

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE S.V.BHATTI
&
THE HONOURABLE MR.JUSTICE BASANT BALAJI

Tuesday, the 21st day of March 2023 / 30th Phalgun, 1944
WP(C) NO. 7844 OF 2023(S)

SUO MOTU WRIT PETITION INITIATED BY THE HIGH COURT.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS
SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI - 682
011.
3. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS
CHAIRMAN, HEAD OFFICE, PATTOM P.O., THIRUVANANTHAPURAM -
695 004.
4. THE DISTRICT COLLECTOR, DISTRICT COLLECTORATE, KAKKANAD,
ERNAKULAM- 682 030.
5. THE DIRECTOR GENERAL, KERALA FIRE AND RESCUE SERVICES,
HEADQUARTERS, FIRE FORCE JUNCTION, PULIMOODU P.O.,
THIRUVANANTHAPURAM - 695 001.
6. THE STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS,
THIRUVANANTHAPURAM, KERALA, INDIA - 695 010.

ADDL. R7 IMPEADED

7. THE ADDITIONAL CHIEF SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT OF KERALA.

ADDL. R7 IS SUO MOTU IMPEADED AS PER ORDER
DATED 07/03/2023 IN WPC

ADDL. R8 IMPEADED

8. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR,
VYDUTHI BHAVAN, PATTOM-695 004.

ADDL. R8 IS SUO MOTU IMPEADED AS PER ORDER
DATED 10/03/2023 IN WPC.

P.T.O.

This Suo Motu writ petition again coming on for admission upon perusing the petition, this Court's order dated 14/03/2023 and upon hearing the arguments of SRI.K. GOPALAKRISHNA KURUP, ADVOCATE GENERAL for R1, R4, R6 & R7, SRI.K. JANARDHANA SHENOY, STANDING COUNSEL for R2, SRI.T. NAVEEN, STANDING COUNSEL for R3 and of SRI.UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER for R5, SRI.VINU T.V, SRI.VISHNU.S & SMT.POOJA MENON, AMICI CURIAE, the court passed the following:

P.T.O.



S.V. BHATTI & BASANT BALAJI, JJ.

W.P.(C) No. 7844 of 2023

Dated: 21st March 2023

ORDER

S.V. Bhatti, J.

The state of Kerala known as God's Own Country, a preferred tourist destination nationally and internationally, has a geographical area of 38863 sq km. The population of the State is 3,34,06,000 (per, 2011 census). The State ranks high in the Country with a literacy rate of 94% in 2011. It is stated to have enhanced literacy per cent in 2022 and continues to rank high in the Country. The State has an enviable forest coverage of 11,52,000 hectares. The present per capita income in the State of Kerala is Rs.1,48,524/-. Nature has gifted rivers, backwater lakes, and a long sea coastline of 366.30 miles. The gifts from nature to the State of Kerala are innumerable. The present generation, being beneficiaries, are also the guardians of nature. But whether the benefits are enjoyed without repaying debts due to nature or not is the question arising in

this *suo motu* writ petition.

2. Read Orders dated 13.03.2023 and 14.03.2023.

The Court takes on record the affidavits filed by the Additional Chief Secretary, Local Self Government Department/7th respondent; the Secretary, Kochi Municipal Corporation/2nd respondent; the Chairman, Kerala State Pollution Control Board/3rd respondent and the District Collector, Ernakulam/4th respondent.

2.1 The *suo motu* writ petition is registered on the directives dated 06.03.2023 of Hon'ble the Chief Justice responding to irrefutable newspaper reports dated 3rd, 4th and 5th of March 2023 on smoke clouds covering the Cochin City from Bramhapuram fire incident. The fire incident or accident that occurred at a site used as a municipal solid waste management facility at Bramhapura is the first alarming signal for the society in the State of Kerala to comprehensively audit the generation, at the source management, handling and

handing over of municipal solid waste to the authorized agencies and prevent the recurrence of a similar incident or accident at any of the sites established, operated and managed by the Local Self Governments in the State of Kerala. The seriousness of the fire incident and its impact on the lives of humans and the environment in the neighbourhood can be recorded from the ambient air quality reports placed on record by the 3rd respondent.

3. This Court's initiation of *suo motu* proceedings has opened debates, discussions and suggestions by well-intended citizens of the State of Kerala. This Division Bench has received several meaningful inputs from the respondents as well as Samaritans in the State of Kerala. The suggestions to improve the systems in place are a few of them.

3.1 This Court, after understanding the gravity of the situation and inputs available from all sources reminds itself of the famous quote of Thomas Carlyle:

“Our main business is not to see what lies dimly at a distance, but to do what clearly lies at hand.”

This Court has taken upon itself the Constitutional duty of monitoring the implementation of Solid Waste Management Rules 2016 (for short, Rules 2016) and with that objective through our Orders had called upon the respondents to place on record the immediate steps taken for putting out the fire at the Bramhapuram site, short, medium and long-term measures for continuous implementation of Rules 2016 in the State of Kerala.

4. The Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act 1981 and the Environment (Protection) Act 1986 (for short, the Water Act, the Air Act and the EP Act) were enacted by the Parliament for the protection and improvement of environment and matters connected therewith; for the prevention, control and abatement of air pollution and to provide for the prevention and control of water pollution and

maintaining or restoring of wholesomeness of water. The objectives of the Water and Air Acts were to prevent pollution of water bodies or air from primary sources of industrial effluents and emissions. In other words, historically also, the sources of pollution were identified as industrial, commercial, operational and process activities from Industries, Establishments etc. The Environment (Protection) Act 1986 is a comprehensive enactment by Parliament for the protection of the environment from pollution and pollutants of all varieties. The Environmental Laws provide for the collection, treatment, and disposal of effluents/emissions as per the standards stipulated under the EP Act and at the place of discharge. The source of the generation of municipal solid waste is the existence of human beings and their ever-growing activities for livelihood, employment, wealth generation etc. Unlike conventional pollutants, i.e., Industries/ Establishments, solid waste generation is from individual

sources of all human beings, households, and commercial industrial establishments. It is because of the scattered sources of generation of pollution from individuals, houses, and establishments in a society the Parliament has enacted the Municipal Solid Waste (Management and Handling) Rules 2000 and after realizing the need for a new regulatory regime on solid waste management, the Parliament brought into existence the Solid Waste Management Rules 2016 by superseding Municipal Solid Waste (Management and Handling) Rules 2000. These Rules are in operation with effect from 08.04.2016.

5. Rule 22 of the Rules 2016 provides for the timeframe for implementation and treatment facilities by all the persons/institutions to whom the Rules are applicable.

Rule 22 reads as follows:

“22. Time frame for implementation. The necessary infrastructure for implementation may be, on their own, by directly or engaging agencies within the time frame specified below:

Sl. No.	Activity	Time limit from the Date of notification of rules
1.	Identification of suitable sites for setting up solid waste processing facilities	1 year
2.	Identification of suitable sites for setting up common regional sanitary landfill facilities for suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand-alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more.	1 year
3.	Procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities	2 years
4.	Enforcing waste generators to practice segregation of bio-degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source.	2 years
5.	Ensure door-to-door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.	2 years
6.	Ensure separate storage, collection and transportation of construction and demolition wastes	2 years
7.	Setting up solid waste processing facilities by all local bodies having 100000 or more population	2 years
8.	Setting up solid waste processing facilities by local bodies and census towns below 100000 population	3 years

9. Setting up common or stand-alone sanitary landfills by or for all local bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as untreatable inert wastes as permitted under the Rules 3 years
10. Setting up common or regional sanitary landfills by all local bodies and census towns under 0.5 million population for the disposal of permitted waste under the Rules 3 years
11. Bio-remediation or capping of old and abandoned dump sites 5 years

5.1 The timeline objectives are neither adhered to nor any one of the aims and objectives laid down by Parliament under the Environmental Law from this source of pollution is accomplished. The following details evidence the same.

5.2 MSW generated per day in the State of Kerala

[2021]

Population 2011	Projected Population 2023	Municipal Solid Waste Generated 2011	Projected Municipal Solid Waste Generated 2023
3.34 Crores	3.51 Crores	8338 TPD	10,044 TPD

6. The above narrative depicts the two sides of the State of Kerala, i.e., with advantages from nature and accumulated disadvantages or disasters created by Local Self Governments in discharging one of the foremost obligations of any Local Self Government. The lamentable enforcement of Rules 2016 in the State of Kerala, particularly in the City of Cochin is the subject matter of adjudication by the Expert/competent Tribunal in matters concerning the environment. [Vide Order dated 17.03.2023 in O.A. No.178/2023 by the National Green Tribunal, Principle Bench New Delhi.]

7. We have heard the learned Advocate General and the Senior Beaucrates assisting us in categorizing the issues arising under Rules 2016 for strict compliance by all the stakeholders. The *suo motu* writ petition proposes to categorize the implementation of Solid waste management Rules 2016 into two categories, namely (i) the *in situ* incident

at the Bramhapuram site together with the Districts of Ernakulam and Thrissur, (ii) the remaining 12 districts of the State of Kerala as another category. The scope of the writ petition is, for the present, finalized with the following terms:

1. The Solid Waste Disposal facilities established and operated (authorised and unauthorised) by all the local bodies in the State are jointly inspected by the competent agencies/ departments under the Rules, including the District Level Disaster Management Committee to assess the facilities, identify the deficiencies and recommend measures for modernization within the timeframe set up by the Government in the Government Orders already issued.

1(a) Ensure that these facilities conform to the guidelines/ provisions of Rules 2016 and are cleared by the State Pollution Control Board.

1(b) Fire and Safety precautions including Camera Surveillance Systems and Fire Fighting arrangements in these facilities are ensured as conforming to prescribed standards.

2. The suo motu writ petition reviews, ascertain and decides whether the Management System at the facilities is properly entrusted to competent officials and whether there is adequate manpower/ infrastructure to operate the facilities.

3. The need and necessity for revision of the existing protocol for waste management, including segregated collection and processing as also the layout of the processing yard, along with transportation and storage facilities.

4. The local bodies educate the civic population through democratic participation in proper waste management, including waste processing at its origin, and proper segregation of biodegradable and non-biodegradable waste as also hazardous wastes, e-waste etc., have to be assessed and augmented.

4(a) The local bodies to empanel the assistance of citizen groups, residents' associations etc for evaluation and strengthen the door-to-door campaigns with the help of volunteers.

5. Waste collection and management from bulk waste generators be enforced by local bodies.

6. Rules are implemented by imposing fines by the local bodies concerned.

8. The Disaster Management Act 2005 (for short, Act 2005) is yet another legislation by Parliament for the effective management of disasters and the matters connected therewith or incidental therewith. The Act is in force having received the assent of the President on 23.12.2005 and Gazetted on 26.12.2005. Sections 2(d),(e), (f), (g), (h), (q) and (s) of Act 2005 are important and contain jurisdictional aspects in Disaster Management, and read thus:

(d) “**disaster**” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) “**disaster management**” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient

for—

- (i) prevention of danger or threat of any disaster;
 - (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
 - (iii) capacity-building;
 - (iv) preparedness to deal with any disaster;
 - (v) prompt response to any threatening disaster situation or disaster;
 - (vi) assessing the severity or magnitude of effects of any disaster;
 - (vii) evacuation, rescue and relief;
 - (viii) rehabilitation and reconstruction;
- (f) “**District Authority**” means the District Disaster Management Authority constituted under subsection (1) of section 25;
- (g) “**District Plan**” means the plan for disaster management for the district prepared under section 31;
- (h) “**local authority**” includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area;

- (q) “**State Authority**” means the State Disaster Management

Authority established under subsection (1) of section 14 and includes the Disaster Management Authority for the Union territory constituted under that section;

(s) “**State Government**” means the Department of Government of the State having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;

8.1 Chapters III and IV of the Act 2005 deal with the State Disaster Management Authorities and the District Disaster Management Authority. Act 2005 encompasses within its fold both curative measures upon the occurrence of a disaster and also from the plain reading of the definitions Section 2(d) and (e) embraces preventive or precautionary principles on disaster. The impact of the fire disaster pales into insignificance any debate on clothing the State and the District Level Authorities in disaster management of environmental and health issues of Society. The report places on record the stand of the Government that the State and the

District Level agencies have a role under Rule 2016 read with Act 2005. A civilized and educated society need not wait for a full-scale degradation of environment and a disaster to occasion to take the steps covered by the definition 'disaster management' under Section 2(e) of Act 2005. The warning from Bramhapuram fire incident is an indicator of disasters lurking in the State of Kerala. This Court firmly believes that the State machinery, the elected representatives of people in all democratic institutions, stakeholders, institutions and individuals are under a legal and constitutional obligation under Article 51 A(g), which reads as follows:

"It shall be the duty of every citizen of India

(g) To protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion to living creatures.

(h)

The citizenry of the Country can demand and enforce an environment free from pollution if we discharge our

fundamental duty under Article 51 A(g). Therefore, the ongoing monitoring of the implementation of Rules 2016 by this Court would include issuing directions under Act 2005 to the respondents and other instrumentalities, agencies, coming within the ambit of Act 2005.

9. The next question for our consideration is whether the present state of affairs in the implementation of Rules 2016 satisfies the definitions in Section 2(d) and (e) of Act 2005 and whether the District Authority and the State Authority, entrusted with the functions of prevention of a disaster by accident or negligence, damage to or degradation of the environment, are discharging the function and the duty under Act 2005. The present status report received from the respondents concludes that the failure in the implementation of Rules 2016 will lead to damage to or degradation of the environment and disaster management shall be implemented for the prevention of danger or threat of all facets covered by

Section 2(d) of Act 2005. This Court, in the exercise of its jurisdiction under Article 226 of the Constitution of India, would be directing the State and the District authorities under Act 2005 to ensure the implementation of directives issued from time to time both under Rules 2016 and Act 2005. The State Government, through Additional Chief Secretary and the learned Advocate General, have committed that by 05.06.2023, i.e., the World Environment Day, the environment and ecology of the State firstly will be improved, secondly, prevented from further deterioration within the four corners of law. At the appropriate stage of our order, we will place on record the undertakings given on this behalf by the respondents.

10. On the first issue, namely the Bramhapuram fire incident and its fallout on the City of Cochin and the neighbourhood of Bramhapuram, the statement of the District Collector that the fire has been put out at Bramhapuram on 14.03.2023 and the ambient air quality recorded by the mobile

units of Pollution Control Board, is placed on record.

“MOBILE UNIT (Civil Station, Kakkanad)

The daily average concentration of PM 2.5 in Kakkanad region was 149.3 $\mu\text{g}/\text{m}^3$ on 8th March and from 11th march the concentration has begun to decline and reached 110.41 $\mu\text{g}/\text{m}^3$. This shows the improvement of air quality in surrounding regions. According to National Ambient Air Quality Standards (NAAQS) PM 2.5 average concentration should be 60 $\mu\text{g}/\text{m}^3$ for 24 hrs.

Date	March					
	08	09	10	11	12	13
PM 2.5	149	150	131	125	110	103



Figure 4: Values obtained from 08.03.2023 to 13.03.2023

10.1 The District Collector, the Head of the District Level disaster Management, assured the Court that the precautionary steps needed to prevent the recurrence of fire incidents in the event of an incident happening at the site, and the facilities needed for containment are in place. The facilities will not be withdrawn unless the experts certify to that effect and under due intimation to the Court. The District Collector, by affidavit dated 10.03.2023, informed the Court for ensuring the implementation of the following:

“15. It is further submitted that, on the basis of the directions given in a meeting chaired by the Hon. Chief Minister of Kerala, it has been decided to implement various short-term and long-term measures to avoid such mishaps in the future and ensure proper collection and disposal of civic waste. As part of the measures,

1. Once the firefighting operations are completed, strict instructions under the relevant provisions of the prevailing enactments will be given to the Corporation that the waste heaps at the Plant are made into clusters of 50 m² and separated with a minimum distance of 7 mts. to facilitate the free movement of equipment inside the dumping yard. Instructions will also be given to revamp the firefighting

system in the yard.

2. CCTV Surveillance facilities will be instructed to be augmented.

3. Bio waste will be instructed to be processed at the maximum at its origin.

4. The existing Windrow Composting Unit at the Plant will be instructed to be repaired immediately and put into use.

5. It will be directed to ensure that no plastic material/ waste are permitted to be brought into the Plant for treatment.

The entire short term measures stated above will be completed before 20.03.2023, after ensuring that the existing fire scenario is fully cleared.

6. A District Level Empowered Committee will be formed to monitor the implementation of the long-term measures.

7. The firefighting plan prepared earlier by the Fire & Rescue Department will be deliberated and acted upon.

Necessary interventions in the above long-term measures will be ensured before 30.04.2023.”

11. The Additional Chief Secretary has given the following timelines for the implementation of short- and long-term measures for solid waste

Immediate, Short term and long-term actions for Solid Waste Management in the State of Kerala

Table I

Sl. No	Activities	Actions to taken		
		Immediate (by June 2023)	Short Term (by October 2023)	Medium Term (by March 2024)
1.	Ensuring 100% Source segregation and door-to-door collection of waste	<ul style="list-style-type: none"> Ensuring implementation of agreement between Haritha Karma Sena with remaining household/ institutions Mass campaign for sensitizing citizens for reduction and source segregation of waste Mapping and geotagging of waste management facilities to assess gap in the existing system. Setting up of district-level technical support consortium of service providers 	<ul style="list-style-type: none"> Digital platform based system (Haritha Mithram App) for monitoring the services of Haritha Karma Sena 150 more LSGs Ensuring that the households and institutions practice source level treatment of biodegradable waste or tie up with 	<ul style="list-style-type: none"> Digital platform based system (Haritha Mithram App) for monitoring the services of Haritha Karma Sena all LSGs Setting up new/permanent community level facilities based on gap assessment.

		<p>and technical agencies for business and service will be set up to support LSGs in co-ordination with Joint Director, LSGD in all districts</p> <ul style="list-style-type: none"> Enforcement and Positioning special enforcement squads in all districts for supporting LSGs and ensuring their functionality 	<p>community facilities.</p> <ul style="list-style-type: none"> Making dysfunctional facilities identified through gap assessment functional and setting up temporary facilities such as MCF wherever found essential 	
2.	Removal of garbage dumps in public places	<ul style="list-style-type: none"> The Inventory and documentation (geotagging) of garbage vulnerable points (GVPs)/dumps in public streets/places Clearing of Garbage Vulnerable points as part of the Pre-monsoon cleaning drive Ensuring 	<ul style="list-style-type: none"> Formation of Organizing committees for each garbage vulnerable point for conservation of cleaned up sites. Ensuring 100% Door to door collection 	<ul style="list-style-type: none"> Conducting Janakeeya audit at every LSG for ensuring the quality of services of waste management. Scientific remediation of remaining large legacy waste dumpsites in the State

		<p>movement of waste from clean up drives through CKCL and private agency engagements</p> <ul style="list-style-type: none"> • Installation of Anti-littering IEC boards in the premises 	<p>of non-bio waste and source-level treatment of bio waste in the catchment area of the cleaned site.</p> <ul style="list-style-type: none"> • Installation of CCTV monitoring systems in the premises • Scientific remediation of remaining small legacy waste dumpsites in the State 	
3.	Cleaning of water bodies with floating debris	<ul style="list-style-type: none"> • In continuation to “Thelineerozhukum Navakeralam”, preparation of list of water bodies with floating debris. • Cleaning of 	<ul style="list-style-type: none"> • Installation of CCTV at vulnerable points 	

		<p>identified water bodies as part of Pre-monsoon cleaning drive</p> <ul style="list-style-type: none"> • Ensuring drying, segregation and recycling of waste collected 		
4.	Monitoring/ Co-ordination mechanism	<ul style="list-style-type: none"> • Formation of State level, District level, Assembly constituency level committees 		



Table II

Road Map to accomplishing the above objectives

Activity	Affidavit
Preparatory activities	15.03.23 -31.03.23
Issue of orders to all LSGs and DCs	15.03.23
Dt core committee	18.03.23
DC meeting with ERs	20.03.23
Ward level committee formation	25.03.23
Cluster formation per ward-2	30.03.23
Formation of suchitwa squads	31.03.23
Formation of Arogya jagrata samitis, district and LSG level	25.03.23
Tying up funds	18.03.23
HKS deployed as RP	25.03.23
Training for campaign	Till 05.04.23

LSG level meetings	18.03.23
HH visits by ERs	By 25.03.23
Reporting HH without source mgt	31.03.23.
Segregation at source	30.03.23 -05.06.23
D2D gap assessment	31.03.23
HKS appointment for gap	15.04.23
Training for HKS new	20.04.23
Technical consortium	15.04.23
Transportation consortium	15.04.23
Universalization of D2D collection (NBW}	05.06.23
Source mgt of biowaste in HH	15.05.23
Validation of HH mgt	12.04.23-15.04.23
Vigilance squads to assess HH wm	By April 30
Source segregation of non-bio waste in HH	30.05.23
Inventorisation of mini MCF, MCF	31.03.23
Temporary MCF where needed	15.05.23
Weighing machines, registers	15.04.23
Removal of waste, cleanup of MCF	30.03.2023 -05.04.2023
Clean up of all govt offices	15.04.23
In situ waste mgt - bulk waste generators	30.06.23
Action against defaulters	30.03.23 onwards
Incorporation into Haritha Mithrarn app	25.03.23
Awareness building	01.04.23 to 01.06.23
Mop up citizen education	30.09.23 (<i>medium term</i>)

Drive to remove furniture, e-waste etc	30.04.23
Universalizing chicken rendering guidelines	31.05.23 except dts without plants
Haritha Mithram universalisation	150 LSGs -30/ 10/23 {medium term) Rest of LSGs 31/03/24 (long term)
New MCFs	31/03/24 (long term)
Garbage heap clean up	31.03.23 - 25.05.23
Inventory of garbage v points -	31.03.23
Digitization of inventory	15.04.23
Clean up of public dumps and spaces	30.04.23
Clean up of garbage heaps on private land	05.05.23
100% Door to door collection in catchment area	15.05.23
Establishment of waste bins, anti litter boards- supervision by HKS	25.05.23
CCTV monitoring systems	October 23 (medium term)
Remediation of small legacy dump sites	31.08.23 (medium term)
Remediation of large legacy dump sites	31.03.24(long term)
Mosquito eradication	
Dry days- Sun and Fri	31.03 23 onwards
Destruction of small water sources for mosquito breeding	10.04.23
Water body cleanup	31.03.23 - 05.05.23
Cleaning drains, channels	30.04.23
Chlorination of water sources	15.04.23

Public spaces, plantations, mosquito eradication	30.04.23
Clean up public toilets and bathrooms	15.04.23
Soak pits under MGNREGS	Mar-June 2023
Water body debris removal - inventory.	31.03.23
Debris removal, drying and segregation	30.04.23
Inert waste to CKCL	05.05.23
water flow by removing waste/block	By 15.04.23
Mud for bund strengthening	18.04.23
Action against dirtying water bodies (monitor)	15.03.23 onwards
Action against illegal drain outlets (monitor)	15.03.23 onwards
Public audit	15.04.23 - 15.07.23
Declaration of garbage free spaces	15.05.23 onwards
Declaration of waste free wards	20.05.23 onwards
Janakeeya audit guidelines	15.04.23
Positioning team	25.04.23
Janakeeya audit training	10.05.23
Janakeeya audit	01.06.23- 30.09.23
Audit report	06.06.23
Corrective action	30.06.23
Review	15.07.23

Table II-A
Monitoring and reporting

Committee	Periodicity
Nodal officer LSG	From 15.03.23
Ward samiti	From 18.03.23
Standing committee	From 20.03.23
LSG head	From 16.03.23
LSG samiti	From 17.03.23
LSG war room	From 13.03.23
MLA led Committee	Fortnightly from March
District samiti	Weekly from March
District Promotion Council	From 01.04.23
District War Room	Daily from 15.03.23
Enforcement team formation	20.03.23
Operations	22.03.23
Vigilance squads formation	15.04.23
Operations	17.04.23
District Min review.	From March
State level War room	From 13.03.23
Project Director	From 13.03.23
State Committee	From 20.03.23
Additional Chief Secretary	From 13.03.23

G.O.(Rt) No.604/2023/LSGD dated 13.03.2023 is issued. The said Government Order is directed to be appended to the instant order for immediate reference for all the stakeholders.

12. The Local Self Governments, i.e., Corporations, Municipalities and Grama Panchayats, because of the disaster management being monitored in the State of Kerala, are directed to work in consultation with and furtherance of the directives issued by the State and District level committees under Act 2005 for enforcement of Rules 2016. The Pollution Control Board, being a statutory authority, has placed before us the status report of Bramhapuram. It is taken on file.

12.1 The problem is serious, ubiquitous in all the Local Self-Governments in the State and stems from the failure to implement Rules 2016, The source of the problem is individuals, individual houses, establishments, gated communities etc. The statutory objectives of Rules 2016 are achieved by each one of the stakeholders assuming individual responsibility for the waste generated for proper collection, handling, and handing over to the agencies the waste generated at source to the Local Self-Governments. The larger

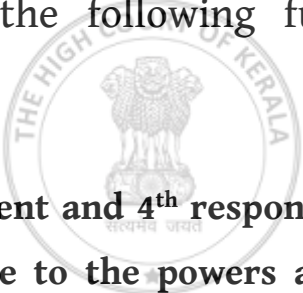
objectives are accomplished with the effort of the Officers and by consistent cooperative participation by implementing Rule 22 of Rules 2016, by calling it the Citizen Charter:

zg. Create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -

- i. not to litter.
- ii. minimise the generation of waste.
- iii. reuse the waste to the extent possible.
- iv. practice segregating waste into biodegradable, non-biodegradable (recyclable and combustible), sanitary and domestic hazardous wastes at source.
- v. practice home composting, vermicomposting, bio-gas generation or community-level composting.
- vi. wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping to the local body and place the same in the bin meant for non-biodegradable waste.
- vii. storage of segregated waste at the source in different bins.
- viii. handover segregated waste to waste pickers, waste collectors, recyclers, or waste collection agencies; and

ix. pay monthly user fees or charges to waste collectors, local bodies, or any other person authorised by the local body for the sustainability of solid waste management.

13. The affidavits of respondent nos.7, 4 and 2 and the undertakings of the State Government, the District Administration and the Cochin Municipality for the timely performance are accepted by this Court. In continuation of the Government Orders the following further directives are issued:

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- i) The 7th respondent and 4th respondent are directed to take recourse to the powers available to them under the Disaster Management Act 2005 for implementation of and enforcement of Rules 2016 by all the Local Self Governments to prevent a disaster or for disaster management.**
- i(a) The 7th respondent directs the District Collectors who are not parties to this writ petition to invoke the power under Act 2005 for implementation of Rules 2016.**
- i(b) The 7th respondent issues directives to Tourism Department, Tourism Development Corporation, tourist homes, Devaswom Boards under Section 5 read with Section 23 of the EP Act to comply with**

Rules 2016 and Plastic Waste Management Rules 2016 in all the Temples coming under their administration. The Court, for the present, reserves its option of issuing appropriate directions comprehensively in respect of all places of all religious importance.

- i(c) The 7th respondent directs the Local Self Governments forthwith to issue directions that the solid waste in any form by the establishments be prohibited by communicating individual orders to the medium-bulk generators, including the places of worship of all religions.
- ii) The Government Orders, G.O.(Rt) No.2420/2017/LSGD dated 15.07.2017; G.O.(Rt) No.1496/2020/LSGD dated 12.08.2020; G.O.(Rt) No.604/2023/LSGD dated 13.03.2023, are communicated for compliance under Sections 5 and 23 of the Environment Protection Act to all the Local Self Governments.
- iii) The 7th respondent is directed to discharge the obligation cast by Rule 2 of Rules 2016 by issuing a notification on the applicability of the Rules to ecologically sensitive areas, tourist spots, pilgrim centres, beaches etc in the State of Kerala. District Collectors of the State of Kerala are directed to place a brief report on the solid waste management facilities in their jurisdiction, their functional

efficacy and their suitability for managing solid waste generated within their territorial jurisdiction by the next posting.

- iv) The implementation status submitted by the District Collectors from time to time is verified by this Court through the Secretary, Legal Services Authority, of each one of the Districts.
- v) The 7th respondent is directed to place before the Court an alternative viable proposal for solid waste management for all the Municipal Corporations on or before 11.04.2023.
- vi) The Pollution Control Board/3rd respondent is directed to issue orders to respective Regional Officers of the Board to (i) tabulate the number of Municipal Corporations/ Municipalities/ Grama Panchayats within their territorial limits, (ii) by serving notice on these Local Self Governments for collection of legal samples from the place of dumping, and in the neighbourhood and file status reports with soft copies of photos on the statutory compliance by these facilities and functional efficacy, deficiencies, and short, medium and long-term measures needed for complying with Rules 2016.
- vii) The Pollution Control Board is directed to collect legal samples in the presence of District Level Services and representatives, of water from the water

drawing points of Periyar river, one analysed by the Board, and another handed over to District Collector/4th respondent for sending to laboratories for analysis and file reports by 03.04.2023.

- viii) The Registrar General is directed to circulate a softcopy of this Order by email to all the Judicial Officers with a directive to strictly comply with Rules 2016 at the respective stations. The employees of the District Judiciary are intimated through the respective Judicial Officers to comply with the obligations of Rules 2016 both at the office and residence of the employees to set an example that the Judiciary is at the forefront of doing clearly what lies in its hands.
- ix) This Court with confidence calls upon the legal fraternity/Advocates to implement Rules 2016 and extend cooperation to the statutory authorities.
- x) The 7th respondent is directed to communicate the order of even date of this Court to Nava Kerala Mission, Suchitwa Mission and Clean Kerala Company Limited with a request to disseminate duties, the objectives of Rules 2016 and functions committed by the State Government for performance through their efforts and participation. The Nav Kerala Mission, in turn, would convey to elected Ward Corporators/ Councillors/ Members of Corporations/

Municipalities/ Grama Panchayats in the State for achieving a clean and green Kerala. The campaigning for a clean and green Kerala thus is compartmentalized for implementation and improvement.

- xi) The Public-Private Partnership running facilities are identified and the responsibility, both Civil and Criminal, is fastened on the Local Self Governments and its Agent, i.e., the Operator for violation of EP Act, Rules 2016 and Act 2005. The Local Self Government and its Administrators/ Officers are primarily responsible in law for the obligation and the consequences under Rules 2016.
- xii) The future Public-Private Partnership for managing municipal solid waste facilities shall be designed, and established with the prior consultation and approval of the District Level Disaster Management Committee, for the failure or breakdown will result in one form or the other disaster.
- xiii) The Court appoints Advocates (a) Mr Vinu T V; (b) Mr Vishnu S and (c) Mrs Pooja Menon as Amicus Curiae to assist the Court in monitoring the issues identified in the Writ Petition from time to time. Mr Vinu T V assists the Court with the implementation of Rules 2016 by the Local Self Governments situated in Ernakulam and Thrissur Districts. Mr Vishnu S

assists Local Self Governments in Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha, Kottayam and Idukki Districts. Mrs Pooja Menon assists Local Self Governments in Palakkad, Malappuram, Kozhikode, Wayanad, Kannur and Kasaragod Districts.

- xiv) The instant order is directed to be translated into Malayalam language and a soft copy of both versions is made available to the Local Self Governments and their constituents, i.e., elected representatives, for consistent cooperation and implementation of Rules 2016.

The Court monitors the implementation and progress of Rules 2016 in the following phases:

First Phase

Consists of collection, segregation, handling and handing over solid waste generated as per Rules 2016. Through the 7th respondent, the District Collectors file the first action taken, and compliance report on Tables I and II excerpted above. The report is filed by 03.04.2023.

Second Phase: [From 12.04.2023]

Subject to the conclusions and remarks of the 7th respondent on performance indicators by all the stakeholders, and continued inaction by the Local Self Governments or/and their constituents, the

Court would monitor imposing fines and penalties on the violators by the District administration as specified in Directive No.D2-206170/2016/PHQ dated 14.11.2016.

Third Phase:

- i) The option such as the recovery of compensation under Section 30 of the Water Act or the polluter pays principle from the Local Self Government and the Polluter or the individuals found responsible for implementing Rules 2016. And also direct prosecution of erring Secretaries of Municipal Corporations/ Municipalities/ Grama Panchayats.
- ii) For effective prosecution, this Court would consider requesting Hon'ble the Chief Justice to designate or notify one Magistrate Court in each district for prosecuting the offences committed under the Environment Laws.

Post on 03.04.2023.

Sd/-

S.V.BHATTI
JUDGE

Sd/-

BASANT BALAJI
JUDGE

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