

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP(C) NO. 23703 OF 2022

PETITIONERS:

SALI M.N.
AGED 57 YEARS
S/O. NARAYANAN,
RESIDING AT MOLATHPARAMBIL HOUSE,
THUTHIYOOR KAKKANADU P.O.,
KAKKANADU - 682 037

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR
NAAIL FATHIMA ABDULLA A.

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM 695001.
- 2 THE DISTRICT COLLECTOR
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682030.
- 3 EXECUTIVE ENGINEER.
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI - 682030.

W.P.(C) No.23703/2022 & Connected Cases

: 2 :

- 4 THE EXECUTIVE ENGINEER & DISTRICT OFFICER,
DISTRICT OFFICE,
REGIONAL DATA PROCESSING CENTER,
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030

- 5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY
THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SRI.S.JAMAL, STANDING COUNSEL FOR R5

SRI.P.M.JOHNY, STANDING COUNSEL FOR R3 AND R4

SMT.SAROJINI.K.G., GOVERNMENT PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.12.2022, ALONG WITH WP(C).23709/2022,
23715/2022 AND CONNECTED CASES, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P.(C) No.23703/2022 & Connected Cases
: 3 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23709 OF 2022

PETITIONER:

NISAR P.A
AGED 47 YEARS
S/O. P.K ABDUL AZEEZ,
RESIDING AT PALACHUVATTIL HOUSE,
KAKKANADU WEST P.O., KAKKANADU - 682 030.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR

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SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
- 2 THE DISTRICT COLLECTOR
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682030.
- 3 EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI - 682030.

W.P.(C) No.23703/2022 & Connected Cases

: 4 :

4 THE EXECUTIVE ENGINEER & DISTRICT OFFICER,
DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030.

5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SRI.S.JAMAL, STANDING COUNSEL FOR R5

SRI.P.M.JOHN, STANDING COUNSEL FOR R3 AND R4.

SMT.SAROJINI.K.G., GOVERNMENT PLEADER.

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THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23715 OF 2022

PETITIONER:

SINESH MOHAN P.M. ,
AGED 43 YEARS
S/O. P.N. MOHANACHANDRAN,
RESIDING AT PEEDIKAPARAMBIL HOUSE,
KAKKANADU P.O., KAKKANADU - 682 030.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
NAAIL FATHIMA ABDULLA A.

RESPONDENTS:

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THIRUVANANTHAPURAM 695001.
- 2 THE DISTRICT COLLECTOR ,
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682030.
- 3 EXECUTIVE ENGINEER. ,
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI- 682030.

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DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030.

5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SRI.S.JAMAL, STANDING COUNSEL FOR R5

SRI.P.M.JOHN, STANDING COUNSEL FOR R3 AND R4

SMT.SAROJINI.K.G., GOVERNMENT PLEADER

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23718 OF 2022

PETITIONER:

P. N. MOHANACHANDRAN
AGED 76 YEARS
S/O. NARAYANAN KARTHA,
RESIDING AT PEEDIKAPARAMBIL,
KAKKANADU P.O., KAKKANADU - 682 030.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
NAAIL FATHIMA ABDULLA A.
ANJALI NAIR

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ERNAKULAM - 682030.
- 3 EXECUTIVE ENGINEER.
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI - 682030.

W.P.(C) No.23703/2022 & Connected Cases

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- 4 THE EXECUTIVE ENGINEER & DISTRICT OFFICER,
DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030.
- 5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SRI.G.G.MANOJ.

SRI.P.M.JOHNY, STANDING COUNSEL FOR R3 AND R4.

SRI.S.SARATH PRASAD.

SMT.DEEPA NARAYANAN, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
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W.P.(C) No.23703/2022 & Connected Cases
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23721 OF 2022

PETITIONER:

SATHAR E.V
AGED 45 YEARS
S/O. VAHID,
RESIDING AT ELAVAKKDU HOUSE,
VAZHAKKALA, THRIKKAKARA P.O.,
KAKKANADU - 682 021.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR
NAAIL FATHIMA ABDULLA A.

RESPONDENTS:

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REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 THE DISTRICT COLLECTOR
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682 030.
- 3 EXECUTIVE ENGINEER.
KERALA WATER AUTHORITY,
THRIKKAKARA, KOCHI - 682 030.

W.P.(C) No.23703/2022 & Connected Cases
: 10 :

- 4 THE EXECUTIVE ENGINEER & DISTRICT OFFICER,
DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030.
- 5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA P.O, ERNAKULAM - 682 030.

BY ADVS.
SRI.S.JAMAL, STANDING COUNSEL FOR R5
SRI.P.M.JOHNY, STANDING COUNSEL FOR R3 AND R4
SMT.SAROJINI.K.G., GOVERNMENT PLEADER

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W.P.(C) No.23703/2022 & Connected Cases
: 11 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23733 OF 2022

PETITIONER:

SHIHAB V. S,
AGED 40 YEARS
S/O. SAITHUMHAMMED,
RESIDING AT VAZHAKKALAYIL HOUSE,
VAZHAKKALA, THRIKKAKARA P.O,
KAKKANAD- 682 021.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR

RESPONDENTS:

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THIRUVANANTHAPURAM - 695 001.
- 2 THE DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682 030.
- 3 EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI - 682 030.

W.P.(C) No.23703/2022 & Connected Cases
: 12 :

4 THE EXECUTIVE ENGINEER AND DISTRICT OFFICER,
DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030.

5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SRI.S.JAMAL, STANDING COUNSEL FOR R5

SRI.P.M.JOHN, STANDING COUNSEL FOR R3 AND R4

SMT.SAROJINI.K.G., GOVERNMENT PLEADER

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PRESENT

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WEDNESDAY, THE 14TH DAY OF DECEMBER 2022/23RD AGRAHAYANA, 1944

WP (C) NO. 23738 OF 2022

PETITIONER:

MADHU S.R
AGED 53 YEARS
S/O. RAVEENDRANATHAN KARTHA,
RESIDING AT PULIKKILATH LAKSHMI NIVAS,
KAKKANADU P.O., KAKKANADU - 682 030.

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
IRINE MATHEW
ADITHYA KIRAN V.E
ANJALI NAIR
NAAIL FATHIMA ABDULLA A.

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM 695001.
- 2 THE DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682030.
- 3 EXECUTIVE ENGINEER
KERALA WATER AUTHORITY,
THRIKKAKARA,
KOCHI - 682030.

W.P.(C) No.23703/2022 & Connected Cases
: 14 :

- 4 THE EXECUTIVE ENGINEER & DISTRICT OFFICER,
DISTRICT OFFICE, REGIONAL DATA PROCESSING CENTER
GROUND WATER DEPARTMENT,
KAKKANADU - 682 030
- 5 THRIKKAKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THRIKKAKARA P.O,
ERNAKULAM - 682 030.

BY ADVS.

SMT.REKHA AGARWAL FOR R5

SRI.NAVEEN THOMAS FOR R5

SRI.P.M.JOHNY, STANDING COUNSEL FOR R3 AND R4

SMT.DEEPA NARAYANAN, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.12.2022, ALONG WITH WP(C).23703/2022 AND
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

CR

N. NAGARESH, J.

.....
W.P.(C) Nos.23703, 23709, 23715, 23718,
23721, 23733 and 23738 of 2022
.....

Dated this the 14th day of December, 2022

J U D G M E N T

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The petitioners in these writ petitions are Entrepreneurs who are engaged in the business of distributing drinking water in and around Thrikkakara and Ernakulam. They are aggrieved by the orders/notices issued by the Thrikkakara Municipality restraining them from carrying out the activity of distribution of drinking water.

2. The petitioners have obtained registration under the Food Safety and Standards Act, 2006 for doing retail business in Water Supply. The registration is to commence and carry on food business. While the petitioners were doing

business, on the basis of certain complaints, they were served with notices of the Secretary to the Municipality and were heard in the matter. The petitioners were required to obtain necessary permissions from related Government Departments.

3. The petitioners were thereafter served with notices directing them to produce consent letters / certificates as prescribed by the Government for running centres for distributing drinking water. Though the petitioners submitted applications to the Ground Water Department seeking consent, no such consent was granted. The petitioners learnt that there is no clarity on the issue of grant of such consents under the Kerala Ground Water (Control and Regulation) Act, 2002 and the Departmental officials have requested the Government for instructions and guidelines.

4. The petitioners pointed out that the District Collector, Ernakulam had issued a Circular dated 10.02.2017 requiring that police authorities or Panchayat officials shall not interfere with distribution of drinking water without the

permission of District Administration. In spite of that, the Municipal authorities are preventing the petitioners from engaging in legitimate activities, contend the petitioners.

5. The 5th respondent-Municipality filed a Statement opposing the writ petitions. The 5th respondent submitted that the necessity of consent/sanction to be obtained for extraction of ground water has already been considered and settled by a Division Bench of this Court in W.P.(C) No.31390 of 2018. This Court found that the Kerala Ground Water (Control and Regulation) Act, 2002 is a self contained code. The Division Bench of this Court has found that the State as well as District Administration and Local Bodies are duty bound to ensure that the commercial establishments are not exploiting ground water to unprecedented level and establish such units for withdrawing ground water without adequate NOC from the statutory authorities.

6. The Division Bench has directed the State Government and District Administration and Local Bodies to ensure that commercial establishments are operated only in

terms of the Act, 2002, the Rules, 2004 and other notifications and guidelines issued by the Central Government, State Government and Authority under the Disaster Management Act, 2005. Pursuant to the judgment, the District Collector has issued an Order dated 08.04.2022 under which the 5th respondent and other local bodies have been directed to stop the functioning of the business concerns extracting ground water and doing business commercially without the permission of the Ground Water Authority forthwith. None of the petitioners have obtained permission from the Ground Water Authority and therefore the action of the 5th respondent is perfectly legal and justified.

7. I have heard the learned counsel for the petitioners, the learned Government Pleader representing the State of Kerala and the respective learned Standing Counsel representing the Kerala Water Authority and the Thrikkakara Municipality.

8. The Kerala Ground Water (Control and Regulation) Act, 2002 (hereinafter referred to as "the Act,

2002”) has been enacted to provide for the conservation of ground water and for the regulation and control of its extraction and use in the State of Kerala. The law makers noted that in certain areas of the State, the tendency of indiscriminate extraction of ground water is continuing and it is felt that the erratic extraction of ground water is found to result in undesired environmental problems in such areas. The ground water being a critical resource of the State, it is considered necessary in the public interest to regulate and control any form of development of ground water in the State of Kerala.

9. Section 3 of the Act, 2002 provides that the Government shall constitute an authority called the State Ground Water Authority. Section 6 contemplates notifying areas for the control and regulation of ground water development. Section 6(1) states that the Government may, if satisfied in the recommendation of the authority that it is necessary in the public interest to regulate the extraction or use of ground water in any area, declare by notification in the

gazette, such areas as notified area for the purpose of the Act.

10. Section 7 contemplates grant of permit to extract and use ground water. It has been provided that any person desiring to dig a well or to convert the existing well into a pumping well, for his own or social purpose in the notified area, shall submit an application before the authority for grant of a permit for the purpose and shall not proceed with any activity connected with such digging or conversion unless a permit has been granted by the authority. Section 8 of the Act, 2002 provides that every owner of the existing wells of the notified area in the State shall, within a period of 120 days from the date of constitution of the authority, register the wells existing and in use and shall apply to the authority in such form and in such manner as may be prescribed for a certificate of registration.

11. While the requirement of permit and registration contained in Sections 7 and 8 would be applicable only to notified areas, Section 9 mandates that every user of ground

water in the State shall, within such time as may be notified by the Government in this behalf apply to the authority for registration as a user of ground water and for the grant of a certificate of registration. Section 10 provides that no person shall without the permission of the authority dig well for any purpose within 30 metres from any drinking water source where water is pumped for public purpose.

12. Section 15 of the Act, 2002 confers powers of Ground Water Authority, which are as follows:

15. Powers of Ground Water Authority -

(1) The Authority shall have power -

(a) to enter any property and to measure the quantity of water located on the surface of earth or under the earth;

(b) to inspect any well which is dug or being dug and the soil and other materials excavated therefrom;

(c) to take samples of such soil or other materials or water extracted on such wells;

(d) to enquire, by order in writing the persons digging a well to keep and preserve in such manner as may be prescribed, the samples of soil or materials extracted from there as directed by the Authority for a period not exceeding three months from the date of completion or abandonment of the work;

(e) to examine and take copies of the relevant records or documents and for obtaining

and information required for the implementation of the objects of this Act, to ask any question on matters including the diameter or depth of the well which is dug or being dug, the level at which the water was found out or may be found out and subsequently restored or rested, the types of strata encountered in the digging of well and the quality of water found out;

(f) to enquire the user of ground water to install water measuring instrument in any water supply machinery. When it is necessary for the proper use of water or there is reason to believe that the user is not complying the provisions contained in this Act or to protect public interest;

(g) to seize the equipments and instruments used for unauthorized digging and to destroy partially or completely the work done;

(h) to require any user of water who does not comply with the provisions of this Act and the rules made there under, to stop any water apply or to destroy any hydraulic work which is found un authorized as per the provisions of this Act and the rules made there under;

(i) to enter and research any place with such assistance as is deemed necessary, if there is reason to believe that an offence under this Act has been committed or is being committed and to order in writing the person, who has committed or is committing the offence not to use the ground water for a specified period not exceeding thirty days;

(j) to take necessary steps to prevent the installation of drainage pipes etc. affecting the water source and to prevent depositing of water materials in the surface water sources if it is likely to affect the ground water sources;

(k) to exercise such other powers that may be necessary for the implementation of the objects of this Act or the rules made thereunder.

(2) The Authority shall perform such functions as may be assigned by the Government from time to time in accordance with the objective of this Act.

(3) In case where any user of ground water makes any default in doing any act as required by the authority in exercise of the power under sub-section (1), the authority shall have power to perform such act directly and or realize the expense incurred in that behalf from that person in such manner as may be prescribed.

(4) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, as far as possible, apply to any search held or seizure made under this Act.

(5) Where the authority seizes any machinery or instruments under clause (g) of sub-section (1), it shall as soon as may be within ten day report to magistrate and take his order for the custody of the same.

Therefore, it is evident that every user of ground water in the State, irrespective of whether the area is notified or not, has to get a registration as a user of ground water and for the grant of a certificate of registration.

13. A Division Bench of this Court considered the statutory requirements in the matter of extraction of ground water, in the judgment in W.P.(C) No.31390 of 2018. The Division Bench held in paragraphs 19 and 20 of the judgment as follows:

19. After having analysed the factual as well as legal situations discussed above, we have no doubt in our mind to hold that the State as well as District Authorities & the local bodies are duty bound to

ensure that commercial establishments are not exploiting groundwater to an unprecedented level and establish such units for withdrawing groundwater without adequate NOC from the statutory authorities. We also find that under the Kerala Panchayat Raj Act, 1994, Kerala Municipality Act, 1994 and the Building Rules issued thereunder, in order to construct any well, a permit is required from the Secretary of the local body. These are all clear indications to show that the Authorities are vested with ample powers to translate the intention of the Act, 2002 and other legislation discussed above, to avoid dearth of groundwater due to the over exploitation of groundwater by commercial and business establishments. These provisions and others specifically covered under the laws discussed above make it clear there shall be a proper and adequate mechanism in place so as to effectively control , regulate and manage the entire affairs in respect of withdrawing groundwater. Therefore we are of the definite opinion that the contention advanced by the petitioners that there is no law for the licensing of groundwater establishments is not correct. But on the other hand the state and the authorities are not taking adequate measures to curb the misuse of the groundwater, and exploitation done commercially, thus depleting the groundwater level day by day.

20. Taking into account all the above aspects, there will be a direction to the State Government as well as the District Administration & local bodies, to ensure that commercial establishments are operated only in terms of the Act, 2002, the Rules, 2004 and other notifications & guidelines issued by the Central Government, State Government and the Authority under the Disaster Management Act, 2005. We also direct the authority under the Act 2002 and Rules 2004 to conduct periodic inspections in order to identify as to whether the provisions of the said act and rules are to be extended to such areas and require registration of the wells.

14. The petitioners would, however, contend that they have approached the Executive Engineer and the District Officer of the Ground Water Department seeking NOC/Permit. But, the District Officer of the Ground Water Department is not issuing any NOC or Permit due to lack of clarity in the Act with regard to NOC/Permit for a drinking water distribution centre.

15. The District Officer, Ground Water Department, Ernakulam in a communication No.GWE/1244/2022 dated 12.10.2022 has stated that as per the Act, 2002, NOC is mandatory for extraction and distribution of ground water for commercial use and industrial infrastructure projects. The Act does not mentioned the case of extraction of ground water for bulk water supply for commercial purposes using tanker lorries. So, the Ground Water Department has submitted a proposal to the Government for the control and regulation of supply of ground water through lorries. There are no further instructions given from the Government to the Department for grant of any licence for extraction of ground

water for bulk water supply for commercial purpose using tanker lorries.

16. Section 2(1)(h) of the Act, 2002 defines “user of ground water” as any person using ground water from a pumping well for any purpose including domestic purpose. The petitioners are admittedly using ground water from pumping wells for the purpose of sale. Therefore, the petitioners would indeed fall within the ambit of Section 2(1) (h). Section 9 mandates that every user of ground water in the State shall within such time as may be notified by the Government in this behalf, apply to the authority for registration as a user of ground water and for the grant of a certificate of registration. Rule 17 of the Kerala Ground Water (Control and Regulation) Rules, 2004 mandates that all users of ground water in the State shall, within 120 days of the constitution of the Authority, give an application in Form No.10 to the Authority for registration as a user of the ground water.

17. Under Section 15(1), the Ground Water Authority has power to require the user of ground water to install water measuring instrument in any water supply machinery, when it is necessary for the proper use of water or there is reason to believe that the user is not complying the provisions contained in this Act or to protect public interest. Section 15(1)(k) empowers the Ground Water Authority to exercise such other powers that may be necessary for the implementation of the objects of the Act, 2002 or the Rules made thereunder. It is evident that the Ground Water Authority has plenary powers in the subject matter without any further notification or empowerment.

18. The Entrepreneurs like the petitioners, it is to be kept in mind, are supplying drinking water to the areas/buildings where there are no sufficient availability of drinking water. An absolute prohibition of their activity would result in non-supply of potable water to the needy residents and citizen. Therefore, any regulation of the activity of water supply through tanker lorries will have to take note of the

requirements of the citizens also, who may require potable water due to non-availability of potable water or due to non-supply or short supply by the Kerala Water Authority. A pragmatic view has to be taken while regulations are made, keeping in mind the purpose for which the Act, 2002 has been enacted.

19. In view of the discussions made above, the following conclusions are arrived at:

(1) A permit to extract and use ground water under Section 7 or a registration of existing wells as contemplated under Section 8 of the Act, 2002 would be required only in areas notified under Section 6 of the Act.

(2) Persons like the petitioners who are extracting ground water and supplying to consumers through tanker lorries are users of ground water as defined under Section 2(1)(h) of the Act and they are bound to obtain registration for user of ground water under Section 9 of the Act, 2002 read with Rule 17 of the Rules, 2004 irrespective of whether the areas where they operate are notified areas or not.

(3) The State Ground Water Authority is empowered to require the user of the ground water to install water measuring instrument in any water supply machinery if it is necessary for the proper use of water or to protect public interest.

(4) The Ground Water Authority may exercise its powers in such manner as may be necessary for the implementation of the objects of the Kerala Ground Water (Control and Regulation) Act, 2002.

20. In the light of the conclusions and findings as made hereinabove, the writ petitions are disposed of with the following orders and directions:

(i) The writ petitioners are directed to submit applications in Form No.10 for registration for user of ground water under Section 9 of the Act, 2002 to the Ground Water Authority, within a period of one month.

(ii) On receipt of applications for registration as directed above, the Ground Water Authority, after making requisite

enquiries/inspections and after satisfying itself that grant of registration will not go against public interest, may issue Certificate of Registration to the applicants subject to such conditions and restrictions as may be prescribed, including quantum of ground water that can be extracted for sale/supply.

(iii) The State Ground Water Authority will be competent to reject any application in public interest, after giving such applicants an opportunity of being heard, as required under the proviso to Section 9.

(iv) If the petitioners submit applications for registration within one month as directed above, the respondents shall not take any coercive action against the petitioners, till the Ground Water Authority takes a decision on their applications for registration.

(v) The orders impugned in these writ petitions are set aside.

Sd/-

N. NAGARESH, JUDGE

APPENDIX OF WP(C) 23703/2022

PETITIONER'S EXHIBITS

EXHIBIT P1 TRUE COPY OF THE LICENSE NO.
21320188001621 ISSUED UNDER THE FOOD
SAFETY AND STANDARDS ACT,
2006 DATED 23.01.2022.

EXHIBIT P2 TRUE COPY OF THE ORDER NO.H1-1973/22
DATED 18.05.2022 OF THE 5TH RESPONDENT.

EXHIBIT P3 TRUE COPY OF THE NOTICE NO H1/1943/22
DATED 28.06.2022 OF THE 5TH RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE REPRESENTATION DATED
09.07.2022 PREFERRED BY THE PETITIONER.

EXHIBIT P5 TRUE COPY OF THE REPRESENTATION
PREFERRED BY THE PETITIONER DATED NIL.

EXHIBIT P6 TRUE COPY OF THE NOTIFICATION NO: D-2-
77646/2016 DATED 10.02.2017.

RESPONDENTS' EXHIBIT

EXHIBIT R5 (A) THE TRUE COPY OF THE JUDGEMENT IN WPC
NO. 31390/2018 DATED 10.11.2021.

EXHIBIT R5 (B) TRUE COPY OF THE ORDER NO.D2-
116346/2017 DATED 08.04.2022 ISSUED BY
THE 2ND RESPONDENT.

APPENDIX OF WP(C) 23709/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE LICENSE NO. 11317007001350 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006 DATED 24.10.2018.
EXHIBIT P2	TRUE COPY OF THE ORDER NO.H1-1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE NO. H1/1943/22 DATED 28.06.2022 OF THE 5TH RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE REPRESENTATION DATED 09.07.2022 PREFERRED BY THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DATED NIL.
EXHIBIT P6	TRUE COPY OF THE NOTIFICATION NO: D-2-77646/2016 DATED 10.02.2017.

APPENDIX OF WP(C) 23715/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE LICENSE NO.11319007001255 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006 DATED 15.09.2020.
EXHIBIT P2	TRUE COPY OF THE ORDER NO.H1 1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE NO.H1/1943/22 DATED 30.03.2022 OF THE 5TH RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE REPRESENTATION DATED 09.07.2022 REFERRED BY THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION REFERRED BY THE PETITIONER.
EXHIBIT P6	TRUE COPY OF THE NOTIFICATION NO.D-2-77646/2016 DATED 10.02.2017.

APPENDIX OF WP(C) 23718/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE LICENSE NO. 21316188000252 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006 DATED 11.11.2021.
EXHIBIT P2	TRUE COPY OF THE ORDER NO.H1-1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE NO. H1-1943/22 DATED 28.06.2022 OF THE 5TH RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE REPRESENTATION DATED 09.07.2022 PREFERRED BY THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DATED 18.05.2022.
EXHIBIT P6	TRUE COPY OF THE NOTIFICATION NO: D-2-77646/2016 DATED 10.02.2017.

APPENDIX OF WP(C) 23721/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE LICENSE NO. 21320188001364 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006 DATED 29.11.2020.
EXHIBIT P2	TRUE COPY OF THE ORDER NO.H1-1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE NO.H1-1943/22 DATED 28.06.2022 OF THE 5TH RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE REPRESENTATION DATED 09.07.2022 PREFERRED BY THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DATED NIL.
EXHIBIT P6	TRUE COPY OF THE NOTIFICATION NO: D-2-77646/2016 DATED 10.02.2017.

APPENDIX OF WP(C) 23733/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE LICENSE NO. 21320188001621 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006, DATED 25.12.2010.
EXHIBIT P2	TRUE COPY OF THE ORDER NO. H1-1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE NOTICE NO. H1-1943/22 DATED 28.06.2022 OF THE 5TH RESPONDENT.
EXHIBIT P4	TRUE COPY OF THE REPRESENTATION DATED 09.07.2022 PREFERRED BY THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DTD. NIL.
EXHIBIT P6	TRUE COPY OF THE NOTIFICATION NO.D2-77646/2016 DATED 10.02.2017.

APPENDIX OF WP(C) 23738/2022

PETITIONER'S EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE APPLICATION FOR THE RENEWAL OF THE LICENSE APPLICATION NO.30200115170850893 DATED 15.01.2020 ISSUED UNDER THE FOOD SAFETY AND STANDARDS ACT, 2006.
- EXHIBIT P2 TRUE COPY OF THE RECEIPT DATED 15.01.2020 ISSUED BY THE COMMISSIONERATE OF FOOD SAFETY.
- EXHIBIT P3 TRUE COPY OF THE ORDER NO.H1-1973/22 DATED 18.05.2022 OF THE 5TH RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION DATED 09.07.20202 PREFERRED BY THE PETITIONER.
- EXHIBIT P5 TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER DATED NIL.
- EXHIBIT P6 TRUE COPY OF THE NOTIFICATION NO: D-2-77646/2016 DATED 10.02.2017.