



GOVERNMENT OF KERALA

SC2/342/2024-HOME
Home (SC) Department
Thiruvananthapuram,
Dated:29-12-2024

CIRCULAR

Sub: Instructions on demolition proceedings as per the directions of Hon'ble Supreme Court in the judgment dated 13/11/2024 in WP(C) No.295/2022

Ref: Judgment dated 13/11/2024 in WP(C) No. 295/2022 of Hon'ble Supreme Court

To ensure transparency, accountability, and to prevent arbitrary exercise of power in matters concerning demolition of constructions, the following directions are issued for strict compliance of, judgment dated 13/11/2024 in WP(C) No. 295/2022 of Hon'ble Supreme Court, by all relevant authorities.

No demolition shall be carried out without serving a prior show cause notice to the owner/occupier of the structure. The notice must be returnable within the time specified under prevailing municipal laws or a minimum of 15 (fifteen) days from the date of service, whichever is later. The notice must be served through registered post with acknowledgement, and an additional copy must be affixed conspicuously on the outer portion of the structure in question. The time of 15 (fifteen) days starts from the date of receipt of the said notice. Once the notice is served, intimation of the same must be sent to the District Collector's office via email, and an auto-generated acknowledgment of receipt must be issued. The District Collector shall appoint a nodal officer and assign a designated email address, which must be communicated to all municipal and relevant authorities within one month.

The show cause notice must clearly outline the nature of the

unauthorized construction, specific violations, and the grounds on which demolition is being proposed. It should also include a list of documents that the noticee must furnish in reply and provide the date and details of the personal hearing to be conducted by the designated authority. Within three months, all municipal or local authorities must establish a designated digital portal where details of all notices, replies, show cause responses, and subsequent orders will be made available for public access.

Before proceeding with demolition, the designated authority must provide an opportunity for a personal hearing to the concerned owner/occupier. The minutes of such hearings shall be properly recorded. Thereafter, a final order shall be passed, which must include the contentions raised by the noticee and reasons for their acceptance or rejection. The final order must clarify whether the unauthorized construction is compoundable or not, providing clear justification. In cases where only a portion of the construction is unauthorized, the specific details of the non-compoundable area must be mentioned. Furthermore, the final order should justify why demolition is the only recourse, ruling out alternatives such as compounding or partial demolition.

To allow for appellate or judicial scrutiny, the implementation of the final order shall be stayed for 15 (fifteen) days from the date of receipt, during which the affected party may seek remedy through an appellate forum or a court of law. Additionally, a period of 15 (fifteen) days shall be given to the owner/occupier to voluntarily remove or demolish the unauthorized construction. If the structure remains intact after this period, and no stay order has been obtained, the authorities may proceed with the demolition. Prior to demolition, a detailed inspection report must be prepared and signed by two impartial witnesses

The demolition proceedings must be video graphed, and preserved and a comprehensive demolition report shall be prepared, detailing the involvement of police and civil personnel in the process. The report, along with the video graphic record, must be forwarded to the Panchayath/Municipality/Corporation Secretaries via email and uploaded to the designated digital portal.

These directions will not apply to unauthorized structures located

in public spaces, such as roads, streets, footpaths, abutting railway lines, or water bodies. Similarly, they will not apply to cases where a demolition order has already been passed by a Court of Law.

Any violation of the directions of Honorable Supreme Court in the judgment dated 13/11/2024 in WP(C) No. 295/2022, would lead to initiation of contempt proceedings in addition to the prosecution. It is also be informed that if the demolition is found to be in violation of the orders of the Honorable Supreme Court, the officer/officers concerned will be held responsible for restitution of the demolished property at his/their personal cost in addition to payment of damages.

SARADA MURALEEDHARAN I A S
CHIEF SECRETARY

Forwarded / By order,

Section Officer.

To:

- 1) Advocate General Kerala, Ernakulam
- 2) State Police Chief Kerala, Thiruvananthapuram
- 3) Principal Director, Local Self Government Department
- 4) Chief Engineer, Public Works Department
- 5) All District Collectors
- 6) All District Police Chiefs (through State Police Chief)
- 7) All Panchayath/Municipality/Corporation Secretaries (through Principal Director, Local Self Government Department)
- 8) Local Self Government Department
- 9) Revenue Department
- 10) Law Department
- 10) Public Works Department
- 11) Information & Public Relations (Web & New media) Department
- 12) Stock File