



## GOVERNMENT OF KERALA

### Abstract

Public Works Department-Strengthening of carriageway from Km 64/000 to Km 87/000 of NH 966 (Old NH 213) - Inspection conducted by Finance(NT-K)wing - Judgement dated 07.01.2026 of the Hon'ble Kerala High Court in WP(C) 32936/2024 filed by M/s Malabar Tech - Complied with - Orders issued

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### **PUBLIC WORKS(D)DEPARTMENT**

G.O.(Rt)No.574/2026/PWD Thiruvananthapuram,Dated20-05-2026

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Read 1 Inspection Report No. IW- A3/15/2020-FIN dated 05.07.2024 of the Finance(NT-K) Department (*Ext.P14*)

2 Judgement of Hon'ble Kerala High Court dated 07.01.2026 in WP(C) 32936/2024 filed by M/s Malabar Tech

3 Letter No. CEPWD/10163/2020-AE6(W)-NH dated 13.05.2026 from the Chief Engineer(NH)

### ORDER

Administrative and Technical Sanction for the work “Strengthening of carriageway from Km 64/000 to Km 87/000 of NH 966 (Old NH 213) in the State of Kerala” was accorded by the Ministry of Road Transport and Highways (MoRTH) under Annual Plan 2017–18 for an amount of ₹60.11 crore. The work was awarded to M/s Malabar Tech, the lowest bidder, for ₹40,19,16,513/-, and the agreement was executed on 23.02.2018. The work was completed on 29.02.2020, and the road has been in continuous public use thereafter with a Defect Liability Period (DLP) of three years.

2. Based on the complaints regarding the quality of execution of the work, inspections and enquiries were conducted by the Vigilance Department, Finance Inspection Wing, and PWD Quality Control Wing. The Vigilance Department inspected the road on 24.09.2019. Subsequently, a detailed technical enquiry along with sample analysis was conducted on 13.01.2021 and 21.01.2021. Sample analysis carried out at six locations revealed variations in DBM, BC, and GSB/WMM layers, and a cumulative loss of ₹3,19,945/- was assessed. The said amount has already been recovered from the final bill, and departmental action against responsible officials is continuing separately. Subsequently, based on the same complaint, the Finance Inspection (NTK) Wing and PWD Quality Control Wing conducted a comprehensive inspection on 22.12.2022 and further inspection during November 2023 by collecting core samples from various chainages. Based on the sample analysis, shortages in GSB, WMM, DBM, and BC layers were reportedly identified, and the Chief Technical Examiner (CTE) assessed a loss of ₹7,19,42,216/-. Accordingly, recommendations, including blacklisting of the contractor, cancellation of the license, recovery of losses, and initiation of departmental action, were made, and the Government initiated further action based on the CTE report. The recommendations in the report, read as 1<sup>st</sup> paper above, are

- i. Recovery of Rs 7,19,42,216/- from the contractor M/s Malabar Tech, cancellation of their license, and Blacklisting.
- ii. Forfeit performance guarantee, Additional performance guarantee & additional bank guarantee related to the work.
- iii. Department actions and recovery of loss from the officers responsible.

3. The Hon'ble Kerala High Court ordered as per the judgment read as 2<sup>nd</sup> above, as "*this writ petition is disposed of, quashing Ext.P14 (Inspection*

*Report read as 1<sup>st</sup> above) so far as it relates to the petitioner, with a direction to the 2nd respondent to reconsider the matter, in the light of the observations made by this Court in this judgment and to take a fresh decision, after giving the petitioner an opportunity of being heard. A decision in this regard shall be taken, within a period of three months from the date of receipt of copy of this judgment. It is clarified that, the Performance Guarantee and Additional Performance Guarantee furnished by the petitioner can be released to the petitioner, after the orders are passed and subject to the same."*

4. In compliance with the judgment, a hearing was conducted by the Joint Secretary, Public works Department on 17.03.2026 and the petitioner was heard. Thereafter, a legal opinion was obtained from the Special Government Pleader (Finance). The possibility of appeal against the judgment is ruled out due to the following reasons.

- i. Non-compliance with MoRTH Quality Control Guidelines: The inspection and sampling were not conducted in accordance with the prescribed MoRTH specifications and quality control norms. For a stretch of 23 km, only 10 samples were collected, whereas MoRTH guidelines contemplated a substantially higher sampling frequency.
- ii. Detailed Inspection conducted after Defect Liability Period:
- iii. Violation of Principles of Natural Justice: Despite specific instructions from the Chief Technical Examiner to ensure the presence of the contractor during inspection, no notice was issued to the petitioner, and the inspection was conducted in the absence of the contractor.
- iv. Disproportionate and unsupported assessment of loss: The alleged loss of ₹7.19 crore was assessed based on extremely limited and statistically inadequate samples, and hence, the assessment was found unsustainable.

The legal opinion also ruled out the possibility of a fresh inspection strictly in accordance with MoRTH guidelines, particularly under Clause 902 of MoRTH Specifications (2013), considering the expiry of the Defect Liability Period, lapse of considerable time, and continuous usage of the National Highway by the public. It was also opined that any further prosecution or recovery proceedings based on fresh inspection is not legally sustainable in the facts and circumstances of the case.

5. As per the letter read as the 3<sup>rd</sup> paper above, the Chief Engineer (NH) conducted a site inspection with experts to assess the present physical and structural condition of the road stretch. As per the inspection report, the riding quality of the road was found satisfactory, the pavement structure intact, and no major distress or structural failure was noticed. The inspection team concluded that the road stretch is presently in satisfactory condition and continues to meet its functional requirements.

6. It is also noted that the Finance Department has addressed the Advocate General, Ernakulam and again sought for the legal opinion regarding the scope of filing appeal and the same is pending. No case /FIR has been filed by the Vigilance Department. There is only preliminary enquiry regarding this case. The disciplinary action of the officials is also under consideration by the Government.

7. Government have examined the matter in detail in the light of the judgment of the Hon'ble High Court, the legal opinion furnished by the learned Special Government Pleader (Finance), the report of the Chief Engineer (NH), and all connected records and are pleased to order that the proceedings initiated against M/s Malabar Tech based solely on inquiry report of the Chief Technical Examiner read as paper 1, including proposals for blacklisting, cancellation of license and recovery of ₹7,19,42,216/-, are

hereby dropped. Government are also pleased to order release the Performance Guarantee amount, if any withheld exclusively in connection with the proceedings arising out of inspection report read as 1<sup>st</sup> paper above, subject to verification by the Chief Engineer (NH) .

8. However, the recovery already effected based on vigilance enquiry and the departmental/disciplinary proceedings initiated against the concerned officials in connection with the procedural lapses and irregularities noticed in the matter shall continue separately in accordance with law. The disciplinary proceedings shall also specifically examine the lapse on the part of the Executive Engineer concerned in not informing the contractor/petitioner regarding the inspection, despite specific directions to ensure the presence of the contractor during the inspection process. The order of Hon'ble Kerala High Court dated 07.01.2026 in WP(C) 32936/2024 filed by M/s Malabar Tech is complied with accordingly.

9. This order is also subject to any further decision that may be taken by the Government based on the legal opinion proposed to be obtained by the Finance Department from the learned Advocate General regarding the feasibility of filing an appeal against the judgment dated 07.01.2026 in WP(C) No.32936/2024 and also to any adverse order if any passed by the High Court or Higher Courts against the petitioner if appealed against by the Finance Department;in which case recovery including Revenue Recovery will be initiated against the petitioner.

(By order of the Governor)

K BIJU I A S

SECRETARY

To:

The Advocate General (With Covering Letter)

The Chief Engineer(NH), Thiruvananthapuram  
The Public Works(H/F) Departments  
The Finance Department (Vide UO note number 2948614-1W- K2/25/2024-  
FIN dated 02.03.2026 & 16.04.2026)  
The Principal Accountant General(Audit/A&E), Kerala  
the Information Officer

Forwarded /By order

Section Officer