

Report  
on landfill site of  
Kochi Corporation

INDEPENDENT FACT FINDING COMMITTEE REPORT  
ON  
THE LAND FILLING SITE OF THE CORPORATION OF KOCHI  
AT BRHAMAPURAM

Independent Fact Finding Committee

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**Members**

Dr. CHANDRAMOHANAKUMAR,  
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Former Member, Local Area Environmental Committee  
constituted by the Pollution Control Board under the directions of  
the Hon'ble Supreme Court Monitoring Committee on hazardous waste.

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Programme Director, Thanal - Thiruvananthapuram

ABDULLAH MATTANCHERRY,  
Senior Reporter, Madhyamam Daily

## Report.

The Environmental Co-ordination Committee , a body of various non Governmental Organizations such as People's Union for Civil Liberties (PUCL), Human Rights Defence Forum (HRDF), Periyar Malineekarana Virudha Samithi (PMVS), Kerala Nadi Samrakshana Samithi, Thanal, constituted this Committee to inspect Brahmapuram where the Corporation of Kochi is disposing off its solid waste by dumping into an open land and submit a report on the following aspects as the matter raises many fundamental issues of great public importance relating to disposal of Municipal waste:

Whether dumping of Municipal solid waste in 37 acres of land at Brhamapuram by the Corporation of Kochi is permissible in law Whether dumping municipal solid waste in the land at Brhamapuram is in conformity with Environmental (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974 and the provisions of the Municipal Solid Wastes (Management and Handling) Rules, 2000?

Whether the land filling activity undertaken by the Corporation of Kochi offends any penal provisions of law?

What is the impact on the environment and health of the people Other matters connected with the subject.

The Hon'ble High Court of Kerala by order dated 22-1-07 directed that 'till a permanent waste disposal plant is established and made functional at Brhamapuram, the said lands shall be used for dumping or storage of wastes. The District Collector, the Commissioner of Police and other government officials at Ernakulam shall see that no hurdles are caused to the said activities of the Cochin Corporation by any person"

The Court further stressed that the order passed by it "would be meticulously complied with by all concerned".

The Vadavukode -Puthencruz Panchayath by way of an affidavit brought to the notice of the Hon'ble High Court the "necessity of effective control by the Pollution Control Board as well as the department of Public Health in monitoring the project ,so that there will be no environmental pollution". Considering various facts and circumstance , the Hon'ble High Court thought it appropriate to constitute a monitoring committee consisting of an Advocate Commissioner as well as the District Medical Officer of Health, Ernakulam and the Chief Environmental Engineer, Kerala State Pollution Control Board, Ernakulam who will jointly inspect the area in question and suggest the safe guards which are necessary to avert the environmental pollution which may be caused due to the dumping of solid waste in the area.

The report relied by the Hon'ble High Court unfortunately does not reflect the ground realities in the field, both on facts and in law. The statutory bodies such as Pollution Control Board, Corporation of Cochin and other Government Departments, for reasons best known to them, did not appraise the court the ground realities in its proper perspective.

The Committee visited the municipal waste dumping site at Brahmapuram on 3-7-2007,

4-7-2007 and 7-7-2007 when the dumping of waste was being in full swing in the convoy of tipper lorries engaged for transporting municipal waste from various places within the Corporation area and interacted with the local residents and also members of the Action Council formed by the local people to resist the activity.

The corporation of Kochi started dumping solid waste at Brahmapuram from the afternoon of 30-6-07 with a convoy of 27 tipper Lorries escorted by police jeeps. Nearly 30 people had to be admitted to the nearby Government hospital at Vadavukode which is 11 kms away from the dumping site with complaints of headache, nausea, giddiness etc. A mobile medical van also rushed to the area and gave first aid to many who could not be taken to hospitals for various reasons. The people taken to the hospital were given first aid and made to wait in the hospital as the hospital was already overcrowded with the outbreak of virus fever. Later they were advised to go elsewhere or suffer the noxious odor for good. The people late in evening reached home by which time the convoy of Lorries which carried the waste had dumped the same leaving the whole place contaminated with noxious air pollution. The people ever since 30-6-2007 have been thus ailing with headache, nausea, giddiness and other related problems. The students have lost their studies and their attendance in the school become irregular. Even the Committee members felt drowsiness during the visit.

The dumping site is a field used for paddy cultivation and therefore known as 'Chelly padam'. Part of it is coconut garden. It is a low lying area with kadamprayar river and Manakkathodu (a creek of Chitrapuzha) on its north south and west. On east is the Panchayath road, the only access to the said property. The site situate in ward No. 1 of Vadavukode –Puthencruz gram Panchayath. The people are basically agriculturists and earn their livelihood from the land and the cattle. There are nearly 53 houses within a proximate distance of 10 to 500 meters from the waste dumping site. Virtually, every family has domestic animals such as milking cows, buffalows and goats. It is an area from where huge quantity of milk is supplied to Brahmapuram Milk Production Co-operative Society (E.No. 209 D).

The residents depend Kadamprayar river for their drinking and other domestic purposes. The place around Kadamprayar is the feeding ground of their animals. From the day one of starting of the dumping solid waste near Kadamprayar, the life become hell to the people and even to their animals as they started fleeing away from their homes. They have been deprived of river water which was used for various purposes such as washing clothes, taking baths etc.

The rivers around the site is source of drinking water to six Panchayats namely Vadavukode-Puthencruz, Kizhakkambalam, Thiruvankulam, Kunnathunadu, Thrikkakara and Edathala Panchayaths. It is the main source for water to Infopark, Special Economic Zone, KPCL, Rajagiri School of Engineering, Kinfra etc. The pump house for distribution of water is situated hardly at a distance of 150 mtrs from the dumping site.

The Committee during its inspection found mixed waste being dumped into the coconut garden which is flooded with rain water. No safeguard was provided to prevent contamination of hazardous materials with the land. The mixed waste consisting of organic and inorganic materials are dumped in thick layers giving rise to unbearable odour in the vicinity due to anaerobic fermentation of the waste. Huge quantity of waste brought in tipper convoy was dumped into the field without complying any of the procedural

safeguards specified in Municipal solid waste management and handling rules, 2000. On account of dumping of huge waste, water from the land which was flooded with rain water was seen overflowing in to the river system contaminating the River. The spillage of waste from Lorries was also seen en-route to the dumping site.

## Findings

Allowing flow of polluted water into a stream is a prohibited activity under section 24 of the Water (Prevention and Control of Pollution) Act. As per the statutory injunction, no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well or sewer or on land; or no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in continuation with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences. The municipal solid waste dumping activity now at Brhamapuram is in clear violation of this statutory mandate and no court much less the Hon'ble High Court can permit such activity.

The State Pollution Control Board has a statutory obligation to prevent the pollution of stream. It cannot remain as an onlooker abdicating its statutory obligation. Under Section 33 of the Water (Prevention and Control of Pollution) Act, it is required to make an application before the competent Judicial First Class Magistrate for orders to restrain apprehended pollution of water in any stream by reason of disposal of any matter into the land and the Magistrate on receipt of such an application may make an order restraining any person from polluting water in any stream and in the event of a direction to remove the matter, the Board may be authorized to remove the same at the expense of the person concerned. But strangely the Board is playing band to the "Samharathandavam" staged at Brhamapuram.

It is the responsibility of all the municipal authorities under Rule 4 of the Municipal Solid Waste (Management and Handling) Rules, 2000 to implement the provisions in the rule and provide infrastructure for collection, storage, segregation, transportation, processing and disposal of municipal solid wastes within the territorial area of the municipality concerned. By virtue of this provision, it is the obligation of the Corporation of Cochin to find facilities for disposal of its wastes within its territorial limits, and it cannot abdicate this responsibility by forcefully thrusting its waste on the people living in the jurisdiction of another local authority. The dumping of municipal waste in Vadavukode-Puthenkurishe Panchayats has therefore no legal sanction and is blatant violation of the Environmental (Protection) Act, 1986, the said Rule being one framed under the said Act.

The Municipal Solid Waste Management and Handling Rules, 2000 is framed by exercising powers under section 3, 6 and 25 of the Environmental (Protection) Act, 1986. The dumping activity in the site has thrown in wind all the safeguards provided in the Municipal Solid Waste Management and Handling Rules. Under the said rules, the land filling is permitted only with the residual solid waste. It is restricted to non-biodegradable, inert waste, and other waste that are not suitable either for recycling or for biological processing. It permits disposal of residual solid waste by way of land filling only in a facility designed with protective measures against pollution of ground water, surface water and air fugitive dust, wind blown litter, bad odour, fire hazard, bird menace, green house gas emissions etc. Further, the site of land filling should confirm the specifications

provided in Schedule III. Schedule III of the Municipal Solid Waste Management and Handling Rules, 2000 requires that a place of land fill receiving residue of waste processing facilities or mixed waste should have minimum liner specification of 1.5 mm high density polyethylene (HDPE) geomembrane, or equivalent over a 90 cms of soil. The highest level of water table shall be at least 2 mtr. Below the base of clay or amended soil barrier layer. These safeguards have been complied in breach and made the land, water, air a causality of severe irreversible environmental damages. The most shocking aspect of such a naked violation is that this activity is being allowed to be carried on under the orders of the Hon'ble Court with police protection. Monitoring Committee appointed by the High Court is monitoring the breach of law than ensuring compliance of the minimum legal safeguards. This gives an impression that the Hon'ble High Court has given sanction to the present illegal activities of the Corporation of Kochi.

The Kadamprayar River is a river affected by tidal incursions from Cochin estuary. In order to prevent intrusion of salt water, a bund is being erected during summer season. Having regard to the nature of its direct tidal effect, provisions of the Coastal Regulation Zone will come into operation. As per the Coastal Regulation Zone, dumping of the municipal waste for the purpose of land filling is a prohibited activity and the present activity therefore is a clear violation of Environmental Protection Act and is liable for penal action under section 15.

The municipal waste dumping site of the Corporation at Brahmapuram was a paddy field known by the name 'Chelly padam'. Under the Land Utilisation Order, reclaiming paddy fields is a prohibited activity. As per order 6 of the Land Utilization Order, no holder of land, which has been under any cultivation with any food crop for a continuous period of three years immediately before the commencement of this order, shall convert or attempt to convert or utilize or attempt to utilize such land for any other purpose except under and in accordance with the terms of a written permission given by the Collector. On enquiry it is understood that the Collector has not granted any permission to the Corporation of Kochi to use the land for the dumping municipal solid waste. It is, therefore, an activity without any authority. The Corporation has violated therefore the provisions of the Kerala Land Utilization Order with impunity.

The municipal solid waste dumping activity at Brhamapuram is an illegal activity punishable under various provisions of Indian Penal Code. The activity is a public nuisance as defined under section 268 of the Indian Penal Code. Section 268 reads thus: "Public Nuisance: A person is guilty of public nuisance, who does any act or is guilty of an illegal omission, which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage". Under section 269, a negligent act likely to spread infection of disease dangerous to life is made punishable. Section reads thus: "Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both".

Similarly a malignant act likely to spread infection dangerous to life is made punishable under section 270 of the Indian Penal Code. Section reads thus:

“Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

Yet another provision in the Indian Penal Code that attracts is section 277 which deals with the fouling water of public spring or reservoir. Section reads thus:

“Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both”.

The activity being one that makes the atmosphere noxious to health, it is an act made punishable under section 278. Section reads thus:

“Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way shall be punished with fine which may extend to five hundred rupees”.

The Corporation of Cochin cannot be said to be ignorant of law. The Municipal Solid Waste Management and Handling Rules, 2000 was in fact framed by the intervention of the Hon'ble Supreme Court, in a public interest matter filed by Mrs .Almitra H.Patel. The rule provided a time schedule to every municipality for implementing its provisions. The rule which came into force on 29-5-2000 has given three years to every Corporation for activities listed in Schedule I. The Corporation of Cochin has failed in their statutory duties to comply with the directions of law and therefore deserves no indulgence in whatsoever manner much less at the cost of the right to life of the people of Vadavukode-Puthenkurishu Panchayat. It is the claim of the Corporation of Kochi that 400 tonnes of solid waste is being generated every day .If that is so what action has been taken by them to dispose of these waste in accordance with the Municipal Solid Waste Management and Handling Rules, 2000, which came into force on 25-9-2000 giving a time frame work under the Rule itself. The Corporation cannot have even a case that it did not get sufficient time to set up facilities for want of continuity in office. As a matter of fact over the past 10 years, the Corporation is being ruled by the same political combination. Even the plea of setting up a disposal facility as per the specification laid in the Rules, is being heard for over five years and still one fails to see any progress in the work .Even the land filling is not complete. The slow pace, with which the matter has so far been moved, empties all hope in them and it is high time that the business is entrusted to Government for being completed on war footing.

Brhamapuram is one falls within the jurisdiction of the Vadavukode-Puthenkurishu Gram Panchayath.It is a local body with all statutory powers similar to the one of the Corporation of Cochin, and for reasons known to them, is seen inhibited to take effective measures for preventing such a blatant illegal activity notwithstanding the havoc caused to its people. When this report is being finalized, we have even come to know that the people from Brhamapuram have been evacuated and are kept at rescue home. This indicates the seriousness of the issue and the extent of human right violation. People at Brhamapuram has been denied right to life and the agitation of the people of Vadavukode-

Puthenkurishu Panchayat is justifiable for their fight is for realization of their fundamental right guaranteed under Articles 14, and 21 of the Constitution of India.

## Recommendations

The Committee recommends to all concerned authorities to stop dumping of municipal waste at Brahmapuram forthwith.

Take immediate measures to remove the mixed waste dumped in the open land at Brahmapuram to protect the environment from being irreversibly damaged.

Redress the grievances of the residents at Brahmapuram by extending free medical support, withdrawing the police cases registered against the people, award Rs. 25,000/- as compensation to the residents for violation of their fundamental rights.

Appoint a committee of experts to study into the environmental impact consequent to the dumping of municipal solid waste at Brahmapuram with experts from School of Environment Studies, Cochin University of Sciences and Technology, Co-operative Medical College, Kalamasserry, Department of Community Medicines, Thiruvananthapuram Medical College and Government Veterinary Collge, Thrissur.

Provide shelter to the residents of Brahmapuram by establishing rescue camps until the dumping activity is not only stopped but also removed finally from the site and restore the land in the original state.

This report is submitted with an appeal to all to stand in solidarity by the people of Vadavukode-Puthenkurishu Gramma Panchayat.

The Committee remembers with gratitude for assistance rendered to it by

Mr. Sainuddin Edayar – Photographer,  
Mr. Yesudas Varapuzha – Convenor, Environmental Co-ordination Committee,  
Mr. M.M.Zakkeer Hussain (P.M.V.S), and K.M.Shameer, Brahmapuram Action Council Member.

Dated this the 9th day of July, 2007.

Adv.P.K.IBRAHIM. (Chairman)  
Dr.CHANDRAMOHANAKUMAR (Member)  
Dr.C.M.JOY DR.AGUSTUS (Member)  
Mr. PURUSHAN ELOOR (Member)  
Mr. JACOB LAZER (Member)  
Mr. SHIBU.K.NAIR (Member)  
Mr. Abdullah Mattancherry (Member)

## APPENDIX 1.

List of people with whom the Committee interacted during their visit.

## APPENDIX 2.

Photographs taken from the dumping site and from rescue camp

## APPENDIX 3.

Lab report.