



2025:KER:20966

WP(C) NO. 11114 OF 2023

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 12TH DAY OF MARCH 2025 / 21ST PHALGUNA,

1946

WP(C) NO. 11114 OF 2023

PETITIONER:

RATHEESH T.M.,
AGED 38 YEARS, S/O. RADHAKRISHNAN NAIR,
18/47, NARAYANI VILLA, KANNANKARA P.O.,
CHELANNUR, KOZHIKODE DISTRICT,
PIN - 673616

BY ADVS.
K.A.MOHAMED HARIS
P.T.ABHILASH
ANEESA NAZAR
K.M.SALIM

RESPONDENTS:

- 1 THE AGRICULTURAL OFFICER,
CONVENOR, LOCAL LEVEL MONITORING COMMITTEE,
CHELANNUR GRAMA PANCHAYATH, KRISHI BHAVAN,
CHELANNUR, KOZHIKODE, PIN - 673616
- 2 THE VILLAGE OFFICER,
CHELANNUR VILLAGE OFFICE, CHELANNUR,
KOZHIKODE DISTRICT, PIN - 673616



2025:KER:20966

WP(C) NO. 11114 OF 2023

2

- 3 THE TAHSILDAR,
KOZHIKODE TALUK OFFICE, CIVIL STATION,
WAYANAD ROAD, ERANHIPPALAM,
KOZHIKODE DISTRICT, PIN - 673020
- 4 THE REVENUE DIVISIONAL OFFICER,
RDO OFFICE, CIVIL STATION, WAYANAD ROAD,
ERANHIPPALAM, KOZHIKODE DISTRICT,
PIN - 673020
- 5 THE DISTRICT COLLECTOR,
COLLECTORATE, CIVIL STATION, WAYANAD ROAD,
ERANHIPPALAM, KOZHIKODE DISTRICT,
PIN - 673020
- 6 STATE OF KERALA,
REP. BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
- 7 CHELANNUR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, CHELANNUR P.O.,
KOZHIKODE DISTRICT, PIN - 673616

BY ADVS.
ADV.VINOD SINGH CHERIYAN, SC
ADV.T.M.KHALID
ADV.K.P.SUSMITHA
ADV.AMMINIKUTTY K., SR.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 12.03.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



2025:KER:20966

WP(C) NO. 11114 OF 2023

3

JUDGMENT

The petitioner is the owner in possession a property having an extent of 3.7403 Ares comprised in Survey No.62/4 (renumbered as 62/28) of Chelannur Village, Kozhikode Taluk in Kozhikode District. The petitioner purchased the said property as per Ext.P1 sale deed dated 16.02.2021.

2. According to the petitioner, he purchased the said property after being convinced of the fact that the property was not included in the Data Bank. After the purchase of the said property, the petitioner applied for a building permit for constructing a residential building, and after processing the said application, the 7th respondent granted Ext.P8 building permit. However, as certain objections were raised with regard to the same, in view of the fact that property remained as paddy land in the revenue records, the petitioner submitted Ext.P9 application in Form 6 on 28.01.2022. While the said application was pending consideration, the petitioner was served with Ext.P10 notice by



2025:KER:20966

WP(C) NO. 11114 OF 2023

4

the Secretary to the 7th respondent, requiring the petitioner to show cause why the building permit granted to him shall not be cancelled. The reason mentioned in Ext.P10 was that, as per the report of the Convenor of Local Level Monitoring Committee/Agricultural Officer, it was decided by the LLMC to include the property of the petitioner in the Data Bank as paddy land.

3. An objection to the same was submitted by the petitioner as evidenced by Ext.P11. In the meantime, challenging Ext.P10, W.P(C) No.15346/2022 was filed by the petitioner before this Court. During the pendency of the said writ petition due to a wrong advise, the petitioner submitted a Form 5 application under the impression that the property was already included in the Data Bank. This Court disposed of W.P(C) No.15346/2022 directing the Revenue Divisional Officer to consider the Form 5 application within a time frame. In the counter affidavit filed by the Panchayat in W.P(C) No.15346/2022, a certificate dated 07.02.2023 issued by the 1st



2025:KER:20966

WP(C) NO. 11114 OF 2023

5

respondent, the Agricultural Officer, was produced, wherein it was mentioned that, in the meeting of LLMC convened on 01.02.2022, they have taken a decision to include the property of the petitioner in the Data Bank and since the writ petition was pending, notification to that effect has not been published. Ext P13 in this writ petition is the said certificate.

4. Now this writ petition is submitted by the petitioner in such circumstances, mainly challenging Ext.P13 and also seeking a declaration that the decision of the LLMC to include the property of the petitioner in Data Bank is arbitrary and illegal. The incidental reliefs were also sought in the writ petition.

5. A statement has been submitted by the 4th respondent, the Revenue Divisional Officer, wherein, it is averred that the Form 5 application submitted by the petitioner was considered and the same was rejected as per Annexure R4(a) order, holding that the property of the petitioner is not liable to be excluded from the Bank.

6. A counter affidavit was also submitted by the



2025:KER:20966

WP(C) NO. 11114 OF 2023

6

Panchayat, incorporating averments and justifying the stand taken by them, as far as the proposal to reject building permit is concerned. According to them, Ext.P10 was issued on the basis of the intimation given by the Agricultural Officer to the effect that the property is decided to be included in the Data Bank.

7. Heard Sri.K.A. Mohamed Haris, learned Counsel for the petitioner and Smt. Amminikutty K., learned Government Pleader appearing for the respondents 1 to 6 and Sri.Vinod Singh Cheriyan, the learned Standing Counsel 7th respondent.

8. The main contention raised by the learned Counsel for the petitioner is that, under no circumstances the decision taken by the LLMC to include the property of the petitioner in the Data Bank, can be justified. According to him, when the Data Bank was prepared originally, the property was not included and that itself indicates that, the authorities concerned were convinced of the nature of the property and arrived at a finding that the same is not liable to be included in the Data Bank as paddy land or wetland. It is also the case of the petitioner that,



2025:KER:20966

WP(C) NO. 11114 OF 2023

7

once the property is not included in the Data Bank, the LLMC cannot take a decision to include the said property in the Data Bank without notice to the petitioner as well. In this case, the fact that the property was decided to be included in the Data Bank on 01.02.2022 by the LLMC is evident from Ext.P13, even though the same was not originally included. However, there are absolutely no documents before this Court to show that, such a decision was taken by the LLMC after issuing notice to the petitioner.

9. Of course, it is true that, Sub Rule 5 of Rule 4 of Kerala Conservation of Paddy Land and Wetland Rules, empowers the LLMC to take a decision to include a property in the Data Bank which was not originally included notified Data Bank. However, merely because of they are empowered to do so, they cannot exercise such powers without notice to the affected parties. This is because, when a Data Bank as contemplated under the Act is notified, the only conclusion that can be arrived at is that, the same was published after



2025:KER:20966

WP(C) NO. 11114 OF 2023

8

completing the procedure contemplated under the Act and Rules with regard to the preparation of the same and after conducting an enquiry in relation to the nature of the property. The Rule 4(2) contemplates a detailed procedure for preparation of the original Data Bank which includes an enquiry by the Agricultural Officer after conducting a physical inspection of the said property. Since in the original Data Bank published, the property of the petitioner is not included, it can only lead to an assumption that, despite conducting a detailed enquiry including a physical inspection as contemplated under Rule 4(2)(a) of the Kerala Conservation of Paddy Land and Wetland Rules, the property was not included and this can only because of the reason that, in the enquiry, the Agricultural Officer concerned found that the property was not liable to be included therein. It is also to be noted in this regard that, it is an admitted fact that, the property is described as 'nanja' in the revenue records. Therefore, by virtue of the stipulations contained in Sub Rule 2(a) of Rule 4, the details of the same must have been given to the Agricultural Officer by the



2025:KER:20966

WP(C) NO. 11114 OF 2023

9

Village Officer concerned to enable the Agricultural Officer to conduct a physical inspection of the said property.

10. Now a decision has been taken by LLMC to include the said property in the Data Bank. As of now there are no documents before this Court to ascertain the reasons which prompted the authorities concerned to take a decision to include the property in the Data Bank. However, as observed above, admittedly the said decision has been taken without notice to the petitioner. Once the property was excluded in the Data Bank, the same would attain the status of an unnotified land as defined under the Act and the owner of the property will have the right to get the property reclaimed by following the procedure under Section 27A of the Kerala Conservation of Paddy Land and Wetland Act, 2008. Therefore, since the decision to include the property in the Data Bank taken by the LLMC is something which affects or curtails the right of the person concerned in the utilization of the said property, necessarily the said power can only be invoked by the LLMC or any other authority with notice to



2025:KER:20966

WP(C) NO. 11114 OF 2023

10

the petitioner and after giving him an opportunity to submit his objections.

11. In **Manoharan v. District Collector, Kannur [2024 (4) KLT 343]** this issue was considered by this Court and the following observations were made:

“8. There cannot be any dispute that, including a property in the databank has 'civil consequences' which expression is wide and encompasses infractions of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life. Such an order/action cannot be taken without giving the said person notice and disclosing to him the materials relied on by the authorities to subsequently include the property in the data bank. In such cases, it is of fundamental importance to provide an opportunity for hearing before making any decision and the same must be treated as a basic requirement in any legal proceedings. In situations such as the one noted above, the fact that the statute does not provide for a hearing does not matter at all. It is trite that the principles of natural justice must be read into the



2025:KER:20966

WP(C) NO. 11114 OF 2023

11

unoccupied interstices of the statute unless there is a clear mandate to the contrary.”

In paragraph 10 following further observations are made:

“10. It is well settled that the principles of natural justice are grounded in procedural fairness which ensures making correct decisions. The inclusion of the property in a databank after the property was not included in the original notification is certainly prejudicial to the rights of the party. The opportunity to provide a hearing before making any decision was considered to be a basic requirement initially in court proceedings, but later extended to other quasi-judicial authorities and tribunals and now even to administrative actions where the decision of the authority may result in civil consequences. Though every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null or void, in the instant case, as stated above, the order certainly results in adverse civil consequences to the party.”

12. Thus, it is evident that, the principles of natural justice were not followed by the LLMC while taking a decision to



2025:KER:20966

WP(C) NO. 11114 OF 2023

12

include the property of the petitioner in the Data Bank. As far as the decision to include the property in the Data Bank is concerned, the same would certainly affect his Constitutional rights guaranteed under Article 300A, as the said decision was not taken, by properly following a legal procedure. In such circumstances, I am of the view that the decision taken by the LLMC, as evident from Ext.P13, to include the property of the petitioner in the Data Bank is not justifiable and liable to be interfered with.

Accordingly, this writ petition is disposed of quashing Ext.P13 and the decision taken by the LLMC to include the property of the petitioner having an extent of 3.74 Ares comprised in Sy No 62/4 of Chelannur Village, Kozhikode Taluk, in the Data Bank. In case the LLMC intends to include the said property in the Data Bank, a notice in this regard has to be issued to the petitioner, and only after hearing the petitioner a further decision can be taken. As of now, the property is not included in the Data Bank by a notification in this regard and hence the property



2025:KER:20966

WP(C) NO. 11114 OF 2023

13

remains as an un-notified land. Therefore, the petitioner is entitled to pursue Ext.P9 Form 6 application. In such circumstances, there shall be a direction to the 4th respondent or the authorized officer under Section 2(xvA) of the Kerala Conservation of Paddy Land and Wetland Act, 2008, to consider Ext.P9 application submitted by the petitioner after obtaining necessary reports from the 2nd respondent. A decision in this regard shall be taken within a period of two months from the date of receipt of a copy of this judgment. Since I have already quashed Ext.P13, the 7th respondent cannot continue the proceedings pursuant to Ext.P10 show cause notice as well.

**Sd/ -
ZIYAD RAHMAN A.A.
JUDGE**

SCS



2025:KER:20966

WP(C) NO. 11114 OF 2023

14

APPENDIX OF WP(C) 11114/2023

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE SALE DEED NO. 493/1/
DATED 16.02.2021 |
| Exhibit 2 | TRUE COPY OF THE SALE DEED NO. 3533/1
DATED 4.12.2006 |
| Exhibit P3 | . TRUE COPY OF THE LATEST BASIC TAX
RECEIPT NO. KL11010305934/2022 DATED
23.04.2022 ISSUED FROM VILLAGE
OFFICE, CHELANNUR |
| Exhibit P4 | TRUE COPY OF THE RELEVANT PAGES OF
S.R.O. NO. 656/2020 DATED 07.10.2020
NOTIFICATION PUBLISHED IN THE
EXTRAORDINARY KERALA GAZETTE DATED
08.10.2020 |
| Exhibit P5 | TRUE COPY OF THE CERTIFICATE ISSUED
BY THE 1ST RESPONDENT DATED
08.09.2021 |
| Exhibit P6 | TRUE COPY OF THE RTI REPLY RECEIVED
FROM THE PUBLIC INFORMATION OFFICER
OF THE 7TH RESPONDENT CHELANNUR GRAMA
PANCHAYATH DATED 24.09.2021 |
| Exhibit P7 | TRUE COPY OF THE RTI REPLY RECEIVED
FROM THE PUBLIC INFORMATION OFFICER
OF THE 2ND RESPONDENT VILLAGE OFFICER
DATED 05.10.2021 |
| Exhibit P8 | TRUE COPY OF THE BUILDING PERMIT,
SITE PLAN OF THE PROPOSED BUILDING
RECEIVED THE 7TH RESPONDENT
PANCHAYATH DATED 06.05.2021 |



2025:KER:20966

WP(C) NO. 11114 OF 2023

15

- Exhibit P9** **TRUE COPY OF THE APPLICATION
SUBMITTED BY THE PETITIONER BEFORE
THE 4TH RESPONDENT DATED 28.01.2022**
- Exhibit P10** **TRUE COPY OF THE SHOW CAUSE NOTICE
DATED 21.04.2022 RECEIVED FROM THE
7TH RESPONDENT PANCHAYATH**
- Exhibit P11** **TRUE COPY OF THE REPLY SUBMITTED BY
THE PETITIONER TO THE EXT P10 NOTIE,
BEFORE THE 7TH RESPONDENT PANCHAYATH**
- Exhibit1 P12** **TRUE COPY OF THE JUDGMENT IN WPC NO.
15346 OF 2022**
- Exhibit P13** **TRUE COPY OF THE CERTIFICATE ISSUED
BY THE CONVENER OF LLMC, INDICATING
THE DECISION OF THE LLMC TO INCLUDE
THE PROPERTY OF THE PETITIONER IN
DATA BANK DATED 07.02.2023**

RESPONDENT ANNEXURES

- ANNEXURE R4(a)** **TRUE COPY OF THE ORDER DATED
08.06.2023**