

**IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Tuesday, the 14<sup>th</sup> day of June 2022 / 24th Jyaishta, 1944  
WP(C) NO. 34310 OF 2019(K)

**PETITIONER:**

PAULY VADAKKAN, AGED 49 YEARS S/O. JOSEPH VADAKKAN, VADAKKAN HOUSE,  
ANNAMANADA P.O., THRISSUR DISTRICT, KERALA.

**RESPONDENTS:**

1. CORPORATION OF COCHIN, REPRESENTED BY ITS SECRETARY, BOAT JETTY,  
ERNAKULAM-682504.
2. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, PUBLIC  
WORKS DEPARTMENT (ROADS), GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
3. THE DISTRICT COLLECTOR, COLLECTORATE, ERNAKULAM-682030.
4. THE KERALA WATER AUTHORITY, REPRESENTED BY ITS MANAGING DIRECTOR,  
JALABHAVAN, VELLAYAMBALAM, THIRUVANANTHAPURAM-695033.
5. KOCHI METRO RAIL LIMITED, REPRESENTED BY ITS DIRECTOR, 8TH FLOOR,  
REVENUE TOWER, PARK AVENUE, ERNAKULAM -682011.
6. GOVERNMENT OF KERALA, REPRESENTED BY CHIEF SECRETARY,  
THIRUVANANTHAPURAM-695001.

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 issue an interim direction to the concerned authorities to repair the place where the accident occurred on 12-12-2019 without any further delay.

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 06-09-2021 and upon hearing the arguments of M/S. JOMY K. JOSE & SREENATH VIJAYARAGHAVAN, Advocates for the petitioner, SRI. K.P.JUSTINE, Advocate for respondent 1, GOVERNMENT PLEADER for respondents 2 3 & 6, SRI.P.BENJAMIN PAUL, STANDING COUNSEL for respondent 4 and of SRI.K.JAJU BABU (SENIOR ADVOCATE) along with SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL for respondent 5, the court passed the following:

P.T.O.

**DEVAN RAMACHANDRAN, J.**

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**W.P.(C)Nos.32680/2008 & 34310/2019**  
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Dated this the 14<sup>th</sup> day of June, 2022

**O R D E R**

Smt.S.Krishna – learned Amicus Curiae, submitted that the list of roads within the Corporation of Kochi and those owned by the Public Works Department (PWD), has been handed over to the learned counsel for both the said Authorities.

2. Sri.K.V.Manoj Kumar – learned Senior Government Pleader for the PWD and Sri.Janardhana Shenoy – learned Standing Counsel for the Corporation of Kochi, are, therefore, directed to file a consolidated statement showing the roads which are under repair, or which require to be repaired, by the next posting date. The said report should also show the status of work that has been initiated/to be initiated. It will further contain the status of all roads mentioned by this Court

in the earlier orders, particularly orders dated 14.01.2022, 27.05.2022 and 03.06.2022.

3. Sri.Jomy George – learned counsel for the petitioners in WP(C)No.34310/2019, brought to my notice that an accident happened a few days ago at Tripunithura, in which, a young man was killed solely because necessary warning signs and barriers had not been placed at a site where the work was going on. He added that the pillion rider was seriously injured.

4. I see that this aspect has been referred to by the learned Amici Curiae in their report.

5. Sri.K.V.Manoj Kumar – learned Senior Government Pleader, submitted that immediate steps have been taken to fix responsibility and that the Engineers concerned are placed under suspension, with cases charged against them, as also the Contractor.

6. I am afraid that this normal pattern that we see - of fixing responsibility after the incident - cannot be condoned any further. What is required to be done is to avoid accidents for

which, all necessary precautionary steps will have to be ensured on the ground level, when a work is going on. This is absolutely necessary in these times because vehicles are fast moving and people are in a hurry.

7. Whatever be the intricate details of the accident referred above, a suspicion is raised as to whether it could have been averted, had there been a proper barricading and such other. I must, however, make it clear that I am not speaking more on this incident because it is covered by an ongoing investigation.

8. However, this Court certainly is concerned that when a work is going on – be that on roads, bridges and such other – there are no sufficient lights and other warning signals, leading to people being put to danger, either carelessly or in spite of necessary care.

9. The fact that Engineers/Contractors are taken to task after the incident would be of no solace to the family of the victim or to the injured; and it is rather disconcerting that even

when technology is advanced, incidents like this still happen.

10. I, therefore, asked the learned Senior Government Pleader whether there are any protocols with respect to the security and safety measures to be enforced in the ongoing work sites. He submitted that he will consult the officials and revert to this Court.

11. This is a matter that certainly must engage the attention of the Government and the PWD specifically because, though not reported, it is common knowledge that every ongoing work attracts several accidents because of lack of proper warning signs, lights and such other. Most of our roads are not lit much and it is difficult to discern a work, especially when one travels at speeds over 40 k.m. or so. This is the bane of our system, which will require to be reflected upon by the competent Authorities without any delay.

12. We often talk about countries other than ours, when speaking about progress; but when it comes to our neighbourhood, we are oblivious to the various requirements

that are mandatory. I do not think that we can make any further delay and specific protocols will have to be thought of and implemented without reservation. These protocols certainly must cover all the works in Kerala and not merely those which are undertaken by the PWD.

13. As regards fixing of responsibility is concerned, the Engineers and Officers in charge of the work will have to be made primarily accountable; and unless penalties, which operate as deterrent, are imposed, accidents will remain a continuing saga. It is only if the Officers/Engineers have fear and respect for law, will they exercise necessary caution. The standard of care required by them certainly is as if the work is being done by themselves. This is most of the time forgotten and the lives of ordinary citizens are imperiled.

14. My afore observations shall be answered by the competent Authorities by the next posting date, through a proper counter pleading.

15. I, however, make it clear that if any such incident is

brought to the notice of this Court in future, the concerned Engineer and Supervisory Officer will be held primarily responsible to its fullest warrant. As I have said above, the particular incident mentioned above is not solely reflected in this order, though, if it becomes necessary in future, it will also be taken note of.

Post on 23.6.2022.

H/o



Sd/-

**DEVAN RAMACHANDRAN,**  
**JUDGE**

RR/14.06.2022