

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Application No.75 of 2016 (SZ)**

IN THE MATTER OF:

K.Rajesh,
S/o.Madavi
Kooriyattikkal House,
Neduva P.O.,
Neduva Amsom Desom,
Parppanangadi,
Malappuram. -676 303
Kerala

... Applicant

AND

1. The State of Kerala rep. by its
Chief Secretary.
Secretariat Buildings,
Thiruvananthapuram, Kerala
2. The Department of Environment and Climate Change
Rep. by its Principal Secretary,
Secretariat Buildings,
Thiruvananthapuram, Kerala
3. The District Collector,
Malappuram District,
Kerala.
4. The Kerala Coastal Zone Management Authority,
Rep. by its Member Secretary
Science & Technology (A) Department,
Thiruvananthapuram, Kerala.
5. LBS Centre for Science and Technology (LBSCS & T)
Rep. by its Member Secretary cum Director,
Nandavanam, Palayam,
Thiruvananthapuram.- 695 033.

... Respondent(s)

Counsel appearing for the Applicant:

M/S.A.Tamilvanan

Counsel appearing for the Respondents:

Mrs. A.S.Suvitha for R1 to R3

Mr.T.N.C.Kaushik for R4

Mrs.Rema Smrithi for R5

ORDER

PRESENT:

HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

Dated 13th July, 2016

Whether the Judgement is allowed to be published on the Internet – Yes/No

Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

We have heard the learned counsel for the applicant and the respondents.

The applicant, who is stated to be a resident of Neduva, in the vicinity of the disputed property, which is proposed to be allotted to the 5th respondent, LBS Integrated Institute of Science and Technology Centre by the Government of Kerala, has filed a petition to restrain the 5th respondent

from carrying out any construction activity in connection with the establishment of a new campus for LBS Integrated Institute of Science & Technology Centre in a total extent of 31 Acres and 64 cents land in Survey Nos.390, 391, 401, 402, 404, 405, 406, 407 and 441 in Parppangadi Village, Mallapuram District, Kerala. According to the applicant, half of the said extent has been classified as Wetland and the remaining extent of land is situated within the CRZ HT line.

The learned counsel appearing for the 5th respondent has raised a preliminary objection. It is stated by the 5th respondent that the Premier Institute of Computer training and consultancy, was established by the Government of Kerala in the year 1976, with the intention of establishing various technical institutions based on a finding given by Justice Rajinder Sachar Committee in 2006 and the Paloli Mohammed Kutty Report of 2008, the 5th respondent intends to establish a world class Technical Educational Complex in the district of Malappuram, which is stated to be a backward district consisting of large population of minorities.

It is stated that the State Government has issued a G.O for the purpose of acquisition of lands and there has been certain negotiation proceedings and the acquisition proceedings have not been completed. It appears that even at the time of the negotiation, certain Writ Petitions were filed before

the High Court of Kerala and the Hon' ble High Court has dismissed the writ petition in WP(C).No.8149 of 2014 stating that the proceedings are in the initial stage and the Writ Petition would not lie at that stage. The 5th respondent has stated that even as on date, acquisition proceedings are not completed and the lands, in which the 5th respondent intends to put up a Technical Educational Institution, have not been handed over. In these circumstances, the applicant has filed the present application, which is not maintainable in law.

The learned counsel appearing for the 5th respondent would also submit that the intention of the Government to establish a series of technical institutions in that area is being thwarted by the applicant and other persons for the reasons best known to them by initiating various proceedings. The present application is one such proceeding for the purpose of hampering the development of the area. The learned counsel has also submitted that the people who have successfully obstructed the acquisition proceedings, cannot be permitted to file the present application as one more impediment for achieving the goal, which is the aim of the Government.

On the other hand, the learned counsel for the applicant would submit that under Right to Information Act, certain information have been received which show that some of the portions of the area, which is sought to be

acquired, attract the CRZ Notification and actually, the 5th respondent is not entitled to start any such Educational activities in the said area.

Mr. Kaushik, the learned counsel for the 4th respondent – The Kerala Coastal Zone Management Authority, would submit that the 5th respondent has, in fact, given an undertaking that except permissible activities no other prohibited activities will be carried out within the CRZ area as per the Notification.

The learned counsel appearing for the Kerala Government would submit that the Government is keen and interested in implementing the programme for the welfare of the people of the state, which is one of the aims of the governance of the State.

After hearing all the parties, we are of the considered view that the learned counsel for the 5th respondent is correct in the sense, that the entire proceedings are in the initial stage and even the acquisition proceedings are not completed and at this stage, the applicant is certainly not entitled to have an order in his favour. Needless to state that after the acquisition proceedings are completed, the lands which are proposed to be acquired by the Government and are to be handed over to the 5th respondent and thereafter, the 5th respondent has to make necessary application to the concerned

authorities including the CRZ authorities, who are entitled to pass appropriate orders. If the area is of prohibited area, certainly the activities are to be prohibited. But, the CRZ Notification also allows certain permissible activities and therefore, it is for the competent authorities to decide the 5th respondent application. Now, it is in premature stage and we cannot entertain this application. It is open to the Government to take appropriate steps in completing the acquisition proceedings expeditiously.

. In view of the above, the application is dismissed. There shall be no order as to costs.

Justice Dr.P. Jyothimani
Judicial Member

P.S. Rao
Expert Member

NGT