



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 28TH DAY OF NOVEMBER 2024 / 7TH AGRAHAYANA,

1946

WP (C) NO. 26592 OF 2022

PETITIONER/S:

T.N.MUKUNDAN
AGED 57 YEARS
S/O.NARAYANAN, THADATHIL HOUSE, VELUPPADAM P.O.,
THRISSUR DISTRICT, PIN - 680 303.

BY ADVS.
RENJITH THAMPAN (SR.)
V.M.KRISHNAKUMAR
MAYA M.

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF
KERALA, SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.
- 2 SECRETARY
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 3 SECRETARY
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 4 AGRICULTURAL PRODUCTION COMMISSIONER
ASRAMOM, SECRETARIAT EAST RESIDENTS ASSOCIATION
RD., STATUE, PALAYAM, THIRUVANANTHAPURAM,
PIN - 695 004.



- 5 LAND REVENUE COMMISSIONER
OFFICE BUILDING, MUSEUM ROAD, VIKHAS BHAVAN P.O.,
THIRUVANANTHAPURAM - 695 033.

- 6 ACCOUNTANT GENERAL
OFFICE OF THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM, PIN 695 001.

BY ADVS.
SHRI.N.MANOJ KUMAR, STATE ATTORNEY
SHRI.S.RENJITH, SPL. G.P.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 28.11.2024, ALONG WITH WP(C).35561/2022, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 28TH DAY OF NOVEMBER 2024 / 7TH AGRAHAYANA,

1946

WP(C) NO. 35561 OF 2022

PETITIONER/S:

T.N.MUKUNDAN
AGED 57 YEARS
S/O NARAYANAN, THADATHIL HOUSE , VELUPPADAM.P.O,
THRISSUR DISTRICT, PIN- 680 303.

BY ADVS.
RENJITH THAMPAN (SR.)
V.M.KRISHNAKUMAR
MAYA M.

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF
KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN
695001.
- 2 SECRETARY,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN- 695001.
- 3 SECRETARY,
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM, PIN -695001.
- 4 LAND REVENUE COMMISSIONER,
OFFICE BUILDING, MUSEUM ROAD, VIKHAS BHAVAN P.O,



THIRUVANANTHAPURAM-695033

- 5 **DISTRICT COLLECTOR,
THRISSUR DISTRICT, COLLECTORATE, AYYANTHOLE,
THRISSUR, PIN - 680003.**

- 6 **PRINCIPAL AGRICULTURE OFFICER,
THRISSUR, OFFICE OF PRINCIPAL AGRICULTURE
OFFICER, UDAYA NAGAR, CHEMBUKKAVU, THRISSUR -
680005.**

BY ADVS.

**SHRI.N.MANOJ KUMAR, STATE ATTORNEY
SHRI.S.RENJITH, SPL. G.P.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 28.11.2024, ALONG WITH WP(C).26592/2022, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



J U D G M E N T

Dated this the 28th day of November, 2024

Nitin Jamdar, C. J.

The Kerala Conservation of Paddy Land and Wetland Act, 2008 (Act of 2008) is an Act to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof in order to promote growth in the agricultural sector and to sustain the ecological system, in the State of Kerala. For the conservation of paddy lands and wetlands in the State of Kerala, the Agricultural Promotion Fund is constituted under Section 27D of the Act of 2008, which fund is utilised for various purposes, including the restoration of paddy fields. The Fund is generated by the State by charging a fee for permission to use the paddy lands for commercial purposes. The non-utilisation of this Agricultural Fund for the conservation of paddy lands and their restoration is the issue raised in these two Public Interest Litigations.

2. These writ petitions are filed in the public interest by the same Petitioner. The Respondents are the State of Kerala, represented by the Chief Secretary; the Secretaries of the Departments of Revenue and Finance; the Agricultural Production Commissioner; the Land Revenue Commissioner; the Accountant General; the District Collector, Thrissur, and the Principal Agricultural Officer, Thrissur.

3. In W. P. (C) No. 26592 of 2022, the Petitioner has sought to place before the Court the action of the Respondents in not accounting



for the amounts received from the persons who have obtained sanction for changing the character of their lands from paddy lands to other purposes such as *paramba* pursuant to the orders under Section 27A of the Act of 2008. It is the contention of the Petitioner that though crores of rupees are collected under Section 27A of the Act, they are not accounted for and not even 3% of the amount is transferred to the Agricultural Promotion Fund. By making this grievance, the Petitioner in W. P. (C) No. 26592 of 2022 has sought for direction to the Respondents to ensure that the amounts received as fee under Section 27A(3) of the Act of 2008 are directly sourced to the account of the Agricultural Promotion Fund constituted under Section 27D of the Act. The Petitioner has also sought for a writ directing the Respondents to transfer the entire amount from 2018 to till date as a Fee under Section 27A(3) of the Act of 2008 to the Agricultural Promotion Fund of which the Land Revenue Commissioner – Respondent No.5 therein is the State Level Officer, within such time as may be fixed by this Court. The Petitioner has also sought for a further direction to the Respondents to ensure that the amounts received under Section 27A(3) is utilised only for the purposes mentioned under Rule 14(2) (a) to (e) of the Rules of 2008. In W. P. (C) No. 35561 of 2022, the grievance made by the Petitioner is that the Respondents are not enforcing the order passed under Section 13 of Act of 2008 on the ground that adequate funds are not available for restoration of paddy land, directed to be restored under Section 13.

4. These two petitions are heard together. Heard Mr. Renjith



Thampan, learned Senior Advocate appearing for the Petitioner and Mr. S. Renjith, learned Special Government Pleader appearing for the State.

5. Section 2(1) of Act of 2008 defines the change in nature of unnotified land as an act or series of acts that changes the nature of unnotified land irreversibly, making it impossible to revert to the original condition by ordinary means. The Fund referred to in Act of 2008 is the Agricultural Promotion Fund constituted under Section 27D. The paddy land, as defined in Section 2(xii), refers to all types of land in the State where paddy is cultivated at least once a year or is suitable for paddy cultivation but is uncultivated and left fallow. This definition includes related constructions like bunds, drainage channels, ponds, and canals. Wetland is defined under Section 2(xviii) of Act of 2008 as land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface, covered by shallow water, or characterized by sluggishly moving or standing water that saturates the soil. This definition includes backwaters, estuaries, fens, lagoons, mangroves, marshes, salt marshes, and swamp forests but excludes paddy lands and rivers.

6. Section 3 of Act of 2008 prohibits the conversion or reclamation of paddy land. It states that from the commencement date of this Act, the owner, occupier, or custodian of any paddy land shall not undertake any activity for its conversion or reclamation, except in accordance with this Act's provisions. The Local Level Monitoring Committee is established under Section 5 of the Act. Section 9



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establishes the District Level Authorized Committee to consider applications filed by petitioners for the reclamation of paddy land. Section 13 empowers the District Collector to restore the original condition of any paddy land or wetland reclaimed in violation of Act of 2008. This requires funding. The restoration of illegally reclaimed paddy land or wetland is the focus of this legislation. Section 13 of the Act of 2008 reads thus:

“13. Power of the District Collector.- Notwithstanding anything contained in this Act, the District Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original position of any paddy land or wetland reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from the holder or occupier of the said paddy land or wetland, as the case may be, so reclaimed after giving him a reasonable opportunity of being heard.

Where the decision is to restore the original position of paddy land or wetland, the District Collector may take any action in such manner, as may be prescribed, to dispose clay, sand, earth etc. removed from the paddy land or wetland or any brick or tile made of all or any of them, in the process of such restoration and cause to remit the sums collected to the Fund.”

Thus under Section 13 of the Act of 2008 the District Collector is empowered to take steps to restore the original position of any paddy land or wetland reclaimed violating the provisions of this Act, and realise the cost incurred in this regard from the holder or occupier of the said paddy land or wetland. The District Collector can take any



action to dispose of clay, sand, earth etc. from the paddy land or wetland and cause to remit the sums collected to the Fund.

7. Section 15 of Act of 2008 empowers the Committee to issue directions to the holder of uncultivated paddy land that is left fallow, instructing him to cultivate it himself or through any person of his choice, using paddy or other intermediary crops under the provisions of Act of 2008. Section 16 deals with the cultivation of fallow paddy lands and states that if the Committee is satisfied, on the basis of the reply so furnished by the holder of the paddy land, that it was due to practical difficulties that he could not comply with the direction given under Section 15, the Committee may grant permission to cause to cultivate the said land through the Panchayat. This in short is the statutory backdrop.

8. On 6 October 2022, when the Petitions came up for consideration, the Division Bench took note of the information placed on record by the Petitioner under the Right to Information Act, 2005, stating that more than 239 Crores have been received for depositing in the Agricultural Promotion Fund but the same has not been deposited. The Division Bench directed the Respondents to file a statement with all supporting documents explaining the amount collected for the financial years 2020-2021 & 2021-2022 and the reason for not depositing the amount in the Fund.

9. A statement dated 12 December 2022 was filed by the Secretary, Department of Finance, explaining the steps taken by the



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Government to manage the Agricultural Promotion Fund under the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 (Act of 2018). The statement highlighted that, through G.O. dated 9 April 2019 and G.O. dated 16 May 2019, the Government had sanctioned the opening of a non-interest-bearing STSB account at the Vallayambalam Sub Treasury in the name of the Land Revenue Commissioner for the creation of the Agricultural Promotion Fund. Subsequently, as per G.O. dated 30 July 2022, the Land Revenue Commissioner was designated as the State-Level Officer responsible for the management of the Fund under Section 27D of the Act of 2008. It was stated that additionally, G.O. dated 22 December 2018 sanctioned the creation of a new head of account, "0029-800-88 – Receipts collected under Rule 12(9)," for accommodating related receipts. Later, based on the request of the Land Revenue Commissioner, G.O. dated 20 September 2019 was issued, renaming the account as "0029-800-88 – Receipts collected under the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018," to include all receipts collected under various rules of the Act. Another head of account, "2029-00-800-74 – Expenditure under Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018," was created through G.O. dated 01 December 2019 to accommodate expenses related to the Act. The Secretary further stated that, based on a proposal from the Land Revenue Commissioner, an additional Rs. 5 crore was authorized under the expenditure head of account for processing land conversion applications as per G.O. dated 24 May 2022. Subsequently, Rs. 18.01 crore was authorized under the same head on 11 August 2022 to meet



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various expenses, including establishment costs related to land conversion applications. Detailed/object heads were opened to classify these costs properly, and the Revenue Department was instructed to ensure that no expenditure was directly incurred from the head "2029-00-800-74 (NP)." The Secretary requested one month's time to finalise a decision and file a detailed counter-affidavit in consultation with other departments, as the matter involved fiscal management and accountability. The Division Bench, in its order dated 13 December 2022, clarified that the amounts collected and deposited under the Agricultural Promotion Fund must only be utilized for purposes explicitly provided under the Kerala Conservation of Paddy Land and Wetland Act and the Rules.

10. In W. P. (C) No. 26592 of 2022, an interlocutory application was filed as I. A. No. 1 of 2023 to place on record additional documents demonstrating that although a substantial amount is collected under Section 27D of Act of 2008, it is not being utilized. In the interlocutory application, an affidavit was filed on 13 February 2023 by the Additional Chief Secretary. It was stated that, vide G.O. dated 20 September 2019, the Head of Account "0029-00-800-88 – Receipts collected under the Act of 2018" was created to accommodate all receipts collected under various rules of the Act. Subsequently, vide G.O. dated 1 December 2019, the Head of Account "2029-00-800-74 – Expenditure under the Act of 2018" was created for managing all expenses related to the Act. The Secretary further submitted that, vide G.O. dated 9 April 2019 and G.O. dated 16 May 2019, the Land



Revenue Commissioner was granted permission to open an interest-free STSB account at the Sub Treasury in Vellayambalam, Thiruvananthapuram, to facilitate fund management. Additionally, as per G.O. dated 30 July 2022, the Land Revenue Commissioner was designated as the State-Level Officer responsible for managing the Agricultural Promotion Fund constituted under the Act. The Chief Secretary had convened a meeting with the participation of various departments, resulting in the formation of a committee. The committee requires further consultation to finalize its proposals. Therefore, again a request was made for a minimum period of one month. The Division Bench granted further time on 20 March 2023, to file a detailed counter affidavit regarding the amount collected under Section 27A of the Act of 2008 and the amount transferred to the fund. These two affidavits primarily sought time which was granted. Thereafter the petitions have remained pending without any further order.

11. When the petitions came up before us on 4 October 2024, referring to the earlier orders and noting that despite several orders the exact figures regarding collection and utilisation details has not been produced, directions were issued as under:-

10. Since, despite several orders the exact figures regarding the collection and their utilization has not produced, we are constrained to pass certain mandatory directions.

11. We are informed that a State Level Officer has been appointed who is the Land Revenue Commissioner, and the incumbent's name is Dr. A. Kowsigan IAS. We direct the



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Land Revenue Commissioner, Dr. A. Kowsigan IAS, that the details be given under the following heads:

(a) Collection of the regularization charges from the enactment of the Act of 2008, till date and the contribution to the Agricultural Promotion Fund.

(b) Utilization of these amounts under the following heads:

(i) expenses for implementation of requirements of the Act with the prior sanction of the Government or as directed by the Government for the promotion of paddy cultivation and conservation of paddy fields;

(ii) expenses for the restoration of paddy fields;

(iii) all expenses including expenses for arranging vehicles required for the functioning of District/Taluk Level squads constituted for conservation of paddy fields;

(iv) expenses incurred for collecting satellite images as part of the implementation of the Act;

(v) 2/3rd of the expenses incurred for the construction works of each unit in Life Mission Housing Complex Scheme which is an important step towards the conservation of paddy lands.

(c) The amount which is sanctioned to the District Collector for the purpose of carrying out the duties under Section 13 of the Act of 2008 towards restoration of the illegally reclaimed paddy lands and wetlands.



(d) Whether a State Level Audit has been carried out as mandated under Section 27D of the Act of 2008.

It was also directed that the information be uploaded on the website for the purpose of better transparency.

12. Pursuant to the above order, an affidavit is filed by Dr. A. Kowsigan I.A.S., the Land Revenue Commissioner, in which it is stated as under:

“It is submitted that the Government vide Letter No.REV-P1/818/2018-REV dated 03.01.2020 had issued directions to transfer the amounts allotted by Government for expenditures under the Act to a Special TSB account maintained by the Land Revenue Commissioner and to incur expenditure related to the requirements of the Act from the said TSB account. However, such amounts were transferred to the districts through the head of account "2029-00-800-74- Expenditure under the Kerala Conservation of Paddy land and Wetland (Amendment) Act, 2018". It is also submitted that the Commissioner of Land Revenue had been appointed as the State Level Officer for the management of Agricultural Promotion Fund (vide G.O.(P) No. 211/2022/RD dated 30.07.2022) and a Treasury Savings Bank (TSB) account had been opened at the Sub Treasury, Vellayambalam for the purpose thereafter. The details on expenditure from the amounts allotted by Government under various items are submitted as detailed below.

(a) Collection of regularization charges as on 18.10.2024 from the date of enactment of Kerala Conservation of Paddy Land & Wetland (Amendment) Act, 2018 is Rs.1510,14,45,300/- (Rupees One thousand five hundred and ten crores, fourteen lakhs, forty five thousand and three



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hundred only). All the regularization charges collected since the enactment of Kerala Conservation of Paddy Land & Wetland (Amendment) Act are being directly credited to the Consolidated Fund of the State Government through the designated Head of Account. Instead of transferring specific sums to the aforesaid TSB Account, the State Government have been releasing the necessary funds to carry out various provisions of the Act and Rules in tune with the spirit of the Act. The details of the amounts allotted by the Government to meet various expenses for carrying out the provisions of the Act are submitted as follows: -

(b) (i) An amount of Rs.15,29,94,919/- (Rupees Fifteen crores, twenty nine lakhs, ninety four thousand, nine hundred and nineteen only) has been expended from the fund allotted by the Government for executing the provisions of the Act i.e., among other things, the expenses related to the hiring of vehicles and hiring and purchase of computers for handling various applications under the Act. Further, an amount of Rs.34,89,78,206/- (Rupees thirty four crores, eighty nine lakhs, seventy eight thousand, two hundred and six only) has been expended from the fund allotted by Government on account of the remuneration of temporary staff appointed for carrying out the provisions of the Act.

(b) (ii) An amount of Rs.6,00,000/- (Rupees six lakhs only) has been allotted to the districts for the restoration of paddy fields from the fund allotted for this purpose by the Government.

(b) (iii) No expenditure has been incurred from the Agricultural Promotion Fund for arranging vehicles required for the functioning of



District/Taluk Level squads constituted for the conservation of paddy fields. However, vehicles hired for implementing various other provisions of the Act are also of use in detecting violations of the provisions of the Act concerning conservation of paddy fields and wetlands.

(b) (iv) No expenditure has been incurred from the Agricultural Promotion Fund for collecting satellite images.

(b) (v) The details of expenditure for the construction works of Life Mission Housing Complex Scheme are being collected from the Government and the same shall be furnished without delay through an additional affidavit before this Court.

(c) As stated in b(2) above, an amount of Rs.6,00,000/- (Rupees six lakhs only) has been allotted to the districts for the restoration of paddy fields under Section 13 of the Act.

(d) As such, as no funds have been transferred to the Agricultural Promotion Fund, no State Level Audit of such fund has been carried out.

4. It is submitted that funds from the amount collected as per the Kerala Conservation and Paddy Land and Wetland Act have been earmarked for the construction works of Life Mission Housing Complex Scheme. Only after getting the details of the amount spent for the same, the final amount utilized for the purpose as on date can be ascertained. In order to collect the details and to file an additional affidavit, this Court may kindly grant a further period of 1 month for the same.

5. As directed by this Court, the aforesaid details of collection of regularization charges under the Act and the amounts allotted by Government to meet the expenses



related to various purposes of the Act have been published in the website of the Commissionerate of Land Revenue (clr.kerala.gov.in) and the same are accessible to the public.”

Thus again time was sought.

13. The statements and the affidavits filed by the State Government in these petitions would show that the State Government has created a separate head under Section 27A(3) of the Act to accommodate all receipts collected under various Rules of the Act. An interest free account is created to facilitate the Fund management. A Committee is stated to be appointed, however, time was sought from the Court from time to time with nothing much concrete taking place.

14. The collection of regularisation charges as of 18 October 2024 is stated to be more than 1510 crores. It is specifically stated that all regularisation charges collected under the Act are directly credited to the consolidated fund of the State Government and from there, some amount is being used for the purpose of the Act.

15. Section 2(viB) defines the Agricultural Promotion Fund as established under Section 27D. Section 27D defines the Agricultural Promotion Fund and outlines the collection, management, and utilization of the Fund in a prescribed manner. Section 27A, inserted by Act 29 of 2018 with effect from 30 December 2017 deals with change of nature of unnotified land. The provisions reads thus:-

“27A. Change of nature of unnotified land-(1) If any owner of an unnotified land desires to utilise such land for residential or commercial or for other purpose, he shall



apply to the Revenue Divisional Officer for permission in such manner as may be prescribed.

(2) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal or any other authority, the Revenue Divisional Officer may, after considering the reports of the Village Officer concerned, pass such orders as deemed fit and proper, on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary:

Provided that, if the area of such parcel of land where the application is allowed is more than 20.2 ares, ten per cent of such land shall be set apart for water conservancy measures.

(3) If the application is allowed, the applicant shall be liable to pay a fee at such rate as may be prescribed:

Provided that, no such fee shall be collected if the applicant proves that the land where the application is allowed is, filled up or naturally filled up before the 4th day of July, 1967, the date of commencement of the Kerala Land Utilisation Order, 1967, after completing such procedure as may be prescribed.

(4) If the application is allowed, the Revenue Divisional Officer shall ensure that the reclamation in the un-notified land shall not adversely affect the cultivation of paddy or any other crops, if any, in the adjoining land and shall specify such water conservancy measures as is necessary to ensure such cultivation:

Provided that in specifying such water conservancy measures, the Revenue Divisional Officer may, if he deems fit, refer to satellite maps of the area maintained by Government agencies.

(5) No permission under this section shall be necessary where the purpose for which the un-notified land is



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converted or attempted to be converted or utilized or attempted to be utilized is for paddy cultivation.

(6) Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act (20 of 1994), no permission under this section shall be necessary for constructing a residential building having a maximum area of 120 square metres in a maximum extent of 4.04 ares of land or a commercial building having a maximum area of 40 square metres in a maximum extent of 2.02 ares of land:

Provided that the construction of a housing complex or complexes or flats or multi-storied residential complexes shall not come within the meaning of residential building specified in this sub-section:

Provided further that this exemption shall be granted only once.

(7) The exemption under sub-section (6) shall be applicable only to owners of un-notified lands under the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018:

Provided that if the area of the residential building or commercial building exempted under sub-section (6) is subsequently increased by new extension, the exemption under sub-section (6) shall cease to have effect and the owner of the land as on the date of detection of the new extension shall be liable to pay fee as per sub-section (3).

(8) Where conversion of an un-notified land is required for any public purpose, the Revenue Divisional Officer shall submit a report to Government outlining the measures to be adopted to ensure that the reclamation shall not disrupt the free flow of water to the neighbouring paddy lands, if any, and shall suggest such water conservancy measures as is necessary to ensure this.



(9) The Government may, on receipt of a report under sub-section (8), issue permission to reclaim unnotified land for public purpose:

Provided that where permission is granted, Government may make necessary modifications to the recommendations of the Revenue Divisional Officer as deemed fit:

Provided further that, if the area of such parcel of land where the application is allowed is more than 20.2 ares, ten per cent of such land shall be set apart for water conservancy measures.

(10) The order issued under sub-section (2) and (9) shall clearly indicate the survey number of the lands and the extent of the land in each survey number for which sanction has been accorded, the extent of the land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

(11) The Revenue Divisional Officer may, either suo moto or on the application of any aggrieved party, cancel any order issued under sub-section (2) if the conditions specified in the order issued therein are not complied by the applicant, either fully or partially.

(12) No order of cancellation under sub-section (11) shall be made by the Revenue Divisional Officer unless the applicant thereof has been given an opportunity of being heard in the matter.

(13) Any application received for the change of nature of unnotified land from the date of commencement of the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 shall be considered and disposed of only in accordance with the provisions of the Act.”

(emphasis supplied)



Thus, under Section 27A(3), upon application being allowed to change the nature of unnotified land, the applicant is liable to pay the fee. This fee, elaborated later, has to be deposited in the Fund constituted under Section 27D of the Act of 2008 which reads thus:-

“27D. Establishment of an Agricultural Promotion Fund.-(1) There shall be established an “Agricultural Promotion Fund”, referred to as the fund, for the purpose of this Act.

(2) The management of the fund shall be vested with a State Level Officer designated by the Government and shall be audited by the State Audit Department.

(3) The collection, management and utilization of the Fund shall be in such manner as may be prescribed.”

An "Agricultural Promotion Fund" has to be established to serve the purposes of this Act. The responsibility for managing the Fund will be assigned to a State Level Officer designated by the Government, and its accounts will be subject to auditing by the State Audit Department. The collection, management, and utilisation of the Fund will be carried out in accordance with the rules prescribed for this purpose.

16. In the exercise of the powers conferred under Section 30 of the Act of 2008, the State Government has framed the Rules of 2008. Rule 2 deals with the definitions of the terms occurring under the Rules. Rule 2(2) states that the words and expressions used but not defined in the Rules shall have the respective meanings attributed to them in Act of 2008. Thus, the word “fund” used in the Rules of 2008 means the Agricultural Promotion Fund. The Rules contemplate the



preparation of a Data Bank by the Committee containing details, including the survey number and area of the existing paddy land and wetland suitable for cultivation. If any land lying as paddy land or wetland is not included in the Data Bank, the Local Level Monitoring Committee shall take steps to include it. A person aggrieved by details erroneously included in the Data Bank can file a review application before the Committee.

17. The relevant part of the Rule 12 of the Rules of 2008, which is germane to the present discussion, deals with the procedure for permitting changes in the nature of unnotified lands as per Section 27A(2) of the Act of 2008. It reads as follows:-

“12. The procedure for permitting change in the nature of unnotified lands as per Sub Section (2) of Section 27A.- (1) In the case of an application for changing the nature of unnotified land having an extent upto 20.23 Are, the application shall be in Form-6 and that in respect of land having an extent above 20.23 Are shall be in Form-7.

(3) Along with the said application either a demand draft of Rs.1,000/- (Rupees Thousand only) in favour of said fund or proof of deposit of Rs.1,000/- (Rupees Thousand only) via electronic transfer to the said fund shall be produced.

(4) Revenue Divisional Officer shall forward the applications received as per Sub Rule (1) to Village Officer for report and Village Officer shall mark entry of the same in the Register maintained as per Form-8 and shall investigate upon the applications as per the order of priority and submit



a report before Revenue Divisional Officer within fifteen days.

(9) In the applications for sanctioning change of nature of unnotified land, the Revenue Divisional Officer shall, on production of a Demand Draft for the amount shown in the schedule appended to the Rules or a proof to show that the said amount is transferred to the Fund through electronic transfer, issue orders indicating the survey number and the extent of land for which sanction has been accorded and the survey number and the extent of land in which water conservancy measures are to be adopted by the applicant and also describing the water conservancy measures and a sketch of such land indicating the aforementioned details shall be appended to the order.

(10) On receipt of an order sanctioning change of nature of unnotified land, the Tahsildar shall issue an order assessing the land tax according to the extent of the land for which change of nature is sanctioned and the Village Officer shall make necessary amendments to the revenue records accordingly.”

Thus along with the application, a payment of Rs. 1,000/- (Rupees One Thousand only) must be submitted. This payment must either be made via a demand draft in favor of the designated fund or by providing proof of the amount being credited directly to the Fund through electronic transfer. The Revenue Divisional Officer will forward the applications received under sub-rule (1) to the Village Officer for further action. The Village Officer will record the details in the Register maintained in Form-8, investigate the applications in the order of priority, and submit a report to the Revenue Divisional Officer



within 15 days. For applications requesting approval to change the nature of unnotified land, the Revenue Divisional Officer will issue orders only upon receiving either a demand draft for the specified amount or proof that the amount has been credited directly to the Fund via electronic transfer.

18. Rule 2(2) states that terms used but not defined in the Rules will have the meanings attributed to them under the Act. Thus, references to the Fund in the Rules of 2008 pertaining to the Agricultural Promotion Fund. To recapitulate, under Section 27A(3), an application must be submitted for changing the nature of unnotified land upon payment of a prescribed fee. Rule 12 outlines the procedure for permitting such changes. Therefore, under Rule 12(3), applicants must include a demand draft in favor of the Fund or proof of electronic transfer to the Fund. Under Rule 12(9), upon proof of transfer to the Fund, the Revenue Divisional Officer will proceed with further action, the format for the fees to be remitted is specified in the Schedule under Rule 12(9) and thus fees collected under Section 27A(3) have to be deposited in the Agricultural Fund.

19. The State, in its affidavit, has clearly stated that no funds have been transferred to the Agricultural Promotion Fund at all. Therefore, there is no State Level Audit carried out as required under Section 27D(2) of the Act of 2008. It was suggested in the earlier affidavit filed by the Secretary that though the Agricultural Promotion Fund is constituted, the amounts received under Section 27A(3) are not directly sourced to the Fund but are instead sourced to the



Government Department of Finance, and partly an amount is being diverted and it is not mandatory for the amount collected under Section 27A(3) to be deposited in the Fund constituted under Section 27D. This argument is entirely fallacious and is not supported by the provisions of the Act of 2008 and the Kerala Conservation of Paddy Land and Wetland Rules, 2008 (Rules of 2008).

20. Apart from diverting the amounts collected under Section 27A(3) of the Act to the consolidated fund instead of the Agricultural Fund, this amount has not been spent for the purpose for which the Act was enacted. Rule 14 provides for the appointment by the Government for the management of the Fund in the Government Treasury Bank.

21. Rule 14 of the Rules of 2008 regulates the manner in which raising, handling and disbursing of Funds, i.e., the Agricultural Promotion Funds, are to be made. Rule 14 reads as under:

*“14. Raising, handling and disbursing of Funds -
(1) A State level officer appointed by the Government for management of Fund shall open an account in Treasury Savings Bank and shall inform such account number, treasury and other details to the Revenue Divisional Officer.*

(2) The amount may be deducted from the fund for the purpose of the following expenses, that is:-

(a) expenses for implementation of requirements of the Act with the prior sanction of the Government or as directed by the Government for the promotion of paddy cultivation and conservation of paddy fields;



(b) expenses for the restoration of paddy fields;

(c) all expenses including expenses for arranging vehicles required for the functioning of District/Taluk Level squads constituted for conservation of paddy fields;

(d) expenses incurred for collecting satellite images as part of the implementation of the Act;

(e) 2/3rd of the expenses incurred for the construction works of each unit in Life Mission Housing Complex Scheme which is an important step towards the conservation of paddy lands.”

It is clear that to achieve the preservation of paddy land and wetland, finances are required. Rule 14, which we reproduced above, outlines the categories under which funds will be spent.

22. From the affidavit of the Land Revenue Commissioner, it can be seen that ₹1510 crores have been collected from conversion charges from the enactment until 18 October 2024. Out of this, ₹15 crores have been spent on hiring vehicles and purchasing computers, but no details are provided. It cannot be concluded that ₹15 crores is solely for purchasing computer-related equipment. The expenses listed are for vehicle hire, not purchases. There are no further details. Thus, it is hard to believe that this amount is solely for the purpose of Act of 2008. Furthermore, around ₹35 lakhs have been spent on the remuneration of temporary staff. What is concerning in the affidavit is that only ₹6 lakhs out of the ₹1510 crores have been allocated for the restoration of paddy lands, which is a primary objective of the Act. No funds have



been designated for arranging vehicles required for the operation of the District and Taluk Squads.

23. Under Section 13 of Act of 2008, the District Collector is empowered to restore the original position of paddy land and remove clay, sand, and earth. For this purpose, only ₹6 lakhs has been allocated for restoration. Vehicles will be required for the District and Taluk Level Squads. It is noted that vehicles are hired, but the source of this payment is not specified.

24. No funds are allocated for collecting satellite images. Rule 14(d) of the 2008 regulations specifically allows for collecting satellite images as part of implementing the Act. We have been informed that imagery is now being sourced from Google Earth; however, obtaining satellite imagery, which is essential for preserving paddy land, requires significant funding but has not been pursued.

25. This is not just a matter of accounting; the Petitioner has provided several orders issued by the District Collector to restore illegally converted paddy land, which have not been implemented due to a shortage of funds. It should also be noted that many paddy cultivators across the State, who sold their crops to the Civil Supplies Corporation, are not being compensated for their produce, while loans are being advanced because the funds have not been utilized. Correspondence is on record to demonstrate that the measures mandated by the Act are being undermined due to insufficient funds. Petitioner has pointed out that there were almost 90 proceedings till 26



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October 2019 where the District Collector, Thrissur, had failed to restore the paddy land on the grounds of inadequate funds. The grievance on inadequate funds is also raised even though Crores of rupees have been collected under Section 27D of the Act of 2008, and the amount are being diverted and not utilised for the purpose of Act of 2008. Reference is made to a communication issued by the Agricultural Officer to the Land Revenue Commissioner, making a requisition for the Agricultural Promotion Fund to meet expenses under Rule 14(2) of the Rules of 2008. The inter-departmental communications indicating that the collected amount is not being utilised are placed on record. The Petitioner has also submitted details of cases in which restoration of paddy land has been ordered under Section 13 of Act of 2008 showing that in the majority of these cases, the orders have not been complied with due to a lack of funds.

26. It is clear that as per the existing statutory framework the amount collected under Section 27A must be deposited and credited to the Fund, and the receipt must be provided with the application. This amount must then be used for the purposes specified under Rule 14. The State has bypassed this procedure entirely and has collected more than ₹1500 Crores without depositing it in the Agricultural Fund. If this amount had been deposited in the Agricultural Promotion Fund, it would have to be utilized according to Rule 14 of the Rules of 2008 and subjected to audit.

27. The only argument the Special Government Pleader sought to be made before us adopting this method is the state of finances of



the Government. This could be the case; however, it does not mean that the provisions of the statute can be blatantly bypassed. The amount collected under Section 27A for conversion fees has to be deposited into the Agricultural Promotion Fund and utilized according to Rule 14 for the specified purpose. The State enacted this statutory scheme to preserve and conserve the paddy lands and wetlands and restore them. Therefore, as the statutory framework stands today, the fees must be deposited in the Fund, not the general treasury. Without amending the statutory framework or without statutory sanction, the amounts cannot not be diverted.

28. The Statement, Objects and Reasons of Act of 2008 state as follows: Regions like Kuttanad and Palakkad were once Kerala's rice granaries. However, over decades, rice farming has shifted to cash crops, causing rice cultivation to decline from over 800,000 hectares in the 1970s to around 200,000 hectares by the 2000s. This transition, driven by social, economic, and cultural factors, has made paddy cultivation less viable for landowners. Additionally, marshes and wetlands are being reclaimed for non-agricultural use, reducing rice farming areas. Ecologically, these changes have led to watershed degradation, soil erosion, lower water levels, and a decline in fertility, harming the ecosystem. The drop in paddy cultivation has also decreased employment for farm workers and rural women, increased water scarcity, and worsened living conditions for the rural poor. Many remain unaware of these losses' long-term impacts. If current practices continue, remaining paddy lands are at risk. It is vital to preserve these



lands for future generations as paddy supports food production and maintains wetland ecology. Preserving wetlands is essential for agricultural growth, food security, and ecological balance in Kerala, making this enactment crucial for paddy land preservation and ecological function maintenance wetland. This situation as highlighted in the statement has led to this enactment.

29. The Act of 2008 contemplates both preventive and restorative measures. Since various orders from this Court have yielded no results, and since hardly any funds are being spent for the purpose under Rule 14, it is necessary to issue certain mandatory directions to follow the existing statutory mandate in the collection, management, and utilisation of the Agricultural Promotion Fund.

30. In view of the above discussion on the existing statutory framework, we issue the following directions:-

(i) All amounts collected under Rule 27A(3) of the Act of 2008 from 1 December 2024 onwards shall be credited directly to the Agricultural Promotion Fund constituted under Section 27D of the Act of 2008 to be utilised as per Rule 14 of the Rules of 2008;

(ii) The minimum percentage of allocation under each head of Rule 14 of the Rules of 2008 will be decided by the State within two months from today, and the same will be published on the website. The minimum amount fixed shall be commensurate to the object sought to be achieved under each head under Rule 14;



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(iii) Twenty-five percent (25%) of the amount, as specified in the affidavit filed by the Land Revenue Commissioner dated 2 November 2024, collected as fee under Section 27A(3) of Act of 2008 in state shall be transferred to the Agricultural Promotion Fund within four months from today. The remaining seventy-five percent (75%) of the amount, shall be transferred to the Agricultural Promotion Fund within twelve (12) months from in a phase-wise manner of twenty-five percent (25%) every four month;

(iv) There shall be a yearly audit of the Agricultural Promotion Fund to be audited by the State Audit Department, and the result of the audit shall be published on the website of the concerned department.

31. The writ petitions are accordingly disposed of in above terms.

Sd/-
NITIN JAMDAR
CHIEF JUSTICE

Sd/-
S. MANU
JUDGE



APPENDIX OF WP(C) 26592/2022

PETITIONER EXHIBITS

- EXHIBIT P1** TRUE COPY OF THE INFORMATION OBTAINED BY THE PETITIONER DATED 09/05/2022 ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P2** TRUE COPY OF THE INFORMATION OBTAINED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT DATED 24/05/2022 ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P3** TRUE COPY OF INFORMATION OBTAINED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT FROM LAND REVENUE COMMISSIONER'S OFFICE DATED 02/06/2022 ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P4** TRUE COPY OF THE INFORMATION RECEIVED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT DATED 26/07/2022 FROM THE OFFICE OF THE LAND REVENUE COMMISSIONER ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P5** TRUE COPY OF THE LETTER OF THE COMMISSIONER OF LAND REVENUE DATED 23/12/2021 TO THE PRINCIPAL SECRETARY, REVENUE (P) DEPARTMENT ALONG WITH ENGLISH TRANSLATION



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APPENDIX OF WP(C) 35561/2022

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE INFORMATION RECEIVED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT DATED 26.07.2022 FROM THE LAND REVENUE COMMISSIONERATE ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P2 TRUE COPY OF THE LETTER WRITTEN BY AGRICULTURE OFFICER, VARANDARAPPALLI TO TO LAND REVENUE COMMISSIONER, NO KBV 43/2022 - 23 DATED 30.09.2022 ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P3 TRUE COPY OF LETTER NO TA (2) 8853/ 2021 DATE 08.04.2022 OF PRINCIPAL AGRICULTURAL OFFICER, THRISSUR TO AGRICULTURAL OFFICER, VARANDARAPPILLI ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P4 TRUE COPY OF THE LETTER OF THE DISTRICT COLLECTOR, THRISSUR TO THE LAND COMMISSIONER, LETTER NO. DCTSR/10071/2018/ B3 DATED 26.08.2019 AND DETAILS ALONG WITH THE ENGLISH TRANSLATION.
- EXHIBIT P5 TRUE COPY OF THE COMPLAINT DATED 19.07.2022 FILED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR AND OTHERS.
- EXHIBIT P6 TRUE COPY OF THE LETTER DATED 06.01.2023 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER TO THE PETITIONER ALONG WITH ENGLISH TRANSLATION
- EXHIBIT P7 TRUE COPY OF THE LETTER DATED 16.01.2023 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER TO THE PETITIONER ALONG WITH ENGLISH TRANSLATION