

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MR. JUSTICE JOHNSON JOHN

Wednesday, the 9th day of July 2025 / 18th Ashadha, 1947
WP(C) NO. 20253 OF 2021(S)

PETITIONER:

SHAJI J.KODANKANDATH, AGED 51 YEARS, S/O.JOSE KODANKANDATH,
SNEHA ROSE VILLA, KODANKANDATH HOUSE, CHEMBUKAVU P.O.,
THRISSUR-20.

RESPONDENTS:

1. THE UNION OF INDIA, THROUGH SECRETARY, DEPARTMENT OF
ROAD TRANSPORT AND HIGHWAY, NEW DELHI-110 001.
2. THE CHAIRMAN, NATIONAL HIGHWAYS AUTHORITY OF INDIA,
G-5 & 6, SECTION-10, DWARKA, NEW DELHI-110 075.
3. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO
GOVERNMENT, PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
4. GURUVAYOOR INFRASTRUCTURE PVT.LTD., PRESENTLY HAVING
ITS REGISTERED OFFICE AT DOOR, NO.1-80/40/SP/58-65,
SHILPA HOMES LAYOUT, GACHI BOWLI, HYDERABAD-500 032,
REP. BY ITS AUTHORIZED SIGNATORY, SREEKUMAR M.V,
S/O.LATE K.E.NAIR, AGED 65, R/O 178, GIRINAGAR,
KADAVANTHARA, ERNAKULAM-682 020.

P.T.O

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 stay the operation of Exhibit P6 notification, pending final disposal of the above writ petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C), this Court's order dated 11/06/2025 and upon hearing the arguments of M/S. K.B.GANGESH, SMITHA CHATHANARAMBATH, AMAL S.KUMAR & ATHIRA A.MENON, Advocates for the petitioner, SMT. O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA for R1, SRI.SANTHOSH MATHEW, SENIOR ADVOCATE a/w M/S. NANAVATHI MAULIK.G, ARUN THOMAS, JENNIS STEPHEN and ANIL SEBASTIAN PULICKAL, Advocates for R2 and of SRI.V. TEKCHAND, SENIOR GOVERNMENT PLEADER for R3, SRI. S SREEKUMAR (SENIOR ADVOCATE) along with M/S. P MARTIN JOSE, P PRAJITH, THOMAS P KURUVILA, HARIKRISHNAN.S, AJAY BEN JOSE, MANJUNATH MENON, HANI P NAIR, GITHESH R, SACHIN JACOB AMBAT and ANNA LINDA V.J., Advocates for R4, the court passed the following:



P.T.O.

A.MUHAMED MUSTAQUE & JOHNSON JOHN, JJ.

W.P.(C) Nos.20253 of 2021 & 28609 of 2023

Dated this the 9th day of July, 2025

O R D E R

A.Muhamed Mustaque, J.

We have heard the matter at length on several occasions. We also noted the prayers in the WP(C) 28609 of 2023. It points out the pathetic travelling condition that exists on National Highway 544. Pursuant to the directions of this Court, the reports of the District Collector, Thrissur are on record. It is appropriate to refer to the relevant portion of the first report and it reads thus:

Steps taken after the revocation of the Order dated 28/04/2025 and the current status

Further, a review meeting was held on 23.05.2025 at the Collectorate Conference Hall to deliberate on the continued challenges posed by the construction-related traffic congestion on NH 544. In this meeting, it was resolved that a joint inspection team comprising the District Police Chief, Regional Transport Officer, and NHAI officials shall undertake weekly inspections of the affected areas. The team was also directed to convene weekly review meetings to monitor the evolving traffic situation and to take necessary corrective measures accordingly. The proceedings of the said meeting are appended as *Annexure 10*. The mechanism has helped in establishing a coordination between the district administration, Police and the NHAI, resulting in better management of traffic in the Paliyekkara toll plaza.

To assess the prevailing ground situation, a fresh inspection was directed, and reports were accordingly obtained from the Police, Regional Transport Officer (RTO), and the Joint Director of Panchayat.

The report submitted by the Joint Director of Panchayat highlights significant public inconvenience in areas adjoining NH-544, including blockage of culverts, absence of foot overbridges near educational institutions, waterlogging, and deterioration of roads-all primarily attributed to the diversion of NH traffic through local roads. The Report is appended as *Annexure 11*.

The RTO report indicates that traffic has been diverted to service roads on either side of the highway owing to ongoing construction activities. However, these service roads are insufficient in width across most stretches, thereby permitting only single-lane movement. With an average traffic volume of approximately 45,000 vehicles per day, a significant portion of which comprises heavy commercial vehicles, the present diversion mechanism is grossly inadequate. Furthermore, the merging points between the service roads and the highway lack proper gradient and surfacing, posing serious safety risks (*Annexure 12*).

The District Police Chief (Rural) has also reported that nearly 45,000 to 50,000 vehicles transit through the toll plaza daily. Numerous potholes and rutting have been observed on the highway between Paliyekkara and Pongam, contributing to accidents and traffic delays. Inadequate drainage infrastructure has led to water stagnation, and the resultant mud accumulation causes frequent vehicle skidding. Additionally, safety protocols at construction sites are not being adhered to in accordance with Indian Roads Congress (IRC) standards. In response, the Police have had to enforce traffic diversions to mitigate congestion (*Annexure 13*).

From the above reports, it is evident that the persistent traffic congestion along NH-544 is a direct consequence of unscientific and uncoordinated construction practices, particularly the simultaneous execution of multiple underpasses by the same contractor without adequate planning or traffic impact assessment. Despite the multiple coordination meetings and directions issued to NHAI by the District Administration, the construction progress remains disproportionately slow in relation to the high volume of daily vehicular movement, especially involving heavy commercial traffic. Further aggravating the situation is the lack of proper maintenance of service roads, inadequate drainage and culvert systems, and poorly designed merging points - all of which have compounded public inconvenience and safety

hazards. As established in Annexures 11 to 13, the diverted traffic is being routed through substandard service roads that are ill-equipped to handle the existing traffic load. These systemic deficiencies, taken together, have severely impaired road safety and traffic flow in the affected stretch of NH-544.

2. Later, another report was submitted on 26.06.2025, pursuant to the direction of this Court, the relevant portion of which reads thus:

“Directions to NHAI

Considering the above findings and the reports from various departments, local bodies, the following directions were issued to the National Highways Authority of India:

- 1) Immediate maintenance and resurfacing of the service roads to ensure safer and smoother vehicular movement and deployment of additional recovery vehicles along the affected stretches to promptly address breakdowns and accidents.
- 2) Immediate rectification of the drainage system is seen as essential due to persistent waterlogging in the area.
- 3) Implementation of pending safety protocols such as signage, barricades, and placement of flagmen at active construction sites.
- 4) Rectification of elevation mismatches between the main carriageway and service roads to ensure seamless vehicle transition.
- 5) The diversion roads are panchayat/Local body roads and have sustained damage due to heavy traffic. The NHAI was instructed to restore these roads to ensure their continued use.
- 6) Mobilization of additional workforce and machinery to expedite the construction and ensure timely completion of the underpasses.

It is pertinent to note that similar directions had been issued to the NHAI on earlier occasions as well. However, as is evident from previous reports and the findings of the recent field inspection, these instructions have not been complied with satisfactorily.

It is respectfully submitted that while the ongoing construction activities have contributed to temporary traffic disruptions, the primary causes of persistent congestion and public hardship are the poor condition of the service roads and the lack of an effective drainage system. Immediate and sustained action, as directed, is therefore essential to ensure public safety and to restore smooth traffic flow.”

3. In the light of the reports, we are of the considered view that there is total neglect on the part of the National Highway Authority of India to ensure smooth traffic on the stretch. If the National Highway Authority grants permission to collect tolls, they shall ensure that the commuters have the right to use the Highway without any obstructions and the roads are motorable. We also note that in spite of the intervention of District Administration, the National Highway Authority failed to address the issue and resolve it.

4. The learned Additional Solicitor General of India as well as the learned Standing Counsel for the National Highway Authority of India would submit that the issue is now confined only to 4.8 Kilometers and there are no other obstructions in the remaining part of the 65 Km. stretch. It is submitted that the National Highway would earnestly take steps to resolve this issue at the earliest.

5. The right to collect toll emanates from statutory provisions. The commuters and the travellers are the beneficiaries

and they pay the tolls based on public trust. It correspondingly create an accountability on the National Highway Authority. If the road rendered is unmotorable and not safe for the travellers, it should result in suspension of tolls collection. The learned Additional Solicitor General of India requested that one week's time may be granted to resolve the issue.

In the light of the above request, we adjourn this matter to 16.07.2025. However, by the time, the National Highway Authority of India shall show cause as to why suspension of tolls shall not be ordered by the next posting.



Sd/-

**A.MUHAMED MUSTAQUE,
JUDGE**

Sd/-

**JOHNSON JOHN,
JUDGE**

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