

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 2nd day of August 2022 / 11th Sravana, 1944
WP(C) NO. 2651 OF 2019(S)

PETITIONER:

THE FOUNDATION FOR RESTORATION OF NATIONAL VALUES,
HAVING REGISTERED OFFICE AT M75,GREATER KAILASH I,
NEW DEHI-110048,
REPRESENTED BY ITS PRESIDENT,DR.E.SREEDHARAN,
PRESENTLY RESIDING AT PERUMBAYIL HOUSE,KUTTIKKAD ROAD,
PONANI,MALAPPURAM DISTRICT,PIN-679577.

RESPONDENTS:

- 1.THE STATE OF KERALA,REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM,PIN-695001.
- 2.THE SECRETARY,MINISTRY OF IRRIGATION AND WATER RESOURCES,
GOVERNMENT OF KERALA,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,PIN-695001.
- 3.THE KERALA STATE ELECTRICITY BOARD LIMITED,
VYDYUTHI BHAVANAM,PATTOM,THIRUVANANTHAPURAM,PIN-695004.
REPRESENTED BY ITS CHAIRMAN.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an order,directing the respondents to forthwith,set up a high level technical committee consisting of 3 or 4 eminent Engineers with atleast the Chairman and one more Member from outside the State,pending the writ petition.

P.T.O

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C),this Court's Order dated 29.01.2019 and upon hearing the arguments of M/S LATHA ANAND, SRI.M.N.RADHAKRISHNA MENON, SRI.K.R.PRAMOTH KUMAR, SRI.JOSEPH SEBASTIAN (PARACKAL), SRI.S.VISHNU (ARIKATTIL), SRI.RADHAKRISHNA PILLAI B. & SHRI.SIDHARTH P.S.,Advocates for the petitioner, SRI.P.NARAYANAN, SPECIAL GOVERNMENT PLEADER for R1 & R2,STANDING COUNSEL for R3,SRI.JACOB P.ALEX,AMICUS CURIAE and of SRI.SUBASH CHAND,the court passed the following:

P.T.0



S. MANIKUMAR, CJ & SHAJI P. CHALY, J.

W.P.(C) No. 2651 of 2019

Dated this the 2nd day of August, 2022.

ORDER

S. MANIKUMAR, CJ.

Sri. Subash Chand, then learned counsel representing the Dam Safety Authority constituted by the State Government and extended till the promulgation of the Dam Safety Act, 2021, submitted that there is no Dam Safety Authority in the State as of now.

2. He has also submitted that as regards the constitution of the authority at the national level, matter is pending before the Hon'ble Supreme Court. However, by referring to the 'Report of Actions Taken in 2022 for Monsoon Preparedness and Disaster Response', Sri. P. Narayanan, learned Senior Government Pleader, submitted that there is a committee for monitoring the operations as per the Rules curve of all major dams in the State chaired by the Additional Chief Secretary (Disaster Management) and convened by Member Secretary, KSDMA with additional Chief Secretary (Water Resources), Principal Secretary (Power), concerned Chief Engineers and District Collectors of those Districts with dams. The aforesaid committee has been constituted as per G.O.(Rt.) No. 453/2021/DMD dated 03.06.2021. The Committee has to meet once in 10 days from June to December (i.e., during the active rainy season in the State). Further, it is stipulated

that in case of Orange Alert and Red Alert in Districts with dams and/or when the water level of the major reservoirs cross all alert levels, the frequency of the meeting shall be increased. He further submitted that there is an efficient mechanism in place for the management of the reservoir out flow in the State during the extreme mechanism in place for the management of the reservoir out flow in the State during the extreme rain falls and otherwise.

3. Torrential rains in the State of Kerala cause disaster in many places due to landslides, denudation of water etc. There are damages to the property of people residing in puramboke lands, colonies, hill-slopes, isolated locations, plantation areas etc. The State of Kerala has to take proper and prompt action for prevention of disasters. There are instances of flooding in some areas as well.

4. In the above circumstances, taking note of the mandate under Article 21 of the Constitution of India, duties enjoined on the State/court, to effectively monitor and direct the Governments to take proper steps for providing appropriate mechanisms for managing the emergency situations during the monsoon season and otherwise under the provisions of the Disaster Management Act, 2005. We are of the view that a *suo motu* writ petition should be registered to hear the Government and any other interested parties/aggrieved and issue

appropriate directions. Therefore, we direct the registry to register a *suo motu* writ petition by adding the following parties in the array of respondents:

1. State of Kerala, rep. By Chief Secretary to Government, Government Secretariat, Thiruvananthapuram.
2. The Additional Chief Secretary to Government, Local Self Government Department, Government Secretariat, Thiruvananthapuram
3. The Principal Secretary to Government, Power Department, Government Secretariat, Thiruvananthapuram.
4. The Secretary to Government, Water Resources Department, Government Secretariat, Thiruvananthapuram.
5. The Disaster Management Authority, rep. by its Member Secretary, Thiruvananthapuram.
6. The Kerala State Electricity Board, rep. by its Chairman.

6. Sri. P. Narayanan, learned Senior Government Pleader, has handed over a copy of the 'Report of Actions Taken in 2022 for Monsoon Preparedness and Disaster Response'. The same shall form part of this record.

Post the matter after two weeks.

sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

sd/-
SHAJI P. CHALY,
JUDGE.

Rv