILS	Pg. No.
1	10-07-2021	Reply Statement	1 to 8
2	10-02-2020	<u>Annexure.R.4 (A)</u> . Copy of letter sent by the Chief Environmental Engineer, Kerala State Pollution Control Board sent letter to the Hon’ble Chairman Justice A V Ramkrishna Pillai	9-11
3	08-07-2021	<u>Annexure.R.4 (B)</u> letter sent by email by the 4 TH respondent to the Environmental Engineer	12
4	13-07-2021	<u>Annexure.R.4 (C)</u> . Decision of the Municipal Council dated 13-07-2021.	13

Certified that the above documents are true copies of their originals

Dated at Ernakulam on this the 16th day of July, 2021


COUNSEL FOR THE APPLICANT

BEFORE THE NATIONAL GREEN TRIBUNAL

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**REPLY STATEMENT FILED BY THE 4TH RESPONDENT IN THE
ABOVE APPLICATION.**

1. It is respectfully submitted that in this case Hon'ble Supreme Court has directed the removal of the four illegal structures within one month as per its judgment dated 08-05-2021. In accordance therewith the buildings were demolished on 11-01-2020 and 12-01-2020. This Hon'ble Tribunal has taken note of the fact of creation of construction and demolition waste from the news item in *Mathrubumi*, Malayalam newspaper dated 19.01.2020. The above case has been taken Suo Motu by this Tribunal and on 22.01.2020. The State Monitoring Committee headed by Justice AV Ramakrishna Pillai in O.A.No. 606/2018 has inspected the site. It is reported that the demolition waste is not in accordance with the provisions of Construction and Demolition Waste Management Rules,2016. This Hon'ble Tribunal appointed a Committee consisting of the Secretary, *Maradu* Municipality, Kerala State Pollution Control Board, District Collector, Ernakulam and Kochi Sub Collector who has been nominated to supervise the work of demolition and removal of the waste by the Government who shall inspect the area in question and prepare an action plan for remediation of the menace that has caused on account of deposit of the demolition waste in that area and also the manner of execution within a shorter timeline.




 Secretary, Maradu Municipality
MUNICIPAL SECRETARY
MARADU MUNICIPALITY

2. In accordance therewith, an order was passed constituting a committee on 29-01-2020. The first meeting of the Committee was held up on 03-02-2020 which was chaired by Justice A V Ramakrishna Pillai. An action plan was drawn on the basis of the decision taken. A duty has been cast on the service provider for the submission of demolition waste management plan. This respondent was cast a duty for the submission of approved management plan to the District Collector, Ernakulam; Sub-Collector, Ernakulam; and the Kerala State Pollution Control Board. For the purpose for removal of demolition waste M/s. Vijaya Steels and M/s. Prompt Enterprises were engaged. In accordance therewith this respondent sent a letter to the Chief Engineer, Pollution Control Board, on 10-02-2020 the details of the demolition waste managed.
3. It is respectfully submitted that a joint committee meeting was conducted under the chairmanship of Justice A V Ramakrishna Pillai. Every action was discussed in detail. An action plan was prepared approved the all the sites chosen for removal of the demolition waste on 07-02-2020 by the Committee. The Chief Environmental Engineer, Kerala State Pollution Control Board sent a letter to the Hon'ble Chairman Justice A V Ramakrishna Pillai in this regard on 10-02-2020 enclosing the action plan and action taken report. A true photostat copy of the said letter sent by the Chief Environmental Engineer, Kerala State Pollution Control Board sent letter to the Hon'ble Chairman Justice A V Ramakrishna Pillai in this regard on 10-02-2020 is produced herewith and marked as **Annexure.R.4.**
(A)
4. The entire removal of demolition waste completed on 19-06-2020 and report was given to all the concerned by this 4th respondent. An action taken report was submitted by the Committee constituted by the Tribunal as per the order dated 14-05-2020 where it has been found that the service provider for removal of concrete debris or the Secretary, *Maradu* Municipality had not submitted any proposals as to where these debris are disposed of, the Secretary was often forwarded the details of disposal locations submitted by the service providers



after such works. The report also found that there is log book, which is already produced before this Hon'ble Tribunal. Even the debris fallen in the nearby waterbody was removed. All the available documents were produced before the Kerala State Pollution Control Board and they are fully satisfied and reported to the Hon'ble Justice A V Ramakrishna Pillai, the Chairman of the Committee.

5. Despite all the above the Committee in its report filed as per the order dated 11-08-2020 has stated that the 4th respondent by way of not submitting periodical reports, viz, action plans, data on removal and disposal of steel as well as concrete debris, replies to the queries raised by the Board, no such specific guidelines or model calculations are obtained or available for the same and is not found practiced anywhere. On receipt of such documents, they stated that the shortfalls/violations of Construction and Demolition Waste Management Rules, 2016 will be addressed.
6. It is respectfully submitted that the said statement by the Kerala State Pollution Control Board is unwarranted on the facts and circumstances of the case where every step taken by all the parties, including the 4th respondent is being monitored by the Hon'ble Chairman Justice A V Ramakrishna Pillai. In order to understand the above situation on the light of the said Rules it is very much essential a glance to the important provisions of the said Rules.
7. Construction and Demolition Waste is not a waste but a resource. The basis of these Construction and Demolition Waste Management Rules, 2016 is to recover, recycle and reuse the waste generated through construction and demolition. As per rule 4 every waste generator shall be responsible for collection, segregation of concrete, soil and others and storage of construction and demolition waste generated separately, deposit at collection centre so made by the local body or handover it to the authorised processing facilities. All waste generators of C&D waste must segregate it into four categories– concrete, soil, steel and wood, plastics, bricks and mortar – and then either deposit it at collection centres setup by the local authority or hand it over to processing




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facilities. As per Rule 4 (5) large generators (generating more than 20 tonnes of C&D waste a day or 300 tonnes of C&D waste per project in a month) must prepare an environment management plan detailing the environmental issues that can stem from the storage, transportation, disposal and reuse of C&D waste. They must also prepare a waste management plan, submit it to a local authority and get their approval before starting any construction/demolition /renovation work. They are also required to pay a relevant charge to service providers and contractors for collection and transport of C&D waste and to a waste processing facility for processing and disposal of this waste.

8. In this case the waste generator is the building owners who have got a duty to segregate and prepare an action plan. They have to submit a waste generation plan to the 4th respondent and obtain approval before the commencement of demolition work. No such plan was submitted and obtained approval from this 4th respondent. The relevant charges for the removal of the waste have to be done by the said waste generators. Thus, there is no compliance of Rule 4 of the said rules by the waste generator.
9. It is respectfully submitted that for the implementation of the said Rules a site as contemplated under Rule 7 has to be selected for storage, processing or recycling facilities for construction and demolition waste and its products. No such site was selected till now.
10. The service providers in so far as Kerala is concerned, Kerala Water Authority, Kerala State Electricity Board Ltd, BSNL, Public Works Department, etc who often generate construction and waste during their activities. They have to prepare a comprehensive waste management plan covering segregation, storage, collection, reuse, recycling, transportation and disposal of construction and demolition waste generated within their jurisdiction.
11. The role of local authority is issue directions for the proper management of construction and waste demolition within its jurisdiction under these rules. They




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have to chalk out stages, methodology and equipment involved in the overall activity and final clean up after the completion of the construction and demolition. They can also seek assistance from the authorities. The local self-government authority can even appoint private operators who are capable of handing the said waste.

12. The broad intent of the Construction Waste Management credit is to avoid materials going to landfills during construction by diverting the construction waste, demolition, and land clearing debris from landfill disposal; redirect recyclable recovered resources back to the manufacturing process; and redirect reusable.
13. In this regard it is desirable to note that the duty of State Pollution Control Board is limited. They have to monitor the implementation of the said Rules and give report to the CPCB and the State Government or other agencies identified. Such report shall contain the comments and suggestions of the State Pollution Control Board or Pollution Control Committees with respect to any comments or charges required. The State PCB has to give authorisation in the approved form to construction and demolition waste processing facility in the prescribed format. In this case the service providers are the M/s. Vijaya Steels and M/s. Prompt Enterprises and they have been given authorisation by the KSPCB.
14. In this regard it is submitted that the notice dated 04-04-2021 is not the one issued under the authorisation of the Board but seems to be at the instance of the Environmental Engineer without ascertaining the above facts. It is stated therein that it is issued for non-compliance under the Solid Waste Management Rules, 2016 and Construction and Demolition Waste Management Rules, 2016. The main allegation is that this 4th respondent has not obtained any submitted any prior action plan for the removal of debris from the area nor obtained authorisation under such Rules. This is an incorrect statement. The State Board very well know the implementation of the Solid Waste Management Rules, 2016 has given an annual report as contemplated under Rule 14 (g) and the same was put in public domain. In the said report the site where authorisation is given for treatment of solid waste is specifically stated.




Secretary, Maradu Municipality
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15. Therefore, the allegation of non-compliance of Solid Waste Management Rules, 2016 is incorrect. In regard to non-compliance of the Construction and Demolition Waste Management Rules, 2016 the State Board is fully aware of the fact that no site was identified for collection and segregation of such waste by the State Government. The implementation of the same is at dormant stage and this is why Kerala State Pollution Control Board has not included in their website about the said Rules. The Government of Kerala is fully aware of the same has taken steps to acquire lands for the said purpose in many places.
16. It is respectfully submitted that this 4th respondent has decided to identify private operators who can manage with the construction and demolition waste. It is respectfully submitted that the role of Kerala State Pollution Control Board under the Construction and Demolition Waste Management Rules, 2016 is limited. They are not empowered to issue any directions or take any action against this 4th respondent. The notice dated 04-04-2021 does not disclose any new cause of action which is not known to them. This respondent has given a reply to the notice dated 04-04-2021 sent by the Environmental Engineer, on 16-07-2021 by email stating the entire affairs. A true photostat copy of the said letter sent by this 4TH respondent to the Environmental Engineer sent by email on 16-07-2021 is produced herewith and marked as **Annexure .R.4. (B)**
17. In this regard it is respectfully submitted that this respondent has taken the best effort to see that both the Construction and Demolition Waste Management Rules, 2016 and Solid Waste Management Rules, 2016 to the best of their capacity. If there is any short coming that will be rectified to the maximum extent possible from time to time. Now the Municipal Council has decided on 13-07-2021 to incorporate a condition in the Building Permits issued to comply with the Construction and Demolition Waste Management Rules, 2016 while handling such waste. A true photostat copy of the said decision of the Municipal Council dated 13-07-2021 is produced herewith and marked as **Annexure.R.4 (C).**




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18. It is reiterated that there is no dereliction of duty on the part of this respondent in complying with any of the provisions of the Construction and Demolition Waste Management Rules, 2016 and Solid Waste Management Rules, 2016. Therefore, it is prayed that the entire *suo motu* proceedings initiated be closed recording the contents of this reply statement

Dated this the 16th day of July, 2021



Solemnly affirmed and signed before by the deponent who is personally known to me in my office at Ernakulam on this the 16th day of July, 2021

A handwritten signature in black ink, appearing to read "P.B. Sahasranaman", written over a horizontal line.

P.B.SAHASRANAMAN
ADVOCATE

ANNEXURE.R.4. (A)(1)
KERALA STATE POLLUTION CONTROL BOARD

REGIONAL OFFICE, GANDHI NAGAR, ERNAKULAM - 682 020

www.keralapcb.org

 CEE : 0484 2207782
 Phone : 0484 2207783 - 86
 Fax : 0484 2207782
 e-mail : ecee@keralapcb.org

PCB/RO-EKM/GEN -180/18

10.02.2020

From,

The Chief Environmental Engineer

To,

 Hon'ble Justice A.V Ramakrishna Pillai
 Chairman, SLMC(NGT)

 Sub:- O.A. No. 12 of 2020 Suo moto case by NGT-Maradu flats demolition-
 reg.

Ref:- 1) Orde of the Hon'ble NGT in OA No. 12 of 2020

2) Meeting convened by the Joint Committee chaired by your good self

3) Action plan prepared and approved by the Committee

Respected Sir,

Kindly find enclosed action plan and action taken report as on
 10.02.2020 prepared and approved by the Joint committee constituted by
 the Hon'ble NGT in OA 12/2020.

Yours Faithfully

Chief Environmental Engineer

Enclosed as above

Copy to:

1. The Member Secretary, Thiruvananthapuram
2. The District Collector, Ernakulam
3. The Sub Collector, Kochi
4. ✓ The Secretary, Maradu Municipality

Advocate

ANNEXURE.R.4. (A)(2)

ACTION TAKEN REPORT FOR REMOVAL OF DEMOLITION
WASTES OF FLATS IN MARADU MUNICIPALITY,
ERNAKULAM AS ON 10.02.2020

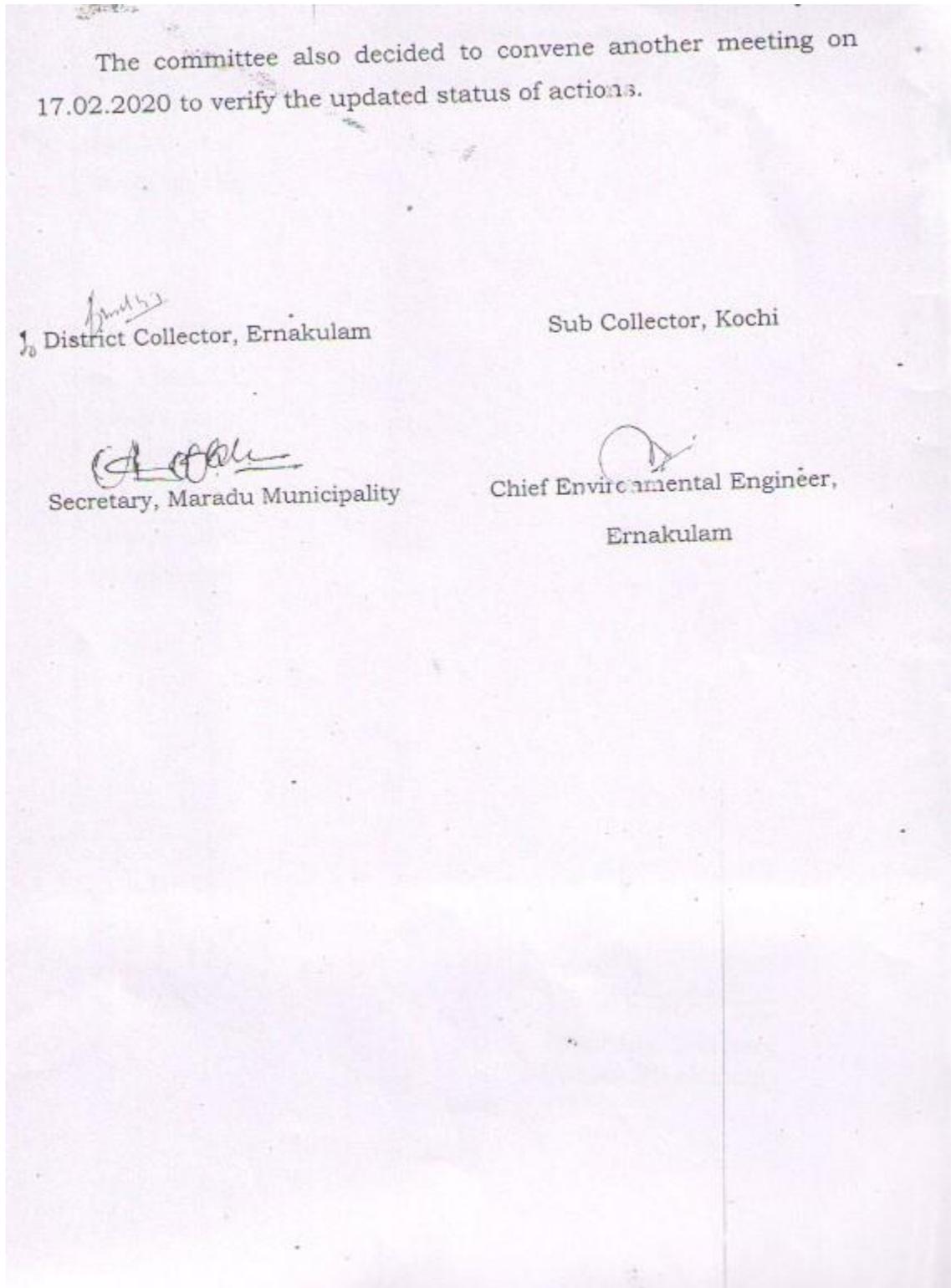
As per the orders of the Hon'ble NGT Southern zone, in OA 12/2020(SZ), a joint committee consisting of the Secretary, Maradu municipality, Kerala State PCB, District Collector, Ernakulam and Sub Collector, Kochi was appointed to inspect the area of demolished high rise buildings in Maradu Municipality namely Holy faith H₂O, Alfa Serene (twin towers), Jain Coastal Cove and Golden Kayaloram and to prepare an action plan for the remediation of the menace that has caused on account of deposit of the demolition waste in that area and also the manner of execution within shorter timeline.

In compliance with the order, a committee was constituted including the District Collector, Ernakulam, the Sub Collector, Kochi, the Chief Environmental Engineer KSPCB, the Secretary, Maradu Municipality vide order No. PCB/HO/EE4/NGT/ OA 12/2020(SZ) dated 29/01/2020.

In the joint committee meeting convened on 03.02.2020 under the supervision of the Hon'ble Chairman, SLMC it was discussed in detail on specific actions to be completed and decided to prepare an action plan. This action plan for the removal of debris from all sites was approved by the committee during the meeting convened on 07.02.2020 and decided to prepare the action taken report and submit before the Hon'ble Chairman, SLMC on 10.02.2020. Copy of the action taken report as on 10.02.2020 is attached as **Annexure 1.**



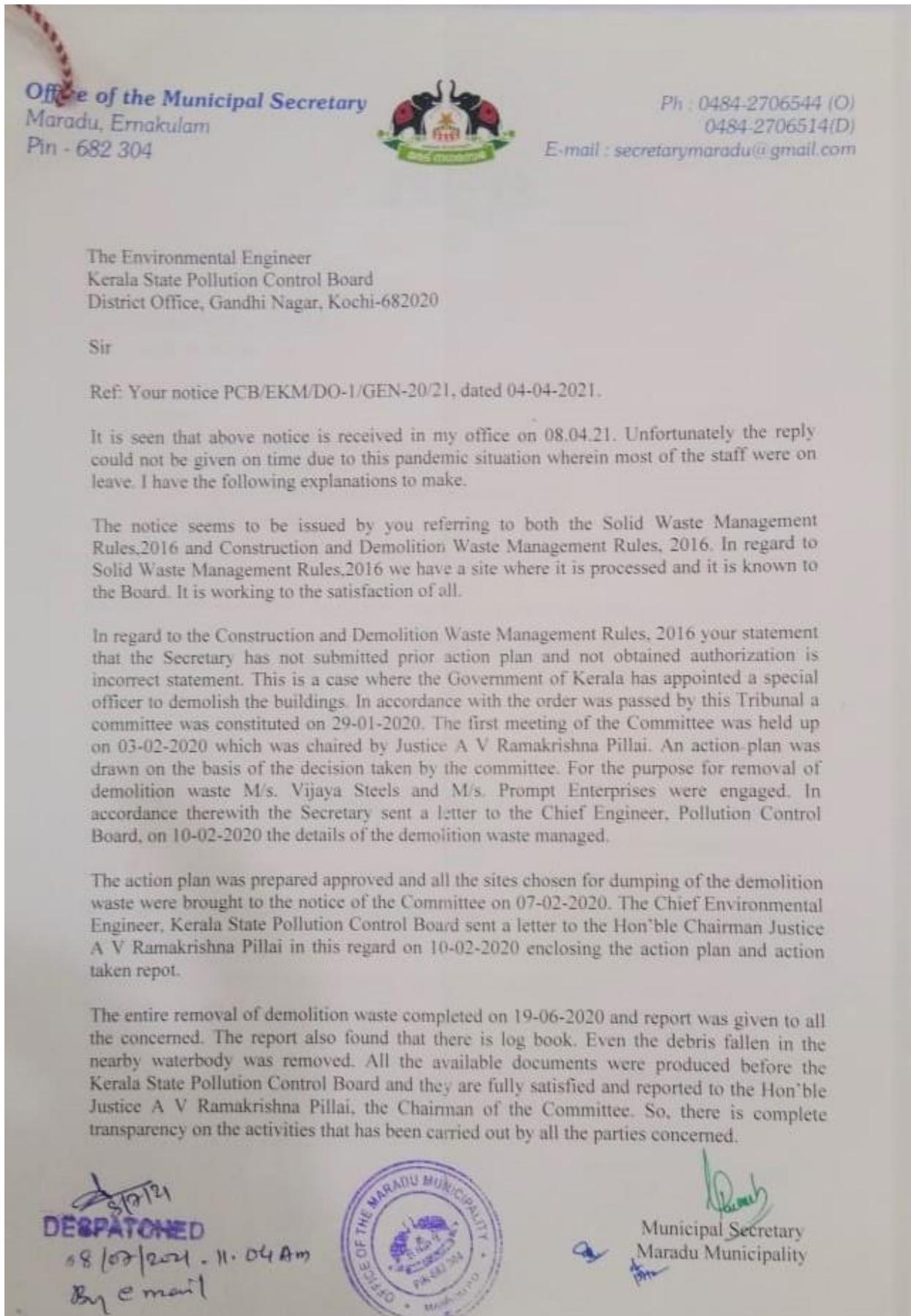
Advocate

ANNEXURE.R.4. (A)(3)

This is the true copy of the document referred to and marked as ANNEXURE.R.4. (A) in the reply affidavit.

[Handwritten Signature]

Advocate

ANNEXURE A.4 (B)

This is the true copy of the document referred to and marked as ANNEXURE.R.4. (B) in the reply affidavit.

[Signature]

Advocate

ANNEXURE A.4 (C)



This is the true copy of the document referred to and marked as ANNEXURE.R.4. (C) in the reply affidavit.

(Handwritten Signature)

Advocate