

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
Tuesday, the 29th day of July 2025 / 7th Sravana, 1947
WP(C) NO. 32680 OF 2008

PETITIONERS:

1. C.P.AJITHKUMAR AGED 41 YEARS PROPRIETOR, SUBURBAN TRAVELS, MAMANGALAM, COCHIN-24, (PRESIDENT, TRAVEL, OPERATORS ASSOCIATION OF KERALA).
2. KERALA MERCHANTS UNION (FORMERLY ERNAKULAM MERCHANTS UNION), MERCHANTS UNION BUILDING, MERCHANTS UNION ROAD, COCHIN-11, REPRESENTED BY ITS GENERAL SECRETARY.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT, (ROADS), GOVT.SECRETARIAT, TRIVANDRUM.
2. THE SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.
3. THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT (ROADS), TRIVANDRUM.
4. CORPORATION OF COCHIN, REPRESENTED BY ITS SECRETARY, BOAT JETTY, ERNAKULAM.
5. GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHARA, ERNAKULAM, COCHIN-20, REPRESENTED BY ITS SECRETARY.
6. ADDL.R6.THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033.
7. ADDL.R7.THE REGIONAL OFFICER, NATIONAL HIGHWAY AUTHORITY OF INDIA, OFFICE OF THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033. (ADDL. R6 AND R7 ARE IMPEADED AS PER ORDER DATED 28.11.2008 INIA.15338/2008).
8. ADDL.R8.THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT COCHIN, NATIONAL HIGHWAY AUTHORITY OF INDIA, MANGALYA VAIDHYA MADOM, VYTTILA, ERNAKULAM.
9. ADDL.R9.THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT PALAKKAD, NATIONAL HIGHWAY AUTHORITY OF INDIA, ARMUGHAM COLONY, CHANDRA NAGAR, PALAKKAD. (ADDL.R8 AND R9 ARE IMPEADED AS PER ORDER DATED 17.12.2008 IN .I.A.16206/2008.)
10. ADDL.R10.UNION OF INDIA, REP. BY SECRETARY TO GOVERNMENT, MINISTRY OF SURFACE TRANSPORT, CENTRAL SECRETARIAT, NEW DELHI.

(ADDL.R10 IS IMPEADED AS PER ORDER 30.03.2009 DATED IN I.A.4647/2009.)

1. EDRAAC (ERNAKULAM DISTRICT RESIDENTS' ASSOCIATION'S APEX COUNCIL) (SOUGHT TO BE IMPEADED) REG. NO. ER/735/03, CORPORATION SHOPPING COMPLEX, SUBHASH CHANDRA BOSE ROAD JUNCTION, PONNURUNNI, VYTTILA, COCHIN (SOUGHT TO BE IMPEADED)
2. ADDL.R11.CENTRE FOR CONSUMER EDUCATION, MARKET ROAD, PALAI, REPRESENTED BY ITS MANAGING TRUSTEE DEJO KAPPAN, AGED 54, S/O.LATE K.C.JOSEPH, RESIDING AT 17 A, PRESIDENCY HOMES, KALOOR, ERNAKULAM. (ADDL.R11 IS IMPEADED AS PER ORDER 12.10.2011 DATED IN IA.15616/2011.)

3. ADDL.R12. KERALA GOVERNMENT CONTRACTORS ASSOCIATION, HEAD OFFICE SREEKUMAR BUILDING, IRON BRIDGES.P.O., ALAPPUZHA-688001, REPRESENTED BY ITS PRESIDENT VARGHESE KANNAMPALLY
4. ADDL.R13.P.R.ASHOKUMAR, RAMAPRIYA, PARAYAKADU.P.O., CHERTHALA, ALAPPUZHA DISTRICT-688001. (ADDL.R12 AND R13 ARE IMPEADED AS PER ORDER DATED 18.10.2011 IN I.A.15475/2011.)
5. ADDL.R14.THE DISTRICT COLLECTOR, ERNAKULAM. (ADDL.R14 IS SUO MOTU IMPEADED AS PER ORDER DATED 11.10.2019 IN WPC.)
6. ADDL R15 THE PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, ERNAKULAM IS SUO MOTU IMPEADED AS ADDL. R15 AS PER ORDER DATED 17.12.2021 IN WP(C) 32680/2008.
7. ADDL.R16. THE COMMISSIONER OF POLICE, KOCHI. (IS SUO MOTU IMPEADED AS ADDL.R16 AS PER ORDER DATED 14-01-2022 IN WP(C) 32680/2008).
8. ADDL. R17.COCHIN SMART MISSION LIMITED, 4TH FLOOR, JLN STADIUM METRO STATION, KALOOR, KOCHI- 682017 (IS SUO MOTU IMPEADED AS ADDITIONAL R17 AS PER ORDER DATED 01.08.2022 IN WP(C) 32680/2008.)
9. ADDL. R18. REGIONAL OFFICER, NHAI, THIRUVANANTHAPURAM IS SUO MOTU IMPEADED AS ADDITIONAL R18 AS PER ORDER DATED 08/08/2022 IN WP(C) 32680/2008.
10. ADDL. R19. THE TRANSPORT COMMISSIONER, TRAN SPORT COMMISSIONERATE, 2ND FLOOR, TRANS TOWER, C.V.RAMAN PILLAI ROAD, DPT, VAZHUTHACAUD, THIRUVANANTHAPURAM, KERALA- 695014 IS SUO MOTU IMPEADED AS ADDITIONAL R19 AS PER ORDER DATED 06.10.2022 IN WP(C) 32680/2008.
11. ADDL.R21. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY THE SECRETARY, VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM 695004 IS SUO MOTU IMPEADED AS ADDL. R21 AS PER ORDER DATED 10.11.2022 IN WP(C) 32680/2008.
12. ADDL. R20. JAMSHEED HAFIZ, S/O. MOOSAKUTTY, AGED 39 YEARS, NEETHINILAYAM, TIRUR, MALAPPURAM DISTRICT, PIN- 676104, PRESENTLY RESIDING AT FLAT NO.B2, FIRST FLOOR, K.N.ARCACADE, PHASE -II, KELAMANGALATH CROSS ROAD, SRM ROAD, ERNAKULAM 18 IS IMPEADED AS ADDL. R20 AS PER ORDER DATED 28.10.2022 IN I.A.2/2022.
13. M/S. CONTRACT CARRIAGE OPERATORS ASSOCIATION REG. NO.TVM/TC/1204/18.NALANDA BHAVAN, KARYAVATTOM, THIRUVANANTHAPURAM-695581, REPRESENTED BY ITS PRESIDENT MR. BINU JOHN .
14. MILTON LOPEZ, MANAGING PARTNER, M/S. RANI TRAVELS, XL/1575, NORTH RAILWAY STATION ROAD, ERNAKULAM DISTRICT- 682018.
15. ROYSON JOSEPH S/O. JOSEPH, M/S. ROYAL TOURS & TRAVELS, PADICKAPARAMBIL HOUSE, RAIL ROAD, ALUVA ERNAKULAM DISTRICT-683101.
16. ADDL. ABDUL RAHEEM, SOUGHT TO BE IMPEADED
17. ADDL. R22. EDRAAC (ERNAKULAM DISTRICT RESIOENTS ASSOCIATION'S APEX COUNCIL), REG. NO.ER/735/03, CORPORATION SHOPPING COMPLEX, SUBHASH CHANDRA BOSE ROAD JUNCTION, PONNURUNNI, VYTTLA, COCHIN-19, PIN- 682019 ADDITIONAL R22 IMPEADED AS PER THE ORDER DATED 08.03.2023 IN I.A. 1/2023.

BY SRI K.V. MANOJ KUMAR, SENIOR GOVERNMENT PLEADER FOR R1 TO R3, R14 AND R16.

BY SRI. K. JANARDHANA SHENOY, STANDING COUNSEL FOR R4.

BY SRI M K THANKAPPAN ,ADVOCATE FOR R5

BY SRI. SEBASTIAN THOMAS, SR. K.V. KURIAKOSE AND SRI. LIJO JOSEPH GEORGE
ADVOCATES FOR R6 AND R7.

BY SRI. THOMAS ANTONY, ADVOCATE FOR R8 AND R9.

BY SRI. S. KRISHNAMOORTHY, CENTRAL GOVERNMENT COUNSEL FOR R10.

BY SRI. JOHNSON MANAYANI, ADVOCATE FOR R11.

BY SRI. JOMY GEORGE, ADVOCATE FOR R12 AND R13.

BY SMT. M U VIJAYALAKSHMI ,STANDING COUNSEL FOR ADDITIONAL R18

BY SRI. LEJO GEORGE, STANDING COUNSEL FOR ADDL. R18.

BY SRI. RILGIN V GEORGE, ADVOCATE FOR ADDL. R20.

BY SRI. B. ARUNKUMAR, STANDING COUNSEL FOR ADDL. R21.

BY M/S ATUL SOHAN, R. REJI, SREEJA SOHAN.K, ADVOCATES FOR ADDL. R22.

BY SRI. SANTHOSH PODUVAL, STANDING COUNSEL, TRICHUR CORPORATION

BY SRI. S. KRISHNA, SRI. P. DEEPAK & SRI. VINOD BHAT, AMICI CURIAE.

This Writ Petition (Civil) having come up for orders on 29-07-2025,
upon perusing this court's judgement dated 18-10-2019 and order dated
26-07-2025, the court on the same day passed the following:

DEVAN RAMACHANDRAN, J.

=====

WP (C) No.32680 of 2008

=====

Dated this the 29th day of July, 2025

ORDER

The learned *Amici Curiae* mentioned this matter and requested that it be listed urgently, saying that there have been a spate of accidents on account of the condition of the roads and reckless driving of the heavy vehicles.

2. Sri.S.Vinod Bhatt and Smt.S.Krishna - learned *Amici Curiae*, today have made available certain reports, which substantiate what they mentioned above; especially a latest incident a couple of days ago, which has lost the life of a young man of mere 18 years in age.

3. Sri.K.V.Manoj Kumar - learned Senior Government Pleader, submitted that the

WP (C) No.32680/2008

-2-

Assistant Commissioner of Police, Traffic, had submitted a report containing certain annexures that enumerate the steps taken by the Police, as also the Transport Department, to curb reckless and rash driving across the State, particularly in Kochi, which are being enforced.

4. Sri.K.V.Manoj Kumar then pointed out that the Engineers of the various roads under the Corporation of Kochi and the Public Works Department, are personally present before this Court. He conceded that the responsibility of the Engineer runs to the upkeep of the roads under them; and that they are also expected to inspect them and ensure that they align with at least the basic tenets of safety.

5. It is rather agonizing that this Court still requires taking up this matter to ensure that accidents do not occur on account of potholes on the roads, as also reckless

WP (C) No.32680/2008

-3-

driving.

6. The right to travel for every citizen is fundamental as enjoined in the Constitution; and when someone is injured or killed - after having followed law, merely on account of the omission of some Authority or other, which caused the road to be in a state of disrepair - merely sympathising would be of no consequence, but real action will have to follow, with the Officers/Engineers concerned made accountable.

7. This Court earlier dealt with the death of a young man in Thrissur over a month ago and had issued an order, but the reply to it, in the form of a report from the Secretary of the Corporation of Thrissur, is, *inter alia*, that "*there are only a few potholes on the M.G.Road.*" (sic) This is a rather strange response because, even one pothole on a busy road can be a killer, as we have seen in the

WP (C) No.32680/2008

-4-

past.

8. We cannot allow our roads to be maintained in this fashion; and this Court is without doubt that, as a first step, the Engineers/Officers concerned must do a 'Safety and Quality Audit' of the roads under their charge and place it in the form of a report through the learned Senior Government Pleader. Sri.K.V.Manoj Kumar submitted that this will be done immediately and that the report will be filed, for which, he sought two weeks time.

9. As regards reckless driving, particularly of heavy vehicles, this Court approves the submissions of Sri.K.V.Manoj Kumar, but it must be specifically adverted by the Authorities that, unless safeguards are translated into real action, there would be no change on the road.

10. The cries and travails of families who lose loved ones due to road accidents caused

WP (C) No.32680/2008

-5-

by potholes and other avoidable situations, are heart-wrenching and cannot be ignored by this Court.

11. There were earlier orders passed by this Court, which obligated the District Collectors to act under the provisions of the Disaster Management Act; and if, in spite of all this, the roads still remain in the condition, as is now stated to be, then arises suspicion of a systemic failure, which requires to be addressed and rectified forthwith.

12. It is the resolve of this Court that no lives are lost in potholes any further and that no one is injured because of them.

13. For this, a new culture will have to be inculcated, which must start at the doors of the Authorities who are vested with the responsibility of the roads.

14. That said, acceding to the request of

WP (C) No.32680/2008

-6-

Sri.K.V.Manoj Kumar - learned Senior Government Pleader, as also Sri.Santhosh P.Poduval - learned counsel appearing for Thrissur Corporation, this Court defers further comments; but directing the Officers/Engineers concerned to conduct 'Safety and Quality Audit' of roads under them, by making necessary inspections and submit it to the competent Authority of the Government, to be then placed before this Court in the form of a report through the Senior Government Pleader.

15. As regards the initiatives suggested by the Police and the Transport Department to control the reckless driving, I direct that all such be enforced scrupulously; and further that they be made applicable to every part of the State, subject to such modification as necessary. Orders in this regard shall also be issued by the competent Authority and reported

WP (C) No.32680/2008

-7-

to this Court without any avoidable delay, but not later than the next posting date.

16. The afore being said, we must add that though this Court is not concerned with the Kochi area alone - as perhaps is now misinterpreted - this Court acknowledges that some of the Engineers from the Corporation, as also from the GCDA, are present. In fact, it is reported to me that the work on some of the roads had now commenced after this Court made comments on the last posting; and an assurance is also offered by Sri.Janardhana Shenoy, learned Standing Counsel for the Corporation of Kochi, that it would be completed without delay. Further, this Court has, advertng to the inputs from the learned *Amici Curiae*, informed Sri.K.V.Manoj Kumar and Sri.Janardhana Shenoy, of specific instances of problems in the city of Kochi, particularly on the main roads, and they sought two weeks

WP (C) No.32680/2008

-8-

time to address the same.

List this matter for further consideration
on 14.08.2025.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

H/o
akv

