

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 14TH DAY OF SEPTEMBER 2020 / 23RD BHADRA, 1942

WP(C).No.23271 OF 2013(S)

PETITIONER/S:

RENJITH K.R.
AGED 31 YEARS
S/O.BHUVANACHANDRAN, RESIDING AT K.R.BHAVAN, JAGATHI, TC
NO.16/1061, THIRUVANANTHAPURAM, PIN-695 014.

BY ADV. PARTY IN PERSON

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, HEALTH AND
FAMILY WELFARE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN: 695 001.
- 2 DIRECTOR OF HEALTH SERVICES
O/O THE DIRECTORATE OF HEALTH SERVICES, GOVERNMENT OF
KERALA, THIRUVANANTHAPURAM, PIN: 695 001.
- 3 LOCAL SELF GOVERNMENT DEPARTMENT
REPRESENTED BY ITS SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN: 695 001.
- 4 CORPORATION OF THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM, PIN:
695 001.
- 5 DISTRICT MEDICAL OFFICER
DISTRICT HOSPITAL, THIRUVANANTHAPURAM, PIN: 695 001.
- 6 DISTRICT COLLECTOR
ERNAKULAM, COLLECTORATE, KAKKANAD-682 030.
- 7 DISTRICT MEDICAL OFFICER
DISTRICT HOSPITAL, ERNAKULAM, PIN-682 018.

- 8 CORPORATION OF COCHIN
REPRESENTED BY ITS SECRETARY, PARK AVENUE,
ERNAKULAM-682 018.
- 9 EXECUTIVE ENGINEER
PUBLIC HEALTH DIVISION, SEWERAGE TREATMENT WING, SUB-
DIVISIONAL OFFICE, KERALA WATER AUTHORITY OFFICE,
COCHIN-682 016.

R1-3, R5-7 BY SRI. TEK CHAND, SR. GOVERNMENT PLEADER
R4 BY ADV. SRI.P.K.MANOJKUMAR
R4 BY SRI.N.NANDAKUMARA MENON (SR.),SC,TVM CORPN.
R8 BY ADV. SRI.BABU KARUKAPADATH
R9 BY ADV. SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
R9 BY SRI.P.BENJAMIN PAUL, SC, KERALA WATER AUTHORITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-09-2020,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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Dated this the 14th day of September, 2020.

JUDGMENT

Shaji. P. Chaly, J.

This is a Public Interest Litigation filed by a person said to be interested in public activities, and a social worker seeking the following reliefs:

1. Issue a writ of mandamus or any other appropriate writ, order or direction directing respondents 1 and 2 to take appropriate and adequate measures to ensure that the people in Kerala are living without the menace of mosquito bites and thereby free from the fatal dengue fever and other communicable diseases spread by the biting of mosquitoes.
2. Direct respondents 3 to 8 to ensure that adequate and proper measures are taken to eradicate the mosquito menace in their respective territories.
3. Direct the 9th respondent to complete the sewage treatment plant at Elamkulam and connect the dwelling houses in Ernakulam city with sewerage pipelines without any further delay.

2. According to the petitioner, metropolitan cities like Thiruvananthapuram and Kochi are alarmingly infested with the menace of mosquitoes, which causes fatal diseases like dengue fever, malaria, elephantiasis and such other infectious diseases. However, the Government as well as the Local Self Government Institutions, having bounden duties to ensure that people are living

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in a healthy atmosphere as is enshrined in Article 21 of the Constitution of India, have not taken any action to eradicate the mosquitoes and further that they are not discharging the duties in terms of the provisions of the Municipalities Act, 1994. The petitioner has also produced Exts.P1 to P6, P8 and P9 newspaper reports to substantiate the contentions that day-by-day the menace of mosquitoes is increasing and the people are facing various difficulties consequent to the diseases occurring therefrom.

3. A statement is filed by the Thiruvananthapuram Corporation stating that it has given importance for the implementation of the Anti Mosquito Programmes of the Corporation. The Corporation is in the implementation of the Mosquito Eradication Programme and sufficient workers are deployed in each ward of the Corporation to eradicate the mosquito menace by destroying the larva of the mosquitoes and thereby, attempts were being made to eradicate and wipe out the breeding of mosquitoes at source. It is also submitted that various persons were reported to have been suffering from the attack of Dengue fever, out of which 416 persons were residing within the limits of the Thiruvananthapuram Corporation, and several persons died due to the same, which includes persons residing within the Corporation limits. However, on the basis of the reports from the Health Department of the Corporation, effective steps were taken in July,

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2013 for eradicating mosquitoes at source. Moreover, it has also taken effective steps under the supervision of the concerned Health Inspectors of each ward for spraying and fogging and the Secretary of the Corporation was evaluating the steps taken by the Health Inspectors weekly. That apart, several awareness programmes were initiated among the public to understand the health hazards due to the breeding of the mosquitoes. It is also pointed out that it has taken active steps to eradicate the menace with the help, co-operation and assistance of various Residents' Associations and it also undertakes that every year before the onset of the Monsoon, effective steps are taken for the destruction of mosquitoes at source.

4. The Corporation of Kochi, the 8th respondent, has filed a detailed counter affidavit explaining the steps taken to destroy the mosquito larva, the employees recruited for the purpose and the programmes initiated for making awareness among the public. It is also stated that in order to attain cleanliness in the city, a site was identified at a place called Mundamveli in order to put up a sewage effluent treatment plant. However, there were certain objections for putting up a plant in the guise of the Coastal Regulation Zone (CRZ) regulations, and the matter was taken up before this Court by filing W.P.(C) No. 14262 of 2011 and a stay was secured.

5. We have considered the rival submissions made across the

Bar and perused the pleadings and documents on record.

6. This writ petition was pending before this Court from the year 2013 onwards without any effective interim orders passed by this Court. Thereupon, we thought it fit to dispose of it with appropriate directions to the respective Corporations i.e., the Thiruvananthapuram Corporation and Cochin Corporation. The discussion of facts made above elaborately, would make it clear that the contention put forth by the petitioner is that the mosquito menace is prevailing within the limits of the Corporation areas to the disadvantage and prejudice of the citizens. It is also an admitted fact that consequent to the menace of mosquitoes, enough and more diseases occurred repeatedly within the State. Several people have died out of the dreaded disease of the dengue fever, which is admitted by the Corporation of Thiruvananthapuram. Anyhow, it is stated by both the Corporations that they are taking effective steps for destroying the larva and the mosquitoes at source and continuous efforts are made to make public awareness to secure the public co-operation in order to keep both the cities clean and tidy, and further to eradicate the menace. It is also evident that necessary steps were taken by both the Corporations to keep the city clean and tidy.

7. However, fact remains, the Corporations have not attained the target of eradication of the mosquitoes, in spite of destroying

larva at source. In this regard, the duties and obligations cast upon the Corporations under the provisions of the Kerala Municipalities Act, 1994 ('the Act, 1994' for short) cannot be forgotten. Keeping the environment clean and tidy and removing the waste and other useless materials so as to ensure healthy, and sanitary conditions conducive to the welfare of the citizens are mandatory requirements to be discharged by the Corporation. Moreover, the State as well as the local bodies have to ensure the life and liberty of the citizens in its fullest sense by bearing in mind the fundamental right guaranteed to the citizens under Article 21 of the Constitution of India. Moreover, the directive principles contained under Part IV of the Constitution of India makes it clear that the State is duty bound to secure a social order for the promotion of welfare of the people and the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The State is also duty bound to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and against moral and material abandonment. Likewise, under Article 47 of the Constitution of India, the State has a duty for raising the level of nutrition and the standard of living

and to improve public health. The State shall also regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. Under Article 48A of the Constitution of India, the State is imposed with a duty to make every endeavour to protect and improve the environment. Likewise, as per Article 51A of the Constitution of India, every citizen has a fundamental duty to protect and improve the natural environment, including forests, lakes, rivers and wildlife, and to have compassion for living creatures.

8. Therefore, taking into account the responsibilities imposed upon the State and the Corporations as per the provisions of the Act, 1994 and the Constitution of India, the State and the Corporations cannot remain as mute spectators, when such dreaded diseases are prevailing due to the menace of mosquito breeding. Every citizen has also equal duty and obligation to ensure that the fundamental rights of the fellow citizens are protected by keeping the city, drains, lakes and rivers, and all public amenities and public places clean and tidy, failing which the authorities will not be in a position to achieve the target of eradicating the mosquito menace.

Accordingly, we dispose of the writ petition directing the State as well as the respective Corporations to ensure that adequate and effective steps are taken in terms of law to eradicate the breeding of mosquitoes by putting in place appropriate measures at the

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appropriate time. There will be a further direction to the State and the Corporations to ensure that the waste accumulating in the cities and the other areas are removed on a day-to-day basis. The waste collection shall also be done in accordance with the provisions of the Act, 1994 and they shall ensure that there is no lethargy or inaction on the part of the authorities in discharging their mandatory functions under the Act, 1994 and thereby protect the life and liberty guaranteed to the citizens under Article 21 of the Constitution of India as is envisioned by the framers of the Constitution and to translate its true intent , purport and spirit, and to prevent further deterioration of the environment and the quality of life of the citizens.

sd/-

**S. MANIKUMAR,
CHIEF JUSTICE.**

sd/-

**SHAJI P. CHALY,
JUDGE.**

Rv

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APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 COPY OF THE PAPER REPORT APPEARED IN THE TIMES OF INDIA ON 21.08.2013.
- EXHIBIT P2 COPY OF THE PAPER REPORT APPEARED IN THE DECCAN CHRONICLE ON 01.06.2013.
- EXHIBIT P3 COPY OF THE PAPER REPORT APPEARED IN THE TIMES OF INDIA ON 02.06.2013.
- EXHIBIT P4 COPY OF THE PAPER REPORT DATED 03.06.2013 IN THE TIMES OF INDIA WITH THE CAPTION "DOCS TO PROVIDE PATIENT CARE AT HOME AS FEVER CASES RISE".
- EXHIBIT P5 COPY OF THE PAPER REPORT APPEARED IN THE NEW INDIAN EXPRESS, DATED 01.06.2013, CAPTIONED "HUGE SPURT IN DENGUE".
- EXHIBIT P6 COPY OF THE PAPER REPORT APPEARED IN THE INDIAN EXPRESS ON 01.06.2013 UNDER THE CAPTION: "BEFORE RAINS, KERALA SHIVERS WITH DENGUE".
- EXHIBIT P7 COPY OF THE 'DENGUE GUIDE LINES'
- EXHIBIT P8 TRUE PHOTOGRAPH OF A CROSS SECTION OF T.P.CANAL.
- EXHIBIT P9 COPY OF THE PAPER REPORT PUBLISHED IN THE MALAYALA MANORAMA DAILY ON 20.05.2013.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

PS to Judge.