

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

Monday, the 2nd day of June 2025 / 12th Jyaishta, 1947

WP(C) NO. 21311 OF 2024(L)

PETITIONER:

NANCY XAVIER, AGED 35 YEARS, W/O. LATE ANEESH MATHEW, KAKKIRIYIL
HOUSE, 9/180, FORTKOCHI, VELI ERNAKULAM, PIN - 682001

RESPONDENTS:

1. KERALA SHIPPING AND INLAND NAVIGATION CORPORATION (KSINC), 38/924-A, GANDHINAGAR, ERNAKULAM DISTRICT REPRESENTED BY ITS CHAIRMAN, PIN - 682020
2. KOCHI MUNICIPAL CORPORATION, ERNAKULAM DISTRICT, KOCHI REPRESENTED BY ITS SECRETARY, PIN - 682011
3. THE SECRETARY, KOCHI MUNICIPAL CORPORATION ERNAKULAM DISTRICT, KOCHI, PIN - 682011
4. THE MAYOR, THE KOCHI MUNICIPAL CORPORATION ERNAKULAM DISTRICT, KOCHI, PIN - 682011
5. KOCHI WATER METRO LIMITED, 4TH FLOOR, JLN METRO STATION, KALOOR, ERNAKULAM REPRESENTED BY ITS CHAIRMAN, PIN - 682017

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.direct respondents 1 to 4 to restart the operation of the passenger boat service from fort kochi ro-ro jetty in fort kochi - vypeen route within 1 week, pending disposal of the writ petition.

2.direct 5th respondent to commence the operation of the fort kochi water metro service in fort kochi - vypin route within 1 week, pending disposal of the writ petition.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 19-11-2024 and upon hearing the arguments of M/S LEO LUKOSE, ENOCH DAVID SIMON JOEL, S.SREEDEV, RONY JOSE, KAROL MATHEWS SEBASTIAN ALENCHERRY, DERICK MATHAI SAJI, KARAN SCARIA ABRAHAM, DAVID VARGHESE THOMAS, Advocates for the petitioner, SRI.VIPIN P VARGHESE, Advocate for the 1st respondent (B/o.), SRI. K. JANARDHANA SHENOY, Advocate for the respondents 2 to 4 and of M/S. JOBY CYRIAC, KURIAN K JOSE, DEVIKA T.R., Advocates for the 5th respondent, the court passed the following:

C.S.DIAS,J.

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Dated this the 2nd day of June, 2025

ORDER

Admitted.

2. The learned Counsel for the petitioner seeks time to file reply affidavits to the counter affidavits filed by the respondents 1, 2 to 4 and the 5th respondent. The learned Standing Counsel seeks time to produce the licence permitting them to conduct the Roll on- Roll off (in short, 'Ro-Ro') ferry services between Fort Kochi and Vypin. The learned Counsel for the petitioner presses for an interim direction due to severe hardship and difficulties faced by the petitioner and similarly placed passengers, due to the non-availability of a waiting room at the Fort Kochi Ro-Ro Jetty.

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Interim relief

3. The writ petition is filed, inter alia, to direct the respondents 1 to 4 to construct a waiting room at the Fort Kochi Ro-Ro ferry jetty. The petitioner is a daily commuter in Ro-Ro ferry plying between Fort Kochi and Vypin of the 2nd respondent- Corporation, being operated through the 1st respondent. She contends that hundreds of passengers use the Ro-Ro ferry service daily. Even after a lapse of five years after the commencement of the services and the umpteen undertakings made by the 2nd respondent, no waiting room has been constructed at the jetty. The lethargy on the part of the 2nd respondent is causing untold miseries and hardship to the passengers, who are made to stand in the scorching sun or torrential rain. The respondents

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2 to 4 have failed to fulfill their undertaking and the statutory duties, which is an infringement of the petitioner's right to life. Hence, the respondents 1 to 4 may be directed to immediately erect atleast a temporary shed at the Fort Kochi Ro-Ro Jetty.

4. The 1st respondent – Corporation has filed a counter affidavit, producing Ext.R1B letter, admitting the contentions of the petitioner, that the commuters are facing severe difficulties due to the lack of a waiting room at the Jetty.

5. The respondents 2 to 4 have filed a counter affidavit, inter alia, stating that they have prepared an estimate for Rs.6,70,000/-, to construct a waiting shed at the Fort Kochi Ro-Ro Jetty, and the same is pending administrative approval. The construction can be

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started only after getting the approval from the statutory authority under the Art & Heritage Regulations framed under the CRZ Norms. Even to construct a temporary waiting shed, the above permission is required. Moreover, the 5th respondent has constructed a ticket counter, which has a seating facility, and is adjacent to the Ro-Ro Jetty, which the passengers can use.

6. Heard; the learned counsel for the petitioner and the respective Standing Counsel appearing for the respondents.

7. The 1st respondent is operating the Ro-Ro services on behalf of the 2nd respondent based on Ext.R1A agreement. Clause 11 of the said agreement obliges to the 2nd respondent to provide the

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infrastructure for the smooth operation of the service.

8. The Ro-Ro service is a public transport being operated by the 2nd respondent Corporation between two major lands for the public at large, that too after collecting charges. Hundreds of citizens use the service on a daily basis. It is not in dispute that in all the boat jetties operated by the statutory authorities, the general public are provided with the basic amenities and infrastructure, including waiting sheds/rooms.

9. The respondents 2 to 4 have in their counter affidavit admitted that they are to construct a waiting shed. The only excuse put forth by them is that they have not got the administrative approval.

10. Ext.R1A agreement was executed between the respondents 1 and 2 on 23.03.2020, which is more than

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five years now. The respondents 2 to 4 contend that they have to get approval as per the Art & Heritage Regulations under CRZ Norms, from the concerned statutory authorities. There is nothing on record to prove that the respondents 2 to 4 have even applied for such permission till date.

11. It is brought to my notice that, as per Clause 3(iv) (a) of the Coastal Regulation Zone notification dated 15.9.2010, construction of jetties is exempted from such notification.

12. It is the common knowledge that the 5th respondent/Kochi Water Metro Limited has constructed a jetty with proper infrastructure and facilities, including waiting room, just adjacent to the present Ro-Ro jetties at Fort Kochi and Vypin. It is to be assumed

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that the 5th respondent has obtained necessary sanction from the statutory authority, or if not, no such approval is necessary.

13. The 2nd respondent cannot shirk away its statutory responsibility by not constructing a waiting room for its commuters, who are suffering due to the vagaries of nature. The 2nd respondent cannot pass the buck to the 5th respondent, and direct the commuters to use the waiting room of the 5th respondent, who has no privity of contract with the 2nd respondent or the passengers of the Ro-Ro ferry services.

14. The petitioner shall implead the Coastal Regulation Zone authority as an additional respondent. The 2nd respondent shall produce the permission received from the statutory authority as per the Inland

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Vessels Act, 1917 or such other enactments to operate the Ro-Ro services.

In view of the torrential rain that have hit the State due to the south-west monsoon and the severe hardship being faced by the petitioner and similarly situated commuters, I am satisfied that the petitioner has fulfilled the trinity parameters for an interim direction. Accordingly, I pass the following interim direction:-

(i) The 3rd respondent is directed to file a statement, furnishing the details of the statutory licenses that has been issued to them to operate the Ro-Ro service. He shall also state the number of passengers and vehicles who have used the Ro-Ro services between the Fort Kochi and Vypin and vice-

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versa during the last one year.

(ii) The 1st respondent shall file a statement regarding the statutory licenses that are required for the purpose of operating the Ro-Ro service.

(iii) The petitioner to implead the Coastal Regulation Zone authority as an additional respondent, and may file reply affidavit, if any, before the next posting date.

(iv) The 3rd respondent is directed to erect a temporary waiting shed at the Fort Kochi Ro-Ro Jetty, to accommodate at least 50 commuters at a given time, at their expenses, within one week from today.

(v) The 5th respondent shall explore the possibility of providing a temporary waiting shed at Fort Kochi and Vypin/Water Metro Jetties, to enable the general public

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to have a shelter atleast during the monsoon season.

Post on 10.6.2025.

Handover.

SD/-

C.S.DIAS, JUDGE

rmm/2/6/2025



APPENDIX OF WP(C) 21311/2024

Exhibit R1A	The true copy of agreement entered between 1st and 2nd Respondent
Exhibit R1B	The true copy of letter no. C-755/2019-20 dated on 25.06.2024.

