

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 27136 of 2014 (S)

PETITIONER(S):

**ABDULLA KUNHAMU, AGED 59 YEARS
S/O.KUNHAMU MOIDEENKUTTY, KALLATRA HOUSE
KIZHUR PADINHAR, KALNAD, KASARAGOD
CHANDRIGIRI, KERALA-671317.**

**BY ADVS.SRI.M.SASINDRAN
SRI.V.VENUGOPAL**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
KASARAGOD-671121.**
- 2. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM-695001.**
- 3. THE EXECUTIVE ENGINEER,
KASARAGOD DIVISION HARBOUR ENGINEERING
CLOCK TOWER JUNCTION, NEAR RAILWAY STATION
KASARAGOD-671121.**
- 4. THE CHANDRAGIRI - KEEZHUR KADAPPURAM POOZHI
THOZHILALI CO-OPERATIVE SOCIETY LTD.,
KEEZHUR KADAPPURAM, P.O.CHANDRAGIRI-671317, KALANAD
KEEZHUR, KASARAGOD DISTRICT
REPRESENTED BY ITS SECRETARY.**
- 5. THE CHANDRAGIRI GRAMA PANCHAYATH,
CHANDRAGIRI, REPRESENTED BY ITS SECRETARY
KASARAGOD DISTRICT-671317.**
- 6. THE DIVISIONAL MANAGER,
SOUTHERN RAILWAY, PALAKKAD DIVISION,
OLAVAKKODE-678002, PALAKKAD.**

PJ

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7. THE CHAMNAD GRAMA PANCHAYAT,
CHAMNAD, KASARAGOD-671317
REPRESENTED BY ITS SECRETARY.

R1-R3 BY SEPCIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL
R4 BY ADVS. SRI.A.BALAGOPALAN
SRI.M.S.IMTHIAZ AHAMMED
R6 BY ADV. SRI.C.S.DIAS,SC, RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, ALONG WITH WPC. 32524/2014, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE NEWS ITEM PUBLISHED IN MADHYAMAM DAILY DATED 9.6.2014.**
- P1(A): TRUE ENGLISH TRANSLATION OF EXT.P1.**
- P2: COPY OF THE COMPLAINT SUBMITTED BEFORE THE HON'BLE STATE MINISTER FOR RAILWAYS.**
- P3: COPY OF THE COMPLAINT SUBMITTED BEFORE THE RAILWAY DIVISIONAL MANAGER, PALAKKAD.**
- P4: COPY OF THE REPRESENTATION SUBMITTED BY THE RESIDENTS OF THE KEEZHUR AREA WHO ARE MEMBERES OF PARISTHTI SAMRAKSHANA SAMITHI, KEEZHUR.**
- P5: COPY OF THE RELEVANT EXTRACTS FROM THE COASTAL REGULATIONS NOTIFICATION PUBLISHED IN THE GAZETTE DATED 6.1.2011.**

RESPONDENT(S)' EXHIBITS

- R3(A): COPY OF G.O.(MS)NO.208/08AD DAETD 12/12/08**
- R3(B): COPY OF ENVIRONMENTAL CLEARANCE ISSUED FROM MINISTRY OF ENVIRONMENT & FORESTS, GOVERNMENT OF INDIA NO.10-5/2006-IA III DATED 14/7/06**
- R3(C): COPY OF LAY OUT OF THE HARBOUR.**

/ TRUE COPY /

P.S. TO JUDGE

PJ

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

W.P.C.Nos.27136 & 32524 of 2014

Dated this the 30th day of January 2015

J U D G M E N T

Ashok Bhushan, Ag.CJ

Heard learned counsel for the petitioners.

2. These writ petitions have been filed as public interest litigations alleging large scale dredging and removal of sand from confluence area of Chandrigiri river and Arabian sea without obtaining any environmental clearance as per the provisions of Environmental Protection Act, 1986. As per the directions of this Court, a counter affidavit has been filed by the learned Special Government Pleader on behalf of the 3rd respondent in W.P.C.No.27136/2014 which has also been adopted in W.P.C.No.32524/2014 by a memo. Along with the Counter affidavit, order of the Government of India dated 14/07/2006 which is the environmental clearance under the CRZ Notification, 1991 has been

annexed. The said clearance has been granted with certain conditions and protection measures which amply safeguard the protection of environment. Petitioners have come up with the main allegations that without obtaining environmental clearance, extensive mining operations are being carried out. Certain photographs have also been filed along with W.P.C.No.32524/2014. Petitioners have also referred to the judgment in **Deepak Kumar v State of Haryana and Others** [(2012) 4 SCC 629].

3. Present is the case where the Government permitted construction of a Fishing Harbour at Kasargod by the Harbour Engineering Department for which environmental clearance was granted. Clearance, having granted under the CRZ notification 1991, we do not find any illegality or irregularity in proceeding the construction work by the respondents. Environmental management plan has also been referred to under which the respondents have to proceed and carry on the project.

4. The learned counsel for the petitioners further submits that the excavated sand is being sold in an unauthorised manner. No such facts and details have been pleaded in these writ petitions, on the basis of which the said issue can be considered by this Court in this public interest litigation.

We do not find any merit in these two writ petitions and hence the same are dismissed.

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(A.M.SHAFFIQUE, JUDGE)

jsr

