

**BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM**

WA No. 179 OF 2022

State of Kerala & others : Appellants

Vs.

Muralikrishnan & others : Respondents

**STATEMENT FILED BY THE ASSISTANT SOLICITOR
GENERAL OF INDIA, ON BEHALF OF THE RESPONDENTS
5 AND 6**

1. The above appeal has been filed challenging the interim order dated 20.1.2022 in WP(C) No. 30567 of 2021, of the learned Single Judge. The writ petition has been filed seeking direction to the respondents 1 to 4 to refrain from erecting or laying any concrete poles with the making "K-Rail" and taking possession of the respective properties of the petitioners without any authority and for other reliefs. This statement is being filed on the basis of the detailed instructions received, as per letter No. 2022/JV Cell/KRDCL/Misc. dated 20.01.2022 of the Addl. Member/Works, Railway Board, New Delhi addressed to the General Manager, Southern Railway. This statement is being filed based on preliminary facts only and without prejudice to the right



of the 5th and 6th respondents to file a detailed counter affidavit in the matter.

2. As per the Ministry of Finance, Department of Expenditure's Letter No. 24(35)/PF-II/2012 dated 05.08.2016, pre-investment activities include preparation of Feasibility Reports, Detailed Project Reports (DPR), Pilot Experiments/Studies for Schemes, Survey/Investigation required for large projects, payment for land acquisition in accordance with the orders of a competent authority under the law, construction of boundary wall, access roads, minor bridges/culverts, water-power lines, site offices, temporary accommodation etc., at the project site, preparation of environment management plans, forestry and wildlife clearances, compensatory afforestation, payment for conversion of forest land to non-forest purposes, etc. Pre-investment activities up to Rs.100 crores (including budgetary and extra-budgetary resources may be approved by Chairman, Railway Board with concurrence of Member, Finance provided resources are available. Beyond Rs.100 crores, appraisal and approval process is to be followed.

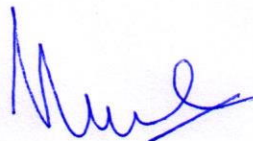
3. Granting of in - principle approval (IPA) only means approval to go ahead for preparation of DPR etc which brings out the complete details of the project including financials. Once DPR



is made, based upon the details brought out, taking up of project or otherwise is decided. Any project expenditure is incurred once DPR is approved and sanction communicated. In the present case of Silver Line this approval has not been granted so far.

4. DPR has been submitted by Kerala Rail Development Corporation Limited (KRDCL) and is under scrutiny in Railway Board. KRDCL has planned this corridor parallel to existing track in approximately 200 km length where 10-15 m railway land (app. 185 Ha) is being utilized by KRDCL for proposed corridor. As per proposal, in the patch where proposed line is parallel to existing line no space will remain available for any future expansion of Railways and to accommodate future 3rd/4th line. Sufficient details regarding technical feasibility are not available in the DPR submitted. Therefore, KRDCL has been advised to provide detailed technical documents such as alignment plan, particulars of railway land and private land, crossings over existing railway network, duly depicting affected railway asset through Zonal Railway for detailed examination of the project and to arrive at conclusion about feasibility of project.

5. Also financial viability of this railway project of Rs 63941 crore is questionable. Since Ministry of Railways is a joint venture partner in KRDCL, debt component of Rs. 33700/- crore

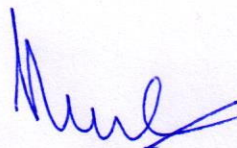


will finally come on Ministry of Railways as debt servicing, which is not possible with mainly passenger traffic. This will also be examined and firmed up after finalization of technical parameters. Even if the State Government is willing to provide debt repayment guarantee, Ministry of Railways has to examine whether the project is financially viable per se.

6. After acceptance by Ministry of Railways, firmed up DPR will be sent to NITI Aayog for appraisal. DPR is not yet accepted by Ministry and hence has not been sent to NITI Aayog.

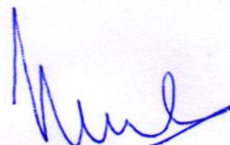
7. The project requires to be appraised by Expanded Board of Railways which is an inter-ministerial body consisting of members of the Railway Board and officers of the Ministry of Finance, Ministry of Statistics and Plan Implementation and NITI Aayog. After clearance from Expanded Board of Railways, with the approval of Minister of Railways, Cabinet Note regarding approval of the project will be forwarded for approval of Finance Minister. Approval of Cabinet Committee of Economic Affairs will be sought subsequently.

8. It is submitted that the proposal received from M/s Kerala Rail Development Corporation Limited (M/s KRDC) for granting permission to take up activities like planting of boundary



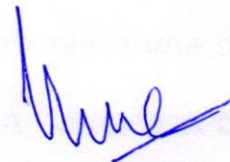
stones, geotechnical investigations, hydrological investigations, etc., within Railway land wherever the alignment is going parallel to the Railway land, as a part of the KRDC's Semi High Speed Rail Corridor from Kochuveli to Kasargod was examined. Railway Board have clarified that as on date no decision has been taken on the KRDC's proposal "to lay Silverline Semi-high Speed Track parallel to the Railway Track", and as such the necessity of conducting Geo technical investigation in Railway Land may be reviewed by M/s KRDC. In the event of M/s KRDC, decides to conduct geo-technical investigation in Railway Land, they shall indemnify Railways against the infructuous expenditure incurred, and any review/scrutiny by the statutory agencies such as Audit and Accounts. Accordingly, permission is granted for conducting geotechnical investigations and hydrological investigations only and it is explicit in nature and subject to KRDC's adherence to the conditions laid down wherever the alignment is going parallel to the Railway land. But permission to Plant Boundary Stones was not agreed to, in the absence of approved DRP. This has been communicated to the KRDC by letter dated 28.09.2021.

9. Many representations are being received against this project in the Ministry. Major issues raised are ruining of thousands of hectares of cultivable land, about 20,000 thousand



houses, shops and business establishments etc. It is also pointed that Silver Line will be an obstacle for the expansion of Angamaly railway station which operates railway sidings for Food Corporation of India. It is also highlighted in the representations that the proposed alignment will also lead to demolishing of many religious structures. It is therefore advisable that the proceedings of land acquisition for this project shall be stopped at this stage, as even feasibility of the present alignment has not been agreed by the Ministry of Railways.

Dated this the 4th day of February, 2022.



S.MANU

Assistant Solicitor General of India

**BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM**

I.A. No. of 2022

in

WA NO. 179 OF 2022

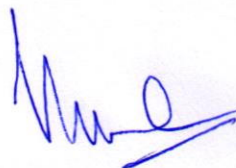
The Railway Board,
Rep. by its Chairman & Anr : Petitioner/Respondents 5
&6

Vs.

State of Kerala & Others : Respondents/Appellants &
Respondents 1 to 4

**VERIFIED PETITION FILED UNDER RULE 84 OF THE RULES
OF THE HIGH COURT OF KERALA**

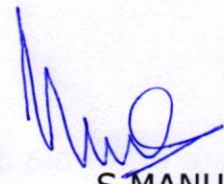
This statement is filed on the basis of the response received from the Addl. Member/Works, Railway Board, New Delhi as per letter No. 2022/JV Cell/KRDCL/Misc. dated 20.01.2022. This statement is being filed based on preliminary facts only and without prejudice to the right of the 6th respondent to file a detailed counter affidavit in the matter. This statement is being filed as filing of counter affidavit may require more time and it is necessary to place on record the response of the petitioners herein in the above Writ Appeal.



PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to accept the accompanying Statement on the records in the above Writ Appeal, in the interest of justice.

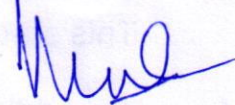
Dated this the 4th day of February, 2022.



S.MANU

Assistant Solicitor General of India

All the facts stated above are true and correct.



S.MANU

Assistant Solicitor General of India