

Proceedings of the Chairman, District Disaster Management Authority and
the District Magistrate, Wayanad
(Present: Dr B.S.Thirumeni IAS)

Sub:- Disaster Management Act 2005- preventing landslide and
earthquake disasters at the Phantom Rock, Arattupara,
Cheengerippara and Kolagappara areas- orders issued- reg.

Ref:- 1. Judgment of the Honorable High Court of Kerala in WP(C)
Nos 27741, 28070, 28071, 28514, 28619, 30822, 30949,
30952, 31013, 31023, 31209, 32444 of 2016 dated
1.2.2017
2. Letter No. AAG-RT/WPC 28619/2016 of the Additional
Advocate General, Ernakulam dated 7.2.2017

The Disaster Management Authority, Wayanad (DDMA) was constituted under the provisions of the Disaster Management Act, 2005 vide G.O. (P) 303/2008/DMD dated 9.9.2008. The Disaster Management Plan of Wayanad district was prepared by the DDMA under section 31 of the Disaster Management Act. This Disaster Management Plan was approved by the DDMA On 21.2.2015 during its meeting. The Disaster Management Plan approved by the DDMA was submitted to the State Disaster Management Authority. The Disaster Management Plan was approved vide G.O(RT)/3104/2016/DMD dated 30.07.2016. The DDMA on 22.3.2017 clearly resolved under section 31 of the Disaster Management Act that, the Disaster Management Plan approved on 21.2.2015 by the DDMA and subsequently by the Government on 30.7.2016 is the Disaster Management Plan of Wayanad district duly prepared by the Wayanad DDMA under the provisions of Disaster Management Act, 2005. The powers conferred upon the District Disaster Management Authority vide Section 30 of the Disaster Management Act were delegated to the Chairman and District Collector, as per provisions of section 26 of the Act; by the DDMA during its meeting held on 17.6.2015. On 5.10.2016, the DDMA during its meeting passed the following resolution, once again

“The District Disaster Management Authority, Wayanad resolves that, the Chairman, District Disaster Management Authority, Wayanad is authorised to exercise and discharge all powers of the District Disaster Management Authority, Wayanad. The District Disaster Management Authority delegates, under section

26 (1) of the Disaster Management Act, 2005, all of its powers and functions to the Chairman, DDMA.”

In addition, another resolution was also passed by the DDMA on 5.10.2016, which reads as given below.

“ The District Disaster Management Authority resolves under section 68 of the Disaster Management Act, 2005 that every order or decision of the District Disaster Management Authority, Wayanad shall be authenticated by either the Chairman or the Chief Executive Officer”

Therefore, the Chairman, District Disaster Management Authority is empowered to issue order of the District District Disaster Management Authority by exercising the powers conferred upon the DDMA by virtue of Disaster Management Act 2005.

2. Phantom Rock is a rocky area comprised in Resurvey Number 520/6 & 521/2 of Block 22 of Krishnagiri Village. Kolagappara is a rocky area comprised in resurvey number 349/1 of block 22 of Krishnagiri Village. Arattupara is a rocky area comprised in survey number 298/1A1A1A of the Ambalavayal village. Cheengerippara is a rocky area comprised in survey number 298/1A1A1A of the Ambalavayal village.

3. On 1.2.2017, the Honorable High Court of Kerala, vide judgment in WP(C) Nos 27741, 28070, 28071, 28514, 28619, 30822, 30949, 30952, 31013, 31023, 31209, 32444 of 2016 directed the DDMA to conduct a hearing of petitioners in these writ petitions or any other affected parties. In compliance, notice of hearing was issued to petitioners and other affected persons. Notice was issued vide file number DCWYD/43/2017/DEOC 1 dated 7.3.2017 to the below mentioned persons. In addition, news paper release was issued and the notice was published in the district website; the notice was published at the Grama Panchayat Office, Meenangadi; Grama Panchayat Office, Ambalavayal; Village Office Krishnagiri and Village Office, Ambalavayal - so as to inform all affected persons about the hearing. The hearing was initially scheduled to be held on 15.3.2017. It was then postponed to 22.3.2017. Fresh notice was issued to all persons through all the above mentioned modes, once again. In response to the hearing notice as mentioned above, a total number of 21 parties appeared for hearing. After hearing all the parties appeared for the hearing, the DDMA resolved as given below , on 22.3.2017.

“After hearing all the affected parties who appeared for hearing as ordered by the Honorable High Court, the DDMA is of learned opinion

-that the prohibition of Quarrying, Mining and Crusher unit operations at Phantom Rock, Arattupara, Kolagappara and Cheengerippara areas shall be continued for preventing disasters.

In order to prevent disaster, the DDMA decides under section 30 (1) of the Disaster Management Act, 2005, to prohibit Quarrying, Mining and Crusher unit activities.

i)The Tahsildar, Sulthan Bathery, ii) the District Geologist, Wayanad, iii) the Secretary, Meenangadi Grama Panchayat and iv) the Secretary, Ambalavayal Grama Panchayat shall ensure that no prohibited activity is happening at the *specified areas*. Any such prohibited activity currently happening at the *specified areas* shall be stopped forthwith. The Tahsildar, Sulthan Bathery shall take action for such stopping. The Chairman, DDMA shall issue proper orders to this effect.

Any reference to '*specified areas*' in this order will mean

- i) the entire Arattupara rock and an area covering one kilometer radial distance from all boundary points of this rock to all sides,
- ii) the entire Cheengerippara rock and an area covering two hundred meter radial distance from all boundary points of survey number 298/1A1A1A of Ambalavayal village,
- iii) the entire rock area of Phantom Rock and an area covering two hundred meter radial distance from all boundary points of Resurvey numbers 520/6 and 521/2 of Block 22 of Krishnagiri village, and
- iv) the entire Kolagappara rock and an area covering two hundred meter radial distance from all boundary points of resurvey number 349/1 of Block 22 of Krishnagiri village."

4. On perusal of the Disaster Management Plan, it is found by the DDMA that, the below mentioned references are there in the Disaster Management Plan, with respect to Landslides and Earthquakes.

- a. The Disaster Management Plan of Wayanad district points out Earthquakes and Landslides as two Geological disasters in Hazard Profile of the District. (Table No 10)
- b. The Disaster Management Plan sets out that Landslide Warning is to be issued to those who live close to rivulets and in hilly segments with greater than 20 degree slope. (Table 18)

- c. The Landslide Susceptibility Map of Wayanad included in the Disaster Management Plan, marks the areas of Arattupara, Cheengerippara, Kolagappara and Phantom Rock as High Hazard Zone and Moderate Hazard Zone. These zones are marked in the map, in Sulthan Bathery Taluk area. (Figure 11)
- d. The Earthquake Susceptibility Map of Wayanad district shows a reported Earthquake Event. The areas at shortest distance from this Earth Quake point, in which Quarries were functioning, are Arattupara, Kolagappara, Phantom Rock and Cheengerippara areas. (Figure 12)

5. The Earthquake Hazard Zoning Map of Wayanad district, prepared by the National Disaster Management authority makes it clear that, Wayanad is lying in Zone III : Moderate Damage Risk Zone (MSK VII) with respect to Earthquake.

6. The report submitted by the Expert Committee constituted by the Government of Kerala in July 2009, to study about the unfortunate landslides occurred during 2009 has clearly recommended that "Special care is to be taken while implementing projects involving land manipulation/disturbances." Two of the major activities that result in manipulation of /disturbance to the land structure is Quarrying, Mining and Crusher unit activities. The said report of the Expert Committee further recommended that, Blasting in quarries should be regulated during monsoon and that Rocks positioned dangerously on the slopes should not be blasted during monsoons as such blasting can lead to future destabilisation of other rock masses that may roll out into unpredictable direction.

7. The Kolagappara, Arattupara, Cheengeripara and Phantom Rock areas are slopes which does have rocks positioned on its slopes in dangerous manner. Blasting in quarries had not been regulated as recommended in the Expert Committee report dated 2009. So such rock masses should have already been got destabilised in these regions. Any action disturbing its present position can lead to dangerous landslides. The force applied for blasting the rocks in quarries/mines and for grinding/crushing granite in crusher units is very high. That force shall be higher than the Compressive Strength of granite. Such a heavy pressure can cause the surrounding soil and rock in these areas to get its bond loosened, which will result in massive landslide. Therefore it is evident that Presence of Quarrying, Mining and Crusher unit activities in these areas can cause landslides and earthquakes. The threat is serious and devastating as it will cause destruction of human life and property along with the collapse of surrounding landscape, in case of a landslide or earthquake.

8. These rocky areas are interspersed masses of rock and earth, which includes natural vegetation also. Landscape of all these areas and their premises are mountainous in nature with steep slopes and rises. Because of the terrain specifics, this area bears high risk of landslide. Landslide or earthquake in this rocky region could be catastrophic as the bottom areas of these rocky regions are populated. Any landslide in these areas will result in heavy casualties, loss of lives and property. So it is pertinent and inevitable to take proper precautionary measures for prevention of disasters in this region. Quarrying, mining and crusher unit activities had resulted in very high grade of environmental degradation in these areas.

9. Quarrying, mining and crusher unit activities in these areas can trigger landslide, because of geographical peculiarities of this portion of land. Such quarrying, mining and crusher unit activities increase the risk of disaster occurrence. Carrying on of Quarrying, Mining and Crusher unit activities, in this region causes threat of disaster occurrence.

10. The Hon'ble High Court of Kerala held in '**Thilakan V/s Circle Inspector of Police and others' dated 23.10.2007 (2008(1) KLT 141)** that Precautionary Principle is part of Environment Legislation in India.

The Hon'ble Supreme Court of India held, in its judgment in **Vellore Citizens' Welfare Forum vs Union of India ((1996) 5 SCC 647)** that

"Some of the salient principles of 'Sustainable Development' as culled from Burtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Co-operate, Eradication of Poverty and Financial Assistance to developing countries. We are, however, of the view that The Precautionary Principle and the Polluter Pays Principle are essential features of Sustainable Development'. The 'Precautionary Principle ' in the context of the municipal law - means :

(i)Environmental measures - by the State Government and the statutory authorities- must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The 'onus of proof is on the actor or the developer/industrialists to show his action is environmentally benign.'

In **N.D. Jayal And Anr vs Union Of India And Ors (2004 (9) SCC 362; AIR 2004 SC 867)** the Honorable Supreme Court observed as given hereunder,

“ Disaster Management :

Disaster Management means all aspects of planning, coordinating and implementing all measures which are necessary or desirable to prevent, minimize, overcome or to stop the spread of a disaster upon the people or any property and includes all stages of rescue and immediate relief. It is a proven fact that lot of human suffering and misery from large number of disasters can be mitigated by taking timely actions, planning and preventive measures. It is possible only through well functioning disaster management framework. This will enable us to minimize, control and limit the effects of disaster and will streamline the disaster management exercises. Our present relief centered re-active approach after the striking of disaster need to be changed into preparedness oriented pro- active attitude. This is the aim of pre-disaster preparations. Disaster Management Plans has to play an integral role in this exercise. They are blue prints for the management of disasters. The Disaster Management Plans should contain the aspects of disaster prevention and of ways for its management in the untoward occurrence of a disaster. A proper plan will place the disaster management exercise on a more firm foundation.

It is a welcome gesture that the Clearance to this Project contains a condition for chalking out disaster management plan. Disaster Management activities should be integrated with the developmental activities.

*Incidentally, this is also the resolve of the Yokohama Strategy of the United Nations International Decade of Natural Disaster Reduction, to which India is a party. There is an affirmative obligation on the part of the State to preserve and protect human life and property. This obligation is an integral element in fulfilling developmental endeavors. **Therefore, disaster management cannot be separated from sustainable development.***

Section 30 (1) of the Act makes it clear that the DDMA shall take all measures required for disaster management in the district.

As per section 2 (e), “disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for prevention of danger or threat of any disaster.

As per section 2(d) of the Act, “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade 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.

The Hon'ble Supreme Court has held that Precautionary Principle mandates that the Statutory Authority must anticipate, prevent and attack the causes of environmental degradation; and that lack of scientific certainty should not be used as a reason for postponing prevention measures when there are threats of serious and irreversible damage. In the instant case, Quarrying, Mining and Crusher unit activities are causing threat of disaster occurrence in these areas. Any quarrying or mining or crusher unit activity can cause irreversible damage. Presence of Quarrying or Mining or crusher unit activities in these areas can cause landslides and earthquakes. The threat is serious and devastating as it will cause destruction of human life and property, along with the collapse of surrounding landscape, in case of a landslide or earthquake.

11. Section 30 (1) of the Disaster Management Act 2005 (Act 53 of 2005) empowers the District Disaster Management Authority to take all action for prevention of disaster, section 30 (2) (iii) empowers the District Disaster Management Authority (DDMA) to take action for ensuring proper measures are taken for the prevention of disasters. Section 30(2) (v) further empowers the DDMA to issue direction to different authorities at district level

and local authorities to take such other measures for the prevention of disasters.

12. In this circumstance, in the DDMA meeting dated 22.7.2017, it was held that in the interest of preventing disasters, it is necessary to prohibit mining, quarrying and crusher unit activities at the Phantom Rock, Kolagappara, Arattupara and Cheengerippara areas. So, in exercise of the power of District Disaster Management Authority as aforesaid, the following orders are issued.

ORDER

Under sections 30(1), 30 (2) (iii) and 30(2)(v) of the Disaster Management Act, 2005 (Act 53 of 2005) order is hereby issued to

- i) The Tahsildar, Sulthan Bathery,
- ii) the Geologist, District Geology office, Wayanad ,
- iii) the Secretary, Ambalavayal Grama Panchayat and
- iv) the Secretary, Meenangadi Grama Panchayat , that-

in order to prevent disaster, the DDMA decided under section 30 (1) of the Disaster Management Act, 2005, to prohibit Quarrying, Mining and Crusher unit activities at the *specified areas*

i)The Tahsildar, Sulthan Bathery, ii) the District Geologist, Wayanad, iii) the Secretary, Meenangadi Grama Panchayat and iv) the Secretary, Ambalavayal Grama Panchayat shall ensure that no prohibited activity is happening at the *specified areas*. Any such prohibited activity currently happening at the *specified areas* shall be stopped forthwith. The Tahsildar, Sulthan Bathery shall take action for such stopping/closure.

Any reference to '*specified areas*' in this order will mean

- i) the entire Arattupara rock and an area covering one kilometer radial distance from all boundary points of this rock to all sides,
- v) the entire Cheengerippara rock and an area covering two hundred meter radial distance from all boundary points of survey number 298/1A1A1A of Ambalavayal village,
- vi) the entire rock area of Phantom Rock and an area covering two hundred meter radial distance from all boundary points of Resurvey numbers 520/6 and 521/2 of Block 22 of Krishnagiri village, and

- vii) the entire Kolagappara rock and an area covering two hundred meter radial distance from all boundary points of resurvey number 349/1 of Block 22 of Krishnagiri village.

13. This order shall be enforced and executed with immediate effect.

Given under my seal and signature on this the 24th day of March 2017.

Sd/-

Chairperson, DDMA &
District Magistrate, Wayanad

To

- 1 Tahsildar, Sulthan Bathery
- 2 Geologist, District Office of Mining and Geology, Wayanad
- 3 Secretary, Grama Panchayat, Ambalavayal
- 4 Secretary, Grama Panchayat, Meenangadi
- 5 All Kerala Quarry Association (Reg. No. 280/86) Sulthan Bathery Taluk Committee, Wayanad district, Represented by its Secretary, Shri. K Yusuf, Kanikath, Ayiramkolly, Wayanad (Petitioner in WP(C) 28070/2016)
- 6 Shri. Beeran M, Mannilthodikkayil House, Ayiramkolli, Ambalavayal
- 7 Shri. M.P.Kuriakose, S/o Paily, Managing Trustee, Muttathu House, Samarpithar Trust, Mattappara, Meenangadi PO, Wayanad (Petitioner in WP(C)- 28619/2016)
- 8 Shri. Clippy K.G., S/o K.C.George, Managing Partner, CBM Enterprises, Mattappara, Krishnagiri Village, Wayanad district (Petitioner in WP (C) 28514/2016)
- 9 Shri. Ranjith K, S/o Simpson, Kattipparambil house, Kumblersi PO, Proprietor, Mattappara Quarry unit, Kolagappara PO, Ambalavayal, Wayanad (Petitioner in WP (C) 30822/2016)
- 10 Shri. Paul Abraham, Edakkadu house, Meenangadi PO, Sulthan Bathery, Wayanad (Petitioner in WP (C) 31023/2016)
- 11 Shri. Kuttan M.K. , S/o Kochuvelu, Mookkuparambil house, Arattupara, Kumbaleri PO, Wayanad (WP(C) 13888/2016) (Dually Represented by Shri. Suresh M.K, Son)
- 12 Shri. Siddique C, Chundangayil House, Ambalavayal, Sulthan Bathery,

- Wayanad (WP(C) 31013/2016)
- 13 Shri. K. Sureshbabu, Managing Partner, Kadaloram Sand, Kumbalери, Sulthan Bathery - 673591, Wayanad (Petitioner in WP (C) 30952/2016)
 - 14 Shri. Biju Varghese, Managing PArtner, Puzhayoram Sand, Kumbalери, Sulthan Bathery, Wayanad (Petitioner in WP (C) 30949/2016)
 - 15 Shri. T.V. Eliyas, S/o Varghese, Managing Partner, M/s Krishnagiri Stone Crusher, Krishnagiri PO
 - 16 Shri. K.P.Mohanan, S/o Parameswaran Nair, Kodikulath House, Kumbalери PO, Meenangadi Via, Wayanad (Petitioner in WP (C) 31209/2016) (Duely represented by K.P Babu, Brother)
 - 17 Sulaiman, S/o Kadirikoya, Idayapurath, Ambalavayal;
General Secretary, Karinkal Thozhilali Union, CITU, S. Bathery Taluk
 - 18 Shri.P.K.Babu, State Secretary, Congress (S) (Petitioner in file number DCWYD/401/2016/DEOC1)
 - 19 T.P Thomas, S/o Paily, Thannikode House, Krishnagiri Post, Pathiri Kavala.
 - 20 Shri. Jacob K.P, President, Rock Garden Tourism Club, Kumbleri, Wayanad (Petitioner in DEOC1/21178/2014)
 - 21 Jaison Ambat, Kumbleri Post, Pin-673591 & Aneesh M.J, Madalankal House, Kumbleri Post, Pin-673591
 - 22 Shri. Thomas Ambalavayal, Secretary, Wayanad Prakruthi Samrakshana Samithi, Purakkadi, Meenangadi, Wayanad 673591 (Petitioner in file number DCWYD/437/2016/DEOC1)
 - 23 Shri. Biju N.A, S/o Eliyas, Nellikunnel House, Kumbleri Post, Meenangadi
 - 24 Shri. Badusha, S/o Khansa, Nayketti Post, President, Wayanad Prakruthi Samrakshana Samithi.
 - 25 Shri. M.J Scaria, S/o Yakub, Kanhirathinkal House, Kumbleri Post, Meenangadi, Representing Our Own Nature, Krishnagiri.

Copy to

1. The District Police Chief, Wayanad
2. The Sub Collector, Mananthavadi
3. The Village Officer, Ambalavayal
4. The Village Officer, Krishnagiri
5. The District Information Officer, Wayanad for publicity in media
6. The District Informatics Officer, NIC, Wayanad for publishing in the district website

Approved for issue

Nodal Officer & Husur Sheristhadar

