

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

Friday, the 10th day of January 2025 / 20th pousha, 1946
WP(C) NO. 28509 OF 2024

PETITIONER:

1. IN RE: PREVENTION AND MANAGEMENT OF NATURAL DISASTERS IN KERALA, HIGH COURT OF KERALA, PIN-682031
2. BAIJU PAUL MATHEWS(SOUGHT TO BE IMPEADED) PUTHUSSERIL HOUSE, SULTHAN BATHERY, WAYANAD, KERALA-673592.

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,
THAMPANNOOR, THIRUVANANTHAPURAM - 695 001

14. THE COASTAL ZONE MANAGEMENT AUTHORITY, THAMPANNOOR, KSRTC BUILDING, 4TH FLOOR, OVERBRIDGE, THAMPANNOOR, 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 (BO), NIZAMPET(SO), 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, S/O SAIDALI, THAZHETHODY, MEPADI P.O, WAYANAD, KERALA.
24. BIBIN K AUGASTIAN (SOUGHT TO BE IMPEADED), AGED 29, 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 18.12.2024 and upon hearing the arguments of M/S IN RE: PREVENTION AND MANAGEMENT OF NATURAL DISASTERS IN KERALA & SRI.BAIJU PAUL MATHEWS (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,SRI.AR.L.SUNDARESAN(SR.CGC),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.M.P.SREEKRISNAN, (STANDING COUNSEL) for R13,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, RENOV 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
&
EASWARAN S., JJ.**

W.P.(C) No.28509 of 2024

Dated this the 10th day of January, 2025

ORDER

Dr. A.K.Jayasankaran Nambiar, J.

Pursuant to our order dated 18.12.2024, when the matter was taken up today, Sri.AR.L.Sundaresan - Additional Solicitor General of India, placed before us a letter dated 02.01.2025 of the Assistant Director (DM), NDCC-II Building, Government of India, Ministry of Home Affairs, Disaster Management Division on the subject "*Writ Petition (C) No.28509 of 2024 titled as In Re: Prevention and Management of Natural Disasters in Kerala before the Hon'ble High Court of Kerala at Ernakulam*", which reads as follows:

"Sir,

I am directed to refer to the subject mentioned above and to your DO letter dated 20.12.2024 addressed to the Union Home Secretary regarding the suggestion of the Hon'ble Court to permit utilization of Rs. 120 Crores from the amount which has been set apart for payment to the Defence and the sum of Rs. 60 Crores which is available after all the provisions, a total sum of Rs. 80 Crores would be available with the State Government and the said amount can be utilized for immediate rehabilitation in Wayanad, decision taken by the High Level Committee and proceedings and steps being taken by the Central Government regarding benefits, concessions and entitlements being given to the victims of the landslides.

2. *In this regard, it is informed that as per the Scheme of State*

Disaster Response Fund (SDRF) guidelines, the State Executive Committee (constituted under Section 20 of the Disaster Management Act), is fully empowered to incur expenditure from the SDRF which is already placed at their disposal.

3. *The State Government is at liberty to utilise the aforesaid funds in accordance with the approved items and norms of assistance and apt to the magnitude of the ground situation, as per their specific requirement and priority.*

4. *The aforementioned information is submitted for your kind information and for further necessary action including bring the same before the notice of the Hon'ble Court."*

2. It is apparent from the tone and tenor of the said letter that the Central Government essentially accepts the proposal that was mooted by us in paragraph 2 of our last order dated 18.12.2024 and has agreed to the freeing up of the amount of Rs.120 Crores for immediate use by the State Government in connection with the rehabilitation proceedings ongoing at Wayanad. The said amount can accordingly be used in relaxation of the SDRF/NDRF norms of the Central Government.

3. The 7th respondent has also filed a statement today, wherein it encloses as Annexure I, the DO letter dated 10.11.2024 of the Ministry of State for Home Affairs, Government of India, which indicates that keeping in view the intensity and magnitude of the Meppadi Landslide Disaster in Wayanad District, the same has been considered by the Inter-Ministerial Central Team (IMCT) as a disaster

of "severe nature" for all practical purposes. It is also stated by the 7th respondent that by virtue of this notification, the State Government has now an opportunity to tap into multiple funding sources for recovery and rehabilitation, such as the Member of Parliament Local Area Development Funds, the fund that provides for Special Assistance to States for Capital Investment (SASCI), as also the recovery and reconstruction window assistance from the National Disaster Response Fund (NDRF). The statement also goes on to enumerate various measures that have been taken by the State Government towards rehabilitation of the affected families in Wayanad.

We now direct posting of this case on 16.01.2025.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

EASWARAN S.
JUDGE