



2025:KER:60808

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 13TH DAY OF AUGUST 2025 / 22ND SRAVANA, 1947

WP(C) NO. 18542 OF 2025

PETITIONERS:

- 1 ZUBAIR C A
 AGED 40 YEARS
 S/O ABDULLA MOULAVI, CHIRTHODY HOUSE,
 CHIRTHODY,KIDDOOR, ICHILAMPADY,
 KASARAGOD, PIN - 671321

- 2 UDAY KUMAR R GATTI
 AGED 41 YEARS
 S/O RAGHAVA GATTI, R/O VRINDAVANAM,
 MAKS VILLA SHANTHIPADAM, KOYIPADY VILLAGE,
 MANJESWARAM TALUK, KASARAGOD, PIN - 671321

BY ADVS.
SMT.UMMUL FIDA
SRI.C.IJLAL
SMT.P.PARVATHY
SHRI.MAJID MUHAMMED K.
SHRI.ANANDU R.

RESPONDENTS:

- 1 THE PROJECT DIRECTOR
 NATIONAL HIGHWAY AUTHORITY OF INDIA,
 PROJECT-IMPLEMENTATION UNIT, BUILDING NO.3450,
 WARD NO.46 "ZAHIRA", NEAR DINESH AUDITORIUM,
 CIVIL STATION.P.O, KANNUR., PIN - 670002



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2 URALUNGAL LABOUR CONTRACT CO-OPERATIVE SOCIETY
 PO MADAPPALLY COLLEGE, VATAKARA, KOZHIKODE,
 KERALA, PIN - 673102

BY ADVS.
SRI.K.A.SALIL NARAYANAN
SHRI.M.SASINDRAN
SRI. B.G. BIDAN CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15.07.2025, ALONG WITH WP(C).18764/2025, 19590/2025, THE
COURT ON 13.08.2025 DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 13TH DAY OF AUGUST 2025 / 22ND SRAVANA, 1947

WP(C) NO. 18764 OF 2025

PETITIONER:

ABDUL NASSIR
AGED 32 YEARS
S/O. MOOSAKUNHI, GUDAR HOUSE,
BAMBRANA P. O., KASARAGOD,
PIN - 671321

BY ADVS.
SRI.P.K.SUBHASH
SMT.SREELAKSHMI SABU

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN, 1,
PARLIAMENT STREET, NEW DELHI, PIN - 110001
- 2 NATIONAL HIGHWAYS AUTHORITY OF INDIA (NHAI)
REPRESENTED BY ITS CHAIRMAN, G-5 & 6, SECTOR-10,
DWARKA, NEW DELHI, PIN - 110075
- 3 THE PROJECT DIRECTOR
PROJECT IMPLEMENTATION UNIT, KANNUR,
KERALA, PIN - 670002
- 4 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,



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THIRUVANANTHAPURAM, PIN - 695001

5 URALUNGAL LABOUR CONTRACT CO-OPERATIVE SOCIETY
LTD.
REPRESENTED BY ITS CHAIRMAN,
MADAPPILLY COLLEGE P.O., KOZHIKODE,
PIN - 673103

BY ADVS.
SHRI.BONNY BABY
SHRI.RENJISH S. MENON, CGC
SRI.DHEERAJ A.S., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15.07.2025, ALONG WITH WP(C).18542/2025 AND CONNECTED
CASES, THE COURT ON 13.08.2025 DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 13TH DAY OF AUGUST 2025 / 22ND SRAVANA, 1947

WP(C) NO. 19590 OF 2025

PETITIONER:

ASHARAF MOHAMMED ALIAS ASHARAF KARLA
AGED 50 YEARS
S/O HUSSAINAR KARLE HOUSE, NEAR THANGAL VEEDU,
ARIKADY, KASARGODE, KUMBLA, KERALA, PIN - 671321

BY ADVS.
SRI.P.E.SAJAL
SHRI.MUHAMMED HISHAM T.
SMT.FATHIMA RINSHA T.P.

RESPONDENTS:

- 1 PROJECT DIRECTOR
NATIONAL HIGHWAYS AUTHORITY OF INDIA - NHAI,
PROJECT -IMPLEMENTATION UNIT, BUILDING NO. 3450,
WARD NO.46 'ZAHIRA', NEAR DINESH AUDITORIUM,
CIVIL STATION P.O, KANNUR,, PIN - 670002
- 2 DISTRICT COLLECTOR
CHAIRMAN OF DISTRICT DEVELOPMENT COMMITTEE,
CIVIL STATION, VIDYANAGAR,
KASARGODE, PIN - 671123
- 3 URALUNGAL LABOUR CONTRACT CO-OPERATIVE SOCIETY
PO MADAPPALLY COLLEGE, VATAKARA, KOZHIKODE,
KERALA,, PIN - 673102



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4 THE SECRETARY
MINISTRY OF ROAD TRANSPORT & HIGHWAYS,
GOVT. OF INDIA, TRANSPORT BHAVAN ,
NEW DELHI, PIN - 110001

BY ADVS.
SHRI.JOSE ANTONY, CGC
SRI. DHEERAJ A.S., GOVERNMENT PLEADER
SHRI.M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15.07.2025, ALONG WITH WP(C).18542/2025 AND CONNECTED
CASES, THE COURT ON 13.08.2025 DELIVERED THE FOLLOWING:



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N. NAGARESH, J.

.....
W.P.(C) Nos.18542, 18764 and 19590 of 2025
.....

Dated this the 13th day of August, 2025

J U D G M E N T

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The petitioners are before this Court aggrieved by the decision of the National Highways Authority of India to construct a Toll Plaza in violation of Rule 8(2) of the National Highways Fee (Determination of Rates and Collection) Rules, 2008.

2. The petitioners state that they are residents of Kasaragod Taluk. They have to travel frequently to different places within the District for their day-to-day affairs. The Project Director of NHAI has granted tender to the Uralungal Labour Contract Co-operative Society Limited to carry out the work of Thalappady–Cherkkala reach of NH-66. The petitioners state



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that 90% of the work is over and what is left is the work related to service road, foot overbridge and footpath.

3. The petitioners state that in NH-66 at Thalappady, 1.5 Km. away from the Kerala–Karnataka border, there is a Toll. The NHAI has directed the Uralungal Labour Contract Co-operative Society to construct a temporary Toll at Arikady in Kumbla. The proposed Toll booth at Arikady is located along the 39 Km. Thalappady–Cherkkala reach being developed by the 2nd respondent.

4. The petitioners state that construction of a second Toll Plaza flouts Rule 8(2) of the National Highways Fee (Determination of Rates and Collection) Rules, 2008. In Kasaragod, the designated Toll Plaza is at Chalingal near Periya on the Cherkala–Neeleshwar stretch, exactly 60 Km. from Thalappady. The proposed Toll Plaza at Kumbla falls short of 60 Km. condition set by the Rules, 2008. The establishment of such Toll Plaza is highly illegal and unsustainable.



5. The counsel for the petitioners relied on the judgment of the Hon'ble Apex Court in ***National Highways Authority of India and others v. Madhukar Kumar and others*** [(2022) 14 SCC 661] and urged that every State action must be fair, failing which, it will fall foul of mandate of Article 14 of the Constitution of India.

6. Relying on the judgment of the Hon'ble High Court of Jammu and Kashmir in ***Sugandha Sawhney v. Union of India*** [2025 Supreme (JK) 56], the counsel for the petitioners urged that as per the National Highways Fee (Determination of Rates and Collection) Rules, 2008, the spacing between two adjacent Toll Plazas should be 60 Km. Any other Fee Plaza on the same section of National Highway and in the same direction shall not be established within a distance of 60 Km.

7. The National Highways Authority of India resisted the writ petitions filing counter affidavit. The Standing Counsel for NHAI submitted that as per the Rules, if the executing authority deems necessary, it may, for reasons to be



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recorded in writing, establish or allow the Concessionaire to establish another Fee Plaza within a distance of 60 Km. The only condition is that prior consent should be obtained for the same.

8. The Standing Counsel asserted that in the instant case, necessary approval and sanction for setting up a temporary Toll Plaza at CH.37+200 have been duly obtained from the appropriate authority. The permanent Toll Plaza is planned at chainage 74+140 on the Chengala – Neeleshwaram Section of NH-66. Since that Section is still under construction and not operational, the respondent was compelled to establish a temporary toll facility to collect user fees for the completed and operational 39 Km. stretch from Thalappady to Chengala.

9. I have heard the learned counsel for the petitioners, the learned Central Government Counsel, learned Standing Counsel representing NHAI and the learned Government Pleader appearing for the State of Kerala.



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10. According to the petitioners, there is a Toll Plaza at Thalappady, near the Kerala–Karnataka boarder. Another construction of a new Toll Plaza is currently underway which is situated approximately 20 Km. away. The location of the new Toll Plaza is on the Thalappady–Chengala–Neeleshwaram stretch of NH-66, a major interstate corridor used daily by thousands of commuters, traders and transport vehicles. The petitioners would urge that the proposed Toll Plaza would offend Rule 8(2) of the National Highways Fee (Determination of Rates and Collection) Rules, 2008.

11. The Central Government, in exercise of the powers conferred under Section 9 of the National Highways Act, 1956, has framed the National Highways Fee (Determination of Rates and Collection) Rules, 2008. Rule 8 of the Rules, 2008 relates to location of Fee Plaza. Rule 8 reads as follows:

8. Location of toll plaza -

(1) The executing authority or the concessionaire, as the case may be, shall establish a fee plaza beyond a distance of ten kilometers from a municipal or local town area limits:



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Provided that the executing authority may, for reasons to be recorded in writing, locate or allow the concessionaire to locate a fee plaza within a distance of ten kilometers of such municipal or local town area limits, but in no case within five kilometers of such municipal or local town area limits:

Provided further that where a section of the national highway, permanent bridge, bypass or tunnel, as the case may be, is constructed within the municipal or town area limits or within five kilometers from such limits, primarily for use of the residents of such municipal or town area, the fee plaza may be established within the municipal or town area limits or within a distance of five kilometers from such limits.

(2) Any other fee plaza on the same section of national highway and in the same direction shall not be established within a distance of sixty kilometers:

Provided that where the executing authority deems necessary, it may for reasons to be recorded in writing, establish or allow the concessionaire to establish another fee plaza within a distance of sixty kilometers:

Provided further that a fee plaza may be established within a distance of sixty kilometers from another fee plaza if such fee plaza is for collection of fee for a permanent bridge, by-pass or tunnel.

12. Though Rule 8 mandates that a second Fee Plaza on the same Section of National Highway and in the same direction shall not be established within a distance of 60 Km., the first proviso to Rule 8(2) states that where the executing authority deems necessary, it may for reasons to be recorded in writing, establish or allow the concessionaire to



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establish another Fee Plaza within a distance of 60 Km.

13. The counter affidavit filed by the Project Director, NHAI specifically states that necessary approval and sanction for setting up a temporary Toll Plaza at CH.37+200 has been duly obtained from the appropriate authority by invoking the proviso to Rule 8(2). The NHAI has given clear reasons in this regard in Ext.R3(b) office notes evidencing sanction given by the appropriate authority.

14. In view of the permission granted by the executing authority for establishment of another Fee Plaza, I do not find any illegality in starting a second Toll Plaza at the site now proposed.

The writ petitions therefore fail and they are hence dismissed.

Sd/-
N. NAGARESH, JUDGE

aks/11.08.2025



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APPENDIX OF WP (C) 18542/2025

PETITIONER'S EXHIBITS

**Exhibit 1 TWO PHOTOGRAPHS OF THE WORK SITE OF THE
PROPOSED TOLL BOOTH AT ARIKADY**



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APPENDIX OF WP(C) 18764/2025

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE MEMBER OF PARLIAMENT, KASARAGORD, DATED 06.05.2025
Exhibit P2	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 16.05.2025
Exhibit P3	TRUE COPY OF THE NEWS ITEM PUBLISHED BY NEWS PAPER NAMELY MALAYALA MANORAMA DATED 04.05.2025

RESPONDENT'S EXHIBITS

Exhibit R3 (a)	THE TRUE COPY OF THE SANCTION GIVEN BY THE APPROPRIATE AUTHORITY FOR SETTING UP A TEMPORARY TOLL PLAZA AT CH. 37+200
Exhibit R3(b)	The true copy of the office notes evidencing sanction given by the appropriate authority for setting up a temporary toll plaza at CH. 37+200.



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APPENDIX OF WP(C) 19590/2025

PETITIONER'S EXHIBITS

Exhibit P1 A TRUE COPY OF THE RESOLUTION DATED
 03.05.2025

Exhibit P2 A TRUE COPY OF THE LOCAL MP'S
 REPRESENTATION BEFORE THE 4TH
 RESPONDENT DATED 06.05.2025

Exhibit P3 A TRUE COPY OF THIS REPRESENTATION
 SUBMITTED BY PETITIONER DATED
 12.05.2025

Exhibit P4 TRUE COPIES OF NEWS REPORTS PUBLISHED
 IN MALAYALA MANORAMA AND MATHRUBHUMI
 DATED 04.05.2025

RESPONDENT'S EXHIBITS

Exhibit R1A TRUE COPY OF THE DIGITALLY SIGNED
 OFFICE NOTE OF THE EXECUTING AUTHORITY
 (JASPREET, DY. MGR (PIU, KANNUR)),
 DEPUTY MANAGER (T), RO, KERALA,
 GENERATED ON 23.6.2025 (FILE NO. KRDIV-
 20015/9/2024-PIU KANNUR) COMPUTER
 NO.268585.

Exhibit R1B TRUE COPY OF THE GAZETTE NOTIFICATION
 DATED 17.6.2025 PUBLISHED IN THE
 GAZETTE OF INDIA NO.345 DATED 18.6.2025

Exhibit R1(a) TRUE COPY OF THE SANCTION GIVEN FOR
 SETTING UP A TEMPORARY TOLL PLAZA AT
 CH. 37+200 VIDE DIGITALLY SIGNED OFFICE
 NOTE OF THE EXECUTING AUTHORITY
 (JASPREET, DY. MGR (PIU, KANNUR)),
 DEPUTY MANAGER (T), RO, KERALA,
 GENERATED ON 23.6.2025 (FILE NO. KRDIV-
 20015/9/2024-PIU KANNUR) COMPUTER
 NO.268585



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