



2024:KER:28383

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 12<sup>TH</sup> DAY OF MARCH 2024 / 22ND PHALGUNA, 1945

WP(C) NO. 41159 OF 2022

**PETITIONER:**

SYAMA M  
AGED 51 YEARS  
D/O. N.G.SUKUMARAN NAIR, MANI SADANAM, MANGARAM, KONNI  
P.O., PATHANAMTHITTA DISTRICT., PIN - 689691  
BY ADV JESTIN MATHEW

**RESPONDENTS:**

- 1 STATE OF KERALA  
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 KERALA STATE DISASTER MANAGEMENT AUTHORITY, (KSDMA)  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER( EX-OFFICIO),  
CHIEF SECRETARY, KERALA. VIKAS BHAVAN.P.O, PIN - 695033
- 3 THE SECRETARY TO GOVERNMENT,  
FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 4 THE SECRETARY TO GOVERNMENT  
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 5 DISTRICT DISASTER MANAGEMENT AUTHORITY (DDMA)  
PATHANAMTHITTA DISTRICT, REPRESENTED BY ITS CHAIRPERSON,  
DISTRICT COLLECTOR, PATHANAMTHITTA COLLECTORATE.,  
PATHANAMTHITTA DT., PIN - 689645
- 6 PROJECT DIRECTOR,  
KERALA STATE TRANSPORT PROJECT (KSTP), TC 11/339.  
SREEBALA BUILDING, KESTON ROAD, NANTHANCODE, KOWADIYAR.  
P.O, THIRUVANANTHAPURAM, PIN - 695003
- 7 CHIEF ENGINEER,  
KERALA PUBLIC WORKS DEPARTMENT, KERALA STATE TRANSPORT  
PROJECT (KSTP) JAGAD BUILDING, KESTON ROAD, NANTHANCODE,  
KOWADIYAR. P.O, THIRUVANANTHAPURAM, PIN - 695003
- 8 EXECUTIVE ENGINEER,  
KERALA STATE TRANSPORT PROJECT (KSTP), PONKUNNAM,



2024:KER:28383

WP(C) NO. 41159 OF 2022

2

KANJIRAPPALLY, KOTTAYAM DISTRICT., PIN - 686506  
ADDL.R9 KONNI GRAMA PANCHAYAT  
REPRESENTED BY ITS SECRETARY, KONNI, KONNI.P.O.,  
PATHANAMTHITTA DISTRICT, PIN - 689691.  
ADDL.R9 IS IMPEADED AS PER ORDER DATED 20/01/2023 IN  
I.A-1/23 IN WP(C) 41159/22  
BY ADVS.  
SRI.K.V.MANOJKUMAR, SR.GOVERNMENT PLEADER - R1 TO R8  
SHRI.V.K.SUNIL, SC, KONNI GRAMA PANCHAYAT - R9

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



C.R.

**JUDGMENT**

“Prevention is better than cure” may sound cliched, yet it carries a potent message in the realm of Disaster Management. Often, it takes a significant event to spur us into action and seek solutions. This tendency stems from the human inclination to overlook or inadequately assess risks until they materialize. It is crucial to prioritize effective management strategies for mitigating disasters and emergencies. Rather than focusing solely on response and recovery, the systems established for disaster management should give greater attention to proactive measures aimed at reducing disaster risks.

2. I have begun this judgment with the afore exordium because the petitioners, through their learned counsel - Sri.Jestin Mathew, alleges



that, on account of the development and widening of the Punalur- Muvattupuzha road at Konni, two natural water ducts and passages were closed unscientifically; consequent to which, in the rainy season, their's and similarly situated properties were fully inundated. They say that this was noticed by the District Collector, Pathanamthitta, who has issued Ext.P3 suggesting certain reparatory measures, but that no action has been taken thereon; thus constraining them to have approached this Court through this Writ Petition.

3. Sri.K.V.Manoj Kumar - learned Senior Government Pleader, appearing for the Kerala State Transport Project (KSTP), conceded that Ext.P3 recommendations have been made by the District Collector; and undertook that necessary



steps pursuant thereto, will be completed in a time bound fashion.

4. Sri.V.K.Sunil - learned Standing Counsel for the 9<sup>th</sup> respondent, submitted that the work was conducted by the 'KSTP' and not by his client; and therefore, that no fault can be attributed to them, thus praying that this Writ Petition be dismissed, as against them.

5. Before I proceed, I must record that, on 08.11.2023, when this matter was considered by this Court, a report was placed on record by the learned Senior Government Pleader, along with his Memo dated 06.11.2023, containing certain very specific recommendations not only qua the complaints of the petitioner, but also as to the manner in which "project finalisations and planning" will have to be carried on and



completed in future.

6. Taking note of the afore, this Court passed an order on that day as under:

"A Report has been filed before this Court by the learned Senior Government Pleader - Sri.K.V.Manoj Kumar, along with a Memo dated 06.11.2023.

I notice from the afore Report that there are various recommendations made by the Kerala State Disaster Management Authority. Obviously, it is for the District Collector, who is the Chairperson of the said Authority, to confirm that these recommendations are properly complied with.

I, therefore, direct the competent Authorities to make sure that the recommendations as afore are implicitly complied with; and the District Collector will file an Action Taken Report before this Court within a period of one month.

I must say that recommendation No.8 in the afore Report is not one specifically to the petitioner's



predicament, but it should be considered in all such cases of infrastructure development.

I, therefore, direct the 1st respondent - Chief Secretary to the Government of Kerala to immediately advert to this recommendation and issue necessary orders/circulars/instructions to all entities, so that in future such issues can be allayed. I order so since am without doubt that the views of the State Disaster Management Committee are imminently deserving of being acceded to and adhered with.

A Report in this regard by the 1st respondent will also be placed on record by the next posting date.

Post after a month."

7. Today, the learned Senior Government Pleader - Sri.K.V.Manoj Kumar, invited my attention to two Memos filed by him on 04.01.2024 and 14.02.2024 respectively, producing therewith



two documents, namely, proceedings of the District Collector dated 07.02.2024 and the circular of the Government dated 18.12.2023 issued by its Chief Secretary. He pointed out that, by the 1<sup>st</sup> of the afore orders, the specific issue projected in this case has been taken note of and necessary measures ordered, which he added, will be completed without any avoidable delay; while, through the circular aforementioned, the Government has incorporated the requisites for "inter departmental cohesion, discussions and planning", while any major project is taken forward in future. He added that the instructions given earlier have been incorporated into this Circular, so that, henceforth, when any such project is conceived, there would automatically result the imperative inter departmental collaboration, to ensure that





no mishaps, as projected in this case, would ever happen. He undertook that the aforementioned Circular would be implemented in its letter in spirit in future; and that the Government hopes, consequent thereto, that there would be lesser amount of complaints attendant to future developmental action.

8. As is evident from the afore, there are two issues now impelled before this Court; the first being the lesser one, which relates to the specific complaint projected by the petitioner; and the second, being the larger one, which relates to works which are to be carried on by the Government in future.

9. I must say with some appreciation that both the afore to appear to have been properly allayed pending this lis, by the interventions



made through the interim orders of this Court.

10. I say as afore because, through the order of the District Collector dated 07.02.2024 - produced along with the Memo of the learned Senior Government Pleader dated 14.02.2024 - necessary measures for the work of culverts, to ensure drainage of water during monsoon or other times - have been proposed, for which, Administrative and Technical sanctions are stated to be awaited. Obviously, all which this Court now requires to do is to ensure that this is done within strict time frames.

11. *Quoad hoc* the afore said latter issue, the Government circular dated 18.12.2023 - also produced by the learned Government Pleader, along with his aforementioned Memo - covers the field; which, for ease of reference, is extracted under:

**"CIRCULAR**

Sub: Disaster Management Department- Standardization of the process of mtegrating the measures for prevention of disaster and mitigation -Reg

Ref: 1.GO(R)No. 3667-2016/DMD dated 9-9-2016  
2.GO(Rt)No.399 2018/DMD dated 18-7-2018  
3. Interim order dated 8-11-2023 of Hon'ble High Court of Kerala in WP(C) No.41159-2022.

*Section 23 (1) of the Disaster Management Act, 2005 (Central Act 53 of 2005) makes it mandatory for every State to have a State Disaster Management Plan (SDMP). The Kerala State Disaster Management Authority (KSDMA) vide Section 18 (b) of the Disaster Management Act, 2005 has approved the Kerala State Disaster Management Plan (KSDMP) prepared under Section 23 of Disaster Management Plan. Provisions of the Disaster Management Plan are statutory in nature and are treated as directives to various stakeholders in disaster management and was upheld by the Hon'ble Apex Court in WP(C) No.444 of 2013 dated 8-5-2017 and the overriding powers of directions under Disaster Management Act,*



*2005 was upheld by Hon'ble Division Bench of High Court of Kerala in WA No. 2745/2015 in WP(C)No.26377/2015 dated 5-4-2016. Vide Section 39 (b) of the Disaster Management Act. 2005, it is a statutory requirement upon the departments of the State Government to integrate risk reduction measures in the development plans and projects.*

*To ensure standardization of the process of integrating the measures for prevention of disaster and mitigation and to ensure allocation of funds for prevention of disaster and mitigation, the KSDMP in 'Chapter 4 - Mainstreaming Disaster Management' has several directives under Section 22(2)(h) for stakeholders to follow. In the chapter, there is a separate checklist for detailed natural disaster impact assessment of projects for all departments to follow, in line with Section 39(b) of the Disaster Management Act, 2005.*

*Further, the Government, recognizing the need to mainstream risk informed planning, has issued guidelines for preparing spatial risk informed plans in*



*the local governments in Kerala, vide GO(Ms)No.120/2022/LSGD dated 9-6-2022. Thus, the State is fostering risk informed development such that disaster impacts are significantly reduced.*

*The Hon'ble High Court, vide interim order dated 8-11-2023 in WP (C) No.41159/2022, has directed the State Government to issue necessary orders/circulars/ instructions to all departments to incorporate Annexure 11 (given as annexure to this circular) of the Kerala State Disaster Management Plan in the detailed project report as a self-certification such that risk awareness is clear to the executing entities and the beneficiaries at the stage of design itself.*

*The directions issued under Section 22(2)(h) of the Disaster Management Act, 2005 as given in Kerala State Disaster Management Plan for strict compliance by all departments and local self-governments are hereby reiterated. All authorities will ensure that annexure 11 of the Kerala State Disaster Management Plan in the detailed*



*project report as a self-certification by the Department/Local Self-government are implemented without fail."*

12. However, the Government has to ensure that the afore Circular is implemented without reservation, in and for all future developmental action.

In the afore circumstances, this Writ Petition is disposed of with the following directions:

a) The District Collector will ensure that the necessary Technical Sanction, as also the Administrative Sanction for the construction of the culverts, as mentioned by in its letter dated 07.02.2024, is obtained and the work completed at the earliest, but not later than a total time frame of six months from the date of receipt of a copy of this judgment. If there is any delay in



this regard, I leave liberty to the petitioner to approach this Court appropriately, including through an apposite application for clarification; in which event, the same shall be listed before this Court for appropriate orders.

b) I record the submissions of the learned Senior Government Pleader - Sri.K.V.Manoj Kumar, that the Government have issued the afore extracted circular dated 18.12.2023 and that its contents and directives therein will be implemented unreservedly with respect to every developmental project or action, which is to be initiated or pursued by them and its Agencies and Departments in future.

**Sd/-**

**DEVAN RAMACHANDRAN  
JUDGE**

SAS

APPENDIX OF WP(C) 41159/2022**PETITIONER EXHIBITS**

Exhibit P1	TRUE COPY OF THE ABOVE REPRESENTATION DATED 18/05/2022 BEFORE THE 6TH RESPONDENT
Exhibit P2	TRUE COPY OF THE JUDGMENT DATED 27/06/2022 IN WPC 20025/2022 OF THIS HONOURABLE COURT
Exhibit P3	TRUE COPY OF THE LETTER NO. DCPTA/3478/2022-DM5 DATED 04/07/2022 ISSUED BY THE 5TH RESPONDENT
Exhibit P4	TRUE COPY OF THE COMPLAINT DATED 20/10/2022 SUBMITTED BEFORE THE 8TH RESPONDENT
Exhibit P5	TRUE COPY OF THE COUNTER FOIL OF THE INDIAN POSTAL DEPARTMENT DATED 21/10/2022 FOR SEND COMPLAINT TO THE 8TH RESPONDENT
Exhibit P6	TRUE COPY OF THE COMPLAINT DATED 20/10/2022 SUBMITTED BEFORE THE 7TH RESPONDENT
Exhibit P7	TRUE COPY OF THE COUNTER FOIL OF THE INDIAN POSTAL DEPARTMENT DATED 21/10/2022 FOR SEND COMPLAINT TO THE 7TH RESPONDENT
Exhibit P8	TRUE COPY OF THE REPRESENTATION DATED 15/11/2022 SUBMITTED BEFORE THE 5TH RESPONDENT

**RESPONDENT ANNEXURES**

Annexure R8(a)	A true copy of the letter No PNW/315/14 (Package 8B) dated 05/07/2021
Annexure R8(b)	True copy of the letter no PNW/315/14(Package 8B)/AE3 dated 26/07/2022
Exhibit R5(a)	True copy of the Joint committee report
Exhibit R5(b)	True copy of the communication dated 02-05-2023
Exhibit R9(a)	True copy of the minutes of panchayhath committee meeting held on 22.07.2023