

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**
Application No. 440 of 2013 (SZ) (THC)
(W.P. (C) No. 4407 of 2012, High Court of Kerala, Ernakulum)

BETWEEN

1. M.P.MuhammedKunhi
S/o K.P.Khader, Aged 27 years
Coolie Worker
'Metepath House'
Pamburuthy
P.O.Narath, Kannur District
 2. B.Muhammed Ali
S/o Moideen, aged 41 years
'Bathakarakath House'
Pamburuthy
P.O.Narath, Kannur District
 3. M.Musthaffa
S/o B.Khader Haji, aged 22 years
'Mukreerakath House'
Pamburuthy
P.O.Narath, Kannur District
 4. M.MohammedAneez
S/o Mammu, aged 26 years
'Mandantakath House'
Pamburuthy
P.O.Narath, Kannur District
- AND
1. State of Kerala represented by Secretary
to the Government
Revenue Department
Secretariat, Thiruvananthapuram 695001
 2. The District Collector
Collectorate, Kannur - 670001
 3. The Kolacherry Grama Panchayat
Represented by its Secretary
Kolacherry, Kannur District-670 601
 4. The Pappinissery Grama Panchayat
Represented by its Secretary
Pappinissery, Kannur District 670561
 5. The Narath Grama Panchayat
Represented by its Secretary

Narath, Kannur 670601

6. The Superintendent of Police
Kannur 670001
7. The Sub Inspector of Police
Valapattanam Police Station
8. The District Expert Committee
Represented by its Chairman
The District Collector
Kannur

Legal Practitioners for Applicant(s)
Mr.HarishVasudevan

Legal Practitioners for Respondent(s)
Smt. Suvitha A.S. for R1, R2, R6, R7 and R8
Shri Sunil for R3 to R5

QUORUM:

HON'BLE JUSTICE DR.P.JYOTHIMANI, JUDICIAL MEMBER
HON'BLE PROF.DR.R.NAGENDRAN, EXPERT MEMBER

Order dated 12th May 2015

1. We have heard the learned counsel appearing for the applicant as well as the respondents including all the third, fourth and fifth respondent Panchayats.
2. The learned counsel appearing for the applicant would submit that as far as the place in question in this application is concerned, there is no Environmental Clearance (EC) granted and EC granted is in respect of area which is away from the place concerned. He has also submitted that all the conditions annexed to the EC make it very clear that river sand mining below water level shall not be carried out. The same is the dictum laid down by the

Hon'ble Supreme Court of India. Therefore, he would submit that if in spite of such conditions and the order of the Hon'ble Supreme Court, the mining is to take place below water level, the same is to be prevented. He has to take appropriate steps either filing an application or appeal against the EC granted in respect of the above site.

3. In such view of the matter and taking note of the fact that in so far it relates to respondents 3 to 5, EC has not been granted, the application stands closed.
 4. While challenging the EC in respect of the other panchayats, it will be always open to the applicant, incidentally to bring to the notice of the Tribunal or authority concerned that by virtue of the mining operation in respect of the other panchayats, the other places are also likely to be affected.
 5. The learned counsel appearing for 3rd respondent would submit that the 3rd respondent never allowed quarrying below the water level in the area. The said statement is also recorded. The 3rd respondent shall scrupulously follow the undertaking given through the counsel. Similarly, 4th and 5th respondents panchayats shall also not permit any quarrying below the water level.
 6. With the above directions, the application no.440 of 2013 stands disposed of.
- No cost.

Justice Dr.P.Jyothimani
(Judicial Member)

Prof.Dr. R. Nagendran
(Expert Member)