

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR  
&  
THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

Friday, the 22<sup>nd</sup> day of November 2024 / 1st Agrahayana, 1946  
WP(C) NO. 28509 OF 2024

**PETITIONER:**

IN RE: PREVENTION AND MANAGEMENT OF NATURAL DISASTERS IN KERALA,  
HIGH COURT OF KERALA, PIN - 682031

**RESPONDENTS:**

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001
2. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE INDIRA PARYAVARAN BHAWAN JORBAGH ROAD, NEW DELHI, PIN-110003
3. THE SECRETARY, DEPARTMENT OF MINING AND GEOLOGY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001
4. THE DIRECTOR, DIRECTORATE OF MINING AND GEOLOGY, KESAVADASAPURAM, PATTOM PALACE P.O., THIRUVANANTHAPURAM, PIN-695004
5. THE SECRETARY, MINISTRY OF MINES SHASTRI BHAWAN, DR. RAJENDRA PRASAD ROAD, NEW DELHI, PIN-110001
6. THE STATE POLICE CHIEF, KERALA STATE POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN-695010
7. THE COMMISSIONER (\*CORRECTED), OFFICE OF THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, OBSERVATORY HILLS, VIKHAS BHAVAN P.O., THIRUVANANTHAPURAM \* R7 CORRECTED AS (THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, VIKAS BHAVAN P.O., NANTHANCOD, THIRUVANANTHAPURAM, KERALA, 695033, REPRESENTED BY ITS MEMBER SECRETARY AS PER ORDER DATED 09/08/2024 IN WP(C)), PIN - 695033
8. THE SECRETARY, NATIONAL DISASTER MANAGEMENT AUTHORITY, NDMA BHAWAN, A-1, SAFDARJUNG ENCLAVE, NEW DELHI, PIN-110029
9. JAMES VADAKKAN, MANAGING TRUSTEE, CENTRE FOR CONSUMER EDUCATION KP 6/699 VADAKKAN BUILDINGS, MUNDANGAL P.O., PALA, KOTTAYAM, PIN-686575
10. GEOLOGICAL SURVEY OF INDIA, REPRESENTED BY ITS DEPUTY DIRECTOR GENERAL, HAVING ITS LOCAL OFFICE AT 4TH FLOOR, C BLOCK, KENDRIYA BHAVAN, SEAPORT-AIRPORT ROAD, KAKKANAD, KOCHI, KERALA 682 03.
11. NATIONAL CENTRE FOR EARTH SCIENCE STUDY, REPRESENTED BY THE DIRECTOR, AAKKULAM, THIRUVANANTHAPURAM, POST BOX NO.7250, KERALA 695011.
12. THE SURVEY OF INDIA, REPRESENTED BY THE SURVEYOR GENERAL OF INDIA, OFFICE OF THE SURVEYOR GENERAL OF INDIA, HATHIBARKALA ESTATE, DEHRADUN-248001
13. THE STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY (SEIAA) KERALA, K.S.R.T.C BUS TERMINAL COMPLEX, 4TH FLOOR, THAMPANOOR, THIRUVANANTHAPURAM - 695 001
14. THE COASTAL ZONE MANAGEMENT AUTHORITY, THAMPANOOR, KSRTC BUILDING,

- 4TH FLOOR, OVERBRIDGE, THAMPANOR, THIRUVANANTHAPURAM, ADDL. R10-R14 ARE IMPEADED AS PER ORDER DATED 09.08.2024 IN WP(C)KERALA 695001.
15. UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, 1, PARLIAMENT STREET, NEW DELHI-110001.
  16. NATIONAL HIGHWAY AUTHORITY OF INDIA, G 5 & 6, SECTOR 10, DWARAKA, NEW DELHI – 110075, REPRESENTED BY ITS CHAIRMAN
  17. CENTRAL WATER COMMISSION, 3RD FLOOR, (SOUTH, SEWA BHAVAN, RK PURAM, SECTOR-1, NEW DELHI – 110066, REPRESENTED BY ITS SECRETARY.
  18. INDIAN NATIONAL CENTRE FOR OCEAN INFORMATION SERVICES (INCOIS), "OCEAN VALLEY", PARAGATHI NAGAR (B0), NIZAMPET(S0), HYDERABAD - 500090, TELANGANA, INDIA, REPRESENTED BY ITS DIRECTOR.
  19. NATIONAL REMOTE SENSING CENTRE, DEPARTMENT OF SPACE, GOVERNMENT OF INDIA, HYDERABAD – 500037, TELANGANA, ADDL.R15 -R19 ARE IMPEADED AS PER ORDER DATED 16.08.2024 IN WP(C).
  20. THE KERALA STATE LEGAL SERVICES AUTHORITY REPRESENTED BY ITS MEMBER SECRETARY, HIGH COURT COMPOUND, ERNAKULAM, 682031 IS IMPEADED AS ADDL.R20 AS PER ORDER DATED 04.10.24 IN WP(C) 28509/24
  21. THE ELECTION COMMISSION OF INDIA, REPRESENTED BY THE PRINCIPAL SECRETARY, NIRVACHAL SADAN, ASHOKA ROAD, NEW DELHI - 110001. (IMPEADED SUO MOTU AS ADDL.R21 AS PER ORDER DATED 25.10.2024 IN WP(C)28509/2024)
  22. SAYIR A, ( SOUGHT TO BE IMPEADED ), AGED 45 YEARS, C/O ABDUL RAHIM A ADATHODI MUNDAKAI, VELLARIMALA, WAYANAD.
  23. HAMZA T, ( SOUGHT TO BE IMPEADED ), AGED 55 YEARS, S/O SAIDALI, THAZHETHODY, MEPADI P.O, WAYANAD, KERALA.
  24. BIBIN K AUGASTIAN ( SOUGHT TO BE IMPEADED ), AGED 29 YEARS, S/O AUGUSTY, KODIYANKUNNIL, THONICHAL, NALLOORNAD P.O, WAYANAD.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to 1) to call for the records leading to Ext-P8. 2) to direct the 8th respondent to call for the records leading to the order Ext-P8, call for the records of the parties and then to conduct a site inspection and verify the village records, and after obtaining all the said records, to measure the properties and then to submit a report, with the plan and the resurvey details, to denote as to the extent of property that the 7th respondent has, 3) to see it that no further constructions are perpetrated by the 7th respondent, in the disputed property unless the controversy stands resolved, pending consideration of the above writ petition in the interest of justice.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 30.10.2024 and upon hearing the arguments of M/S IN RE: PREVENTION AND MANAGEMENT OF NATURAL DISASTERS IN KERALA, (Party-In-Person) for the petitioner, PUBLIC PROSECUTOR, K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL, SHRI.C.E.UNNIKRISHNAN SPL. G.P TO A.G, SHRI.V.MANU, SENIOR G.P., for R1,R3,R4,R6 & R7 and M/S. JOHNSON MANAYANI & BENHUR JOSEPH MANAYANI, Advocate for R9, SRI. SUVIN R MENON, CENTRAL GOVERNMENT COUNSEL, for R10, SRI. ACHUTH KRISHNAN, CENTRAL GOVERNMENT COUNSEL for R12, SRI.PRAKASH

M.P., STANDING COUNSEL, KCZMA, for R14, SRI.K.A.SALIL NARAYANAN, Advocate for R16, SRI. V.RAMKUMAR NAMBIAR, Advocate for R20, SRI. DEEPU LAL MOHAN, STANDING COUNSEL, for R21, M/S. P.A.MOHAMMED SHAH, RENOY VINCENT, SHAHIR SHOWKATH ALI, CHELSON CHEMBARATHY, MUHAMED JUNAID V., ADITH KRISHNAN.U., SHERIN SHERIYAR, NANDA SURENDRAN & SAHAL SHAJAHAN, Advocate for R22 to R24, the court passed the following:



**DR. A.K.JAYASANKARAN NAMBIAR, J.**

**&**

**K.V. JAYAKUMAR., J.**

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**W.P.(C).NO.28509 OF 2024**  
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**Dated this the 22<sup>nd</sup> day of November, 2024**

**O R D E R**

**Dr. A.K. Jayasankaran Nambiar, J.**

**Re: Report Nos.12 & 13 of the *Amicus Curiae***

The learned *Amicus Curiae* has today filed two Reports namely, Report No.12 and Report No.13 before us.

2. Report No.12 flags the issue of delay in full compliance with our earlier order dated 06.09.2024 that directed the State Government to cause a carrying capacity study in the hill stations in the State. The report of the *Amicus Curiae* points out that subsequent events and media reports have revealed that international travel platforms have now placed the State on its “NO LIST 2025” which is virtually a blow to the tourism related aspirations of the State. Taking note of the fact that urgent action is required *inter alia* by means of altering the extant tourism policy to ensure that the State continues to hold a prime position on the International Tourism Map, we direct the State Government to ensure that timely updates regarding the progress of the carrying capacity study conducted, be filed periodically before this Court.

2. We might also in this connection express our displeasure over the conduct of the ruling party [LDF] and the opposition [UDF] in jointly calling for a flash hartal in Wayanad District, purportedly to protest against the delay in central assistance for the rehabilitation efforts that are ongoing in Wayanad. While the said political outfits cannot feign ignorance of the directions issued from this Court, prohibiting the calling of flash hartals, without giving adequate notice to the public, it is not entirely clear what the said outfits sought to gain from the whole exercise other than mount more misery upon an already beleaguered section of our people. The undue harm that such insensitive actions caused to the image of this State as a Tourism destination also cannot be understated. We make it clear that such conduct on the part of people's representatives in the State, as would tantamount to a blatant violation of directions issued from this Court, will not be viewed lightly by this Court as has already been demonstrated in the recent past. We do hope that the ruling dispensation will ensure that the directions issued from this Court prohibiting the calling of flash hartals will be scrupulously adhered to in future.

3. Through Report No.13, the *Amicus Curiae* has highlighted that pursuant to an Office Memorandum dated 01.05.2018 issued by the Government of India in the Ministry of Environment, Forest and Climate Change [Impact Assessment Division], Corporate Environment Responsibility [CER] Fund had been directed to be created for the

purposes of enabling projects for which environment clearance is granted by the State Environment Impact Assessment Authority [SEIAA] to utilise amounts so earmarked for the said Fund for carrying out activities such as infrastructure creation for drinking water supply, sanitation, health, education, skill development etc. simultaneously or in the immediate aftermath of the completion of the projects. It is pointed out by the learned *Amicus Curiae* that enquiries conducted by him have revealed that the SEIAA and the District Collectors currently do not have any data regarding the utilisation of the CER Fund sanctioned in connection with each project for which environment clearance was granted by them. Under the circumstances, we deem it appropriate to direct the SEIAA to furnish a list of projects, for which CER Fund was directed to be utilised by the project component, as also a statement as to whether an audit of the utilisation of the CER Fund has been conducted post implementation of the project. The affidavit of the respondents concerned shall be filed before this Court on or before 06.12.2024.

Post on 06.12.2024.

Sd/-  
**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-  
**K.V. JAYAKUMAR**  
**JUDGE**

**prp/22/11/24**