



2025:KER:52364

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 16TH DAY OF JULY 2025 / 25TH ASHADHA, 1947

WP(C) NO. 24802 OF 2024

PETITIONER:

SOBIN P K
AGED 52 YEARS
S/O P V KURIAKOSE, PUTHAYATH HOUSE,
KUZHOOR, AIRAPURAM PO, ERNAKULAM,
KERALA, PIN - 683541

BY ADVS.
SHRI.VIJAY SANKAR V.H.
SMT.MINTU CHERIYAN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT ANNEX,
TRIVANDRUM, PIN - 695001
- 2 THE STATION HOUSE OFFICER, OONNUKAL PS
OONNUKAL POLICE STATION, OONNUKAL,
ERANAKULAM DISTRICT, PIN - 686693
- 3 THE DEPUTY SUPERINTENDENT OF POLICE,
MUVATTUPUZHA, OFFICE OF THE DY.SP,
UZHAKKARAKAVU RD, THOTTUMKALPEEDIKA,
MUVATTUPUZHA, KERALA, PIN - 686661
- 4 AJU
VALANALKUZHI HOUSE, OPPARA, NELLIMATTOM P.O,



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KOTHAMANGALAM, PIN - 686693

5 NATIONAL INSTITUTE OF TECHNOLOGY SURATHKAL,
KARNATAKA
REPRESENTED BY ITS REGISTRAR, SRINIVASNAGAR,
SURATHKAL, MANGALURU, KARNATAKA, PIN - 575025

* ADDL. 6 KERALA WATER AUTHORITY
REPRESENTED BY ITS MANAGING DIRECTOR,
JALABHAVAN, VELLAYAMBALAM, THIRUVANANTHAPURAM.
KERALA, PIN 695033(IMPEADED AS PER ORDER
DATED 25-07-24 IN IA1/24)

* ADDL. 7 KAVALANGAD GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY, NELLIMATTOM P.O,
KAVALANGAD, PIN 686693

(ADDITIONAL RESPONDENTS 6 AND 7 ARE IMPEADED
AS PER ORDER DATED 25-07-24 IN IA NO.2/2024)

BY ADVS.
SHRI.P.M.JOSHI
SRI.PEEYUS A.KOTTAM
SMT.SIJI K.PAUL
SHRI.BONNY BABY
SMT.SRUTHI SUNILKUMAR
SHRI. C. GOKULKRISHNAN
SHRI.V.V.JOSHI
SRI.DHEERAJ A.S., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30.06.2025, THE COURT ON 16.07.2025 DELIVERED THE
FOLLOWING:



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CR**N. NAGARESH, J.**.....
W.P.(C) No.24802 of 2024
.....*Dated this the 16th day of July, 2025***J U D G M E N T**

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The petitioner took on lease certain land in Kuttamangalam Village, Kothamangalam Taluk in Ernakulam District for the purpose of conducting quarrying activities. The petitioner states that some persons including the party respondent are attempting to get rid of the petitioner in order to start the quarrying operations themselves. They allege that if quarrying operations are conducted by the petitioner, it would damage a water tank owned by the Kerala Water Authority. The tank is 145 metres away from the proposed quarry.



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2. By Ext.P1 judgment in W.P.(C) No.25341/2020, this Court had directed to conduct a scientific study on the effect of quarrying operations on the said water tank. The Senior Geologist, as per Ext.P2 report, has stated that the proposed quarrying site is not vulnerable to landslides in and around. The Senior Geologist reported that the site condition is suitable for quarrying activities.

3. The petitioner paid requisite fee to the National Institute of Technology, Surathkal, Karnataka to conduct a scientific study in the proposed quarry area. On 02.07.2024, when the petitioner along with the inspection team of NIT, Surathkal approached the quarrying area, the 4<sup>th</sup> respondent and his henchman prevented them from conducting any inspection. The technical team from NIT, Surathkal was not permitted to enter the premises. The petitioner was attacked by the 4<sup>th</sup> respondent. The petitioner submitted Ext.P6 petition to the police. The police did not extend any help.



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4. The petitioner states that the official respondents are duty bound to take action on the complaints preferred by the petitioner. The petitioner would face huge financial loss and hardship by the action of the 4<sup>th</sup> respondent and his henchman. The petitioner therefore seeks to direct the respondents to give effective and adequate police protection to the petitioner and the scientific survey team of the 5<sup>th</sup> respondent in conducting inspection of the proposed quarry site.

5. The 4<sup>th</sup> respondent filed a counter affidavit. The 4<sup>th</sup> respondent stated that no quarrying activities can be allowed in plantation land. The proposed enquiry site is a plantation land. A Division Bench of this Court in W.A. No.451/2018 has held that quarrying operations using explosives within a radius of one kilometre of any bridge, dam, check dam or any other work, structure or construction, owned, controlled or maintained by the Government, a local authority or any other authority, without any prior written



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permission, is not permissible. The water tank maintained by the Kerala Water Authority would fall within the ambit of Section 40(2) of the Kerala Irrigation and Water Conservation Act, 2003.

6. The existing water tank is having a capacity of 2.5 lakhs litres. It is within hundred metre distance from the quarry site. Furthermore, a new water tank is now proposed which will be less than 50 metres away from the site. The vehicle traffic to and from the quarry would cause damage to the water pipes. The blasting operations would cause damage to the water tank. Therefore, the proposed quarry will be against the interest of the general public.

7. The 6<sup>th</sup> respondent-Kerala Water Authority has filed a counter affidavit. The 6<sup>th</sup> respondent stated that as per order in W.P.(C) No.25341 of 2020, a joint scientific study was conducted by the Geological Survey of India. As per the report, they recommended to construct a new water tank considering the age of the existing tank. At present,



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there is a tank of capacity 2.2 LL at Kottaramudy and was constructed about 20 years back. Water is supplied from this tank to four Wards of Pallarimangalam Panchayat and eight Wards of Kavalangad Panchayat. The people in the above two Panchayats are fully or partly depend Kerala Water Authority for their daily needs. The existing tank is not adequate to meet the present needs and hence another tank of 2.5 LL is proposed under Jal Jeevan Mission aimed at providing proper drinking water to all rural households in India by 2024. Administrative sanction for JJM – WSS to Kavalangad Panchayat was obtained on 18.09.2021 for ₹3,447 lakhs, even before the preliminary survey and other studies conducted by the Kerala Water Authority and found out that the tank location is most suitable.

8. Based on this distribution lines and other components were designed and the work was tendered on February, 2023 and the work was awarded on 22.03.2023. The work has commenced and the work is progressing in



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Mission Mode, 50% of the fund utilised and the physical progress is 60%. In the said work, there is construction of two tanks and laying pipes of different sizes from 75 mm to 250 mm DI and total quantity is about 76 Kilometers. Out of two tanks, construction of one tank is completed and most of the pipes had been supplied and laid. W.P.(C) No.31245/2023 filed by the petitioner against the construction of water tank is under consideration before this Court.

9. I have heard the learned counsel for the petitioner, the learned Government Pleader representing respondents 1 to 3 and the respective Standing Counsel appearing for respondents 4, 6 and 7.

10. The petitioner took on lease the land comprised in Survey Nos.306/1A/185/10/12, 46, 47, 52, 78, 79, 80, 81 and 82A of Kuttamangalam Village in Kothamangalam Taluk for the purpose of conducting quarrying activities. When the petitioner submitted an application to the District Geologist for permission, the



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petitioner was informed that there is a water tank belonging to the Kerala Water Authority located within 110 metres from the quarrying site and therefore permission can be granted only on production of a No Objection Certificate from the KWA.

11. The petitioner filed W.P.(C) No.33938/2017. The said petition was dismissed by a learned Single Judge. The petitioner preferred W.A. No.451/2018, a Division Bench of this Court, considered the issues in detail. The Division Bench held that mining or quarrying operation using explosives within a radius of one kilometre of any bridge, dam, check dam or any other work, structure or construction, owned, controlled or maintained by the Government, a local authority, or any other authority without any prior written permission, is not permissible. In the case in hand, a water tank is maintained by the KWA and it would certainly fall under the expression in Section 40(2) of the Kerala Irrigation and Water Conservation Act, 2003 to include the Kerala Water Authority also. The Division Bench therefore



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dismissed the appeal.

12. Thereafter, the petitioner approached this Court again filing W.P.(C) No.25341/2020 seeking to direct the Kerala Water Authority to conduct appropriate scientific study in the said land for the purpose of issuing quarry permit/licence. In the said writ petition, the Kerala Water Authority submitted that they are ready to conduct a study through Geological Survey of India, provided the petitioner pays the requisite fee/expenses for conducting the study. The writ petition was disposed of as per Ext.P1 judgment directing the petitioner to pay the requisite fee.

13. The Geological Survey of India conducted a study and submitted Ext.P2 report. Ext.P2 report stated that the proposed quarrying site is not vulnerable to landslides in and around. No settlements or schools, colleges, hospitals or other important town are located in the 200 metres of the quarry boundary. As a result, based on the site conditions at the time of the field inspection, the site appears to be suitable



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for quarrying activities.

14. As further study was required to assess the impact of the proposed quarry on the water tank of the Kerala Water Authority, the petitioner approached the 5<sup>th</sup> respondent— National Institute of Technology (NIT), Surathkal, Karnataka to conduct a scientific study by the NIT in the proposed area. The petitioner made payment of ₹2,36,000/- on 27.06.2024. On 02.07.2024, when the petitioner along with the inspection team of NIT, Surathkal approached the quarrying site, the 4<sup>th</sup> respondent and his men prevented them from conducting any inspection. The Technical Team from the NIT was not permitted to enter the premises. The 4<sup>th</sup> respondent was attacked and he had to avail treatment from the General Hospital, Muvattupuzha.

15. Though the petitioner approached police authorities and requested to extend adequate police protection, the police has chosen to do nothing. Hence, the petitioner has filed this writ petition seeking to direct the



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competent among the respondents to give effective and adequate police protection to the petitioner and the scientific survey team of the 5<sup>th</sup> respondent in conducting inspection and study in the proposed quarrying land.

16. The petitioner is an entrepreneur, who proposes to start quarry activities in a land obtained by him on lease. When the Geologist declined to issue permission for want of No Objection Certificate from the Kerala Water Authority, whose water tank was situated nearby, the petitioner filed W.P.(C) No.33938/2017. The said writ petition was dismissed. The petitioner filed W.A. No.451/2018 aggrieved by the judgment in W.P.(C) No.33938/2017. A Division Bench of this Court dismissed the writ appeal holding that declining permission by the Geologist is justified in the absence of prior written permission of the Kerala Water Authority which is maintaining a water tank nearby.

17. Thereafter, the petitioner approached this Court filing W.P.(C) No.25341/2020 seeking to conduct a



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scientific study by the Geological Survey of India. The Kerala Water Authority agreed to conduct the study at the expense of the petitioner. This Court accordingly gave consequential directions. The study was conducted and the findings of the Senior Geologist are as follows:

- 1) The proposed quarry location at Survey Nos.306/1A/185/10/12, 46, 47, 52, 78, 79, 80, 81 and 82A does not fall under the National Landslide Susceptibility Mapping (NLSM) priority area-I for landslide susceptibility studies as defined by the Geological Survey of India.
- 2) The research region is classified as NLSM priority area-II because of its low-lying terrain and with less landslide incidences compared to the NLSM priority area-I.
- 3) There is an existing water tank in the mid-slope area with an  $<18^{\circ}$  angle slope and a slope facet direction towards the west. The aerial distance between the water tank and the quarry boundary is approximately #144 m. Considering the age of the water tank, it is also suggested to reconstruct a new water tank with a vibration-resistant design as the area lies in seismic zone-III (Source: Project Vasundhara (1994), Seismotectonic map, GSI, T-VI). It means the occurrence of earthquakes up to a magnitude of 6 (intensity -VII) cannot be ruled out.
- 4) The landslide probability in the proposed quarry site and their immediate vicinity are minimal and can be avoided if necessary preventive measures are taken. It is also important to ensure optimum slope design by making benches as per the prevailing mining rules for minimizing slope instability issues and avoiding waterlogging conditions on vulnerable slopes.



5) The present study revealed that the proposed quarry site and adjacent area slopes are not been affected by any landslide incidences as per the study of temporal data of the last 15 years of Google Earth satellite imageries.

6) On prima facie, the present study revealed that the site is not vulnerable to landslides in and around (1 km buffer area). Since no settlements or schools, colleges, hospitals or any other important town are located in the 200 m of the quarry boundary. As a result, based on the site condition at the time of the field inspection, the site appears to be suitable for quarrying activities.

7) However, to evaluate the effect of blasting on the water tank located near the quarry site, on the stability of any slopes, measuring the intensity of the ground vibration due to blasting is required besides the evaluation of physico-mechanical properties of slope-forming material.

The study observed that to evaluate the effect of blasting on the water tank and effect on the stability of any slopes, measuring the intensity of the ground vibration due to blasting is required besides the evaluation of physico-mechanical properties of the slope-forming material.

18. For the said purpose, the petitioner has approached the 5<sup>th</sup> respondent-NIT, Surathkal and remitted requisite fee for conducting further study. The 4<sup>th</sup> respondent and persons under him are physically obstructing the study.



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In our country governed by Rule of Law, every citizen has a right to do any business or pursue any avocation permissible under law, following the provisions of law. Whether such an avocation/business is to be permitted or not, is for the competent authorities under the State to decide.

19. The petitioner wants to conduct a study by the 5<sup>th</sup> respondent in order to obtain necessary NOCs and Permissions for starting quarrying operations. The 4<sup>th</sup> respondent or anyone claiming under him cannot take law into their hand and obstruct such study. If the 4<sup>th</sup> respondent uses physical force, the police authorities are bound to protect the petitioner as long as the activity is not prohibited by law, the failure of which will offend the fundamental right of the petitioner guaranteed under Article 19(1)(g) of the Constitution of India.

The writ petition is therefore disposed of directing respondents 2 and 3 to give adequate police protection to the petitioner and the scientific survey team of



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the 5<sup>th</sup> respondent in conducting inspection and study in the proposed quarrying land.

Sd/-

**N. NAGARESH, JUDGE**

aks/14.07.2025



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APPENDIX OF WP(C) 24802/2024

## PETITIONER'S EXHIBITS

|            |                                                                                                                     |
|------------|---------------------------------------------------------------------------------------------------------------------|
| Exhibit-P1 | A TRUE COPY OF THE ORDER DATED 07/08/2023 OF THIS HON'BLE COURT IN WP.(C) NO.25341/2020                             |
| Exhibit-P2 | A COPY OF THE REPORT OF THE SENIOR GEOLOGIST, GEOLOGICAL SURVEY OF INDIA, KERALA DATED 12/01/2024                   |
| Exhibit-P3 | A COPY OF THE CHALLAN DRAWN ON FEDERAL BANK IN FAVOR OF THE 5TH RESPONDENT DATED NIL                                |
| Exhibit-P4 | THE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 28/06/2024                     |
| Exhibit-P5 | A COPY OF THE DIAGNOSIS SHEET OF THE PETITIONER ISSUED BY CASUALTY, GENERAL HOSPITAL, MUVATTUPUZHA DATED 03/07/2024 |
| Exhibit-P6 | A COPY OF THE PETITION DATED 04/07/2024 SUBMITTED BEFORE THE 3RD RESPONDENT HEREIN                                  |

## RESPONDENT'S EXHIBITS

|               |                                                                                                                                         |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit-R4(1) | The reply dated 1-8-2019 received by one Linson Thomas for his application dated 4-7-2019 submitted under Right to Information Act,2005 |
| Exhibit-R4(2) | The true copy of the judgment dated 6-12-2019 in W.A.No.451 of 2018                                                                     |

## RESPONDENT'S EXHIBITS

|            |                                                                                                                       |
|------------|-----------------------------------------------------------------------------------------------------------------------|
| Exhibit R7 | THE TRUE COPY OF THE JUDGMENT IN W.A.NO. 451/2018 DATED 06.12.2019 PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT |
|------------|-----------------------------------------------------------------------------------------------------------------------|