

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR
&
THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.**

**Saturday, the 29th day of November 2025 / 8th Agrahayana, 1947
WP(C) NO. 35600 OF 2024(S)**

PETITIONER:

**GIGI JOHN, AGED 61 YEARS, S/O JOHN,
MANNIL HOUSE, PARIYARAM P.O, MALLAPPALY WEST,
PATHANAMTHITTA DISTRICT, PIN - 689 585.**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN BAHVAN, JORBAGH ROAD, NEW DELHI, PIN - 110 003.**
- 2. PRINCIPAL SECRETARY TO GOVERNMENT, MINISTRY OF COMMERCE AND INDUSTRY, VANIJYA BAHVAN, NEW DELHI, PIN - 110 001.**
- 3. CENTRAL POLLUTION CONTROL BOARD, REPRESENTED BY ITS MEMBER SECRETARY, PARIVESH BHAVAN, CBD-CUM OFFICE COMPLEX, EAST ARJUN NAGAR, DELHI, PIN - 110 032.**
- 4. CHAIRMAN, COMMITTEE FOR EXTENDED PRODUCERS RESPONSIBILITY UNDER PLASTIC WASTE MANAGEMENT RULES, CENTRAL POLLUTION CONTROL BOARD PARIVESH BHAVAN, CBD-CUM OFFICE COMPLEX EAST ARJUN NAGAR, DELHI, PIN - 110 032.**
- 5. STATE OF KERALA, REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT, ENVIRONMENT DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 6. PRINCIPAL SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 7. PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF COMMERCE AND INDUSTRY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 8. KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS MEMBER SECRETARY, PLAMOODU, PATTOM P.O, THIRUVANANTHAPURAM, PIN - 695 004.**

P.T.O.

Writ Petition (Civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue direction to the respondents to stop collection of user fee from common man for plastic waste, till implementation of development of collection and segregation infrastructures, waste collection points and material recovery Facilities by the producers, importers and brand owners, pending disposal of this Writ Petition.

This petition coming again on for orders upon perusing the petition and the affidavit filed in support of WP(C), this Court's order dated 18/11/2025 and upon hearing the arguments of M/S. UNNI K.K. (EZHUMATTOOR) & PRAFIN JOSEPH ZACHARIA, Advocates for the petitioner, SRI. S. BIJU, SENIOR PANEL COUNSEL for R1, SRI.M.AJAY, STANDING COUNSEL for R3 & R4, SRI.T.NAVEEN, STANDING COUNSEL for R8 and of GOVERNMENT PLEADER the court passed the following:



P.T.0

NITIN JAMDAR, C.J.
&
SYAM KUMAR V.M., J.

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Dated this the 29th day of November 2025

ORDER

Heard Mr. K.K. Unni (Ezhumattoor), learned counsel for the Petitioner, Mr. M. Ajay, learned Standing Counsel for the Central Pollution Control Board, Mr. T. Naveen, learned Standing Counsel for the Kerala State Pollution Control Board and Mr. S. Biju, learned Senior Panel Counsel for the Union of India.

2. One of the issues raised in this petition is with respect to the imposition of environmental compensation. Under Sections 6, 8, and 25 of the Environment (Protection) Act, 1986 (the Act of 1986), the Ministry of Environment and Forests, Government of India, has framed the Plastic Waste Management Rules, 2016 (Rules of 2016). Rule 18 of the Rules of 2016 provides for the imposition of environmental compensation, which reads thus:

*“18. Imposition of Environmental Compensation.-
The Environmental Compensation shall be levied based upon polluter pays principle, on persons who are not complying with the provisions of these rules, as per guidelines notified by the Central Pollution Control Board.”*

3. In Rule 9 of the Rules of 2016, responsibility of producers, importers and brand owners who introduce any plastic packaging in the

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market has been specified and guidelines have been laid down in Schedule-II appended therein. Pursuant to the Rules of 2016, guidelines have been framed for assessing the environmental compensation to be levied for violations of the Plastic Waste Management Rules, 2016. These guidelines were revised in August 2024. Under the revised guidelines, the amount of environmental compensation is specified for each of the violations. Clause 6.0 of the guidelines of August 2024 provides for the modalities for expenditure of EC funds. Clause 6.0 reads thus:

“6.0 Modalities for Expenditure of EC funds

As per provision 9.6 of Schedule-II notified through Amendments to PWM Rules dated February 16, 2022, “The funds collected under environmental compensation shall be kept in a separate Escrow account by Central Pollution Control Board or State Pollution Control Board or Pollution Control Committee. The funds collected shall be utilized in collection, recycling and end of life disposal of uncollected and non-recycled or non-end of life disposal of plastic packaging waste, on which the environmental compensation is levied. Modalities for utilization of the funds for plastic waste management on an annual basis would be recommended by the Committee for Extended Producer Responsibility implementation and approved by the Competent Authority in the Ministry.”

4. Despite this statutory framework being in place, no environmental compensation is being collected, consequently no expenditure incurred towards restorative measures from the fund.

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When this was pointed out, by order dated 21 October 2025, the State Pollution Control Board and the Central Pollution Control Board were directed to file additional affidavits on the following aspects.

(i) Guidelines laid down by the Central Pollution Control Board for imposition and collection of environmental compensation on Producers, Importers and Brand – Owners, recyclers and end of life processors, in case of non-fulfilment of obligation in the guidelines.

(ii) Whether environmental compensation has been levied and collected.

(iii) The details of funds collected as environmental compensation and kept in an Escrow account by the Central Pollution Control Board, the State Pollution Control Board or the Pollution Control Committee as far as the State of Kerala is concerned.

(iv) The utilisation of such environmental compensation for the purposes of the Plastic Waste Management Rules.

Pursuant to the order, the Central Pollution Control Board and the State Pollution Control Board have filed their affidavits.

5. A perusal of the affidavits shows that, insofar as the statutory framework for the imposition of environmental compensation, its crediting into an escrow account and the expenditure towards

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restorative measures, they are not an issue of debate. It appears from both affidavits that, despite the provisions regarding environmental compensation having been introduced as far back as 2016, not a single paise has been collected in that to be utilized for restorative measures. The only reason stated in the affidavit filed by the Central Pollution Control Board for the non-collection of environmental compensation is the pendency of internal administrative procedures, such as awaiting responses from manufacturers and producers to the show-cause notices issued to them.

6. As far as the affidavit of the State Pollution Control Board is concerned, the stand taken is that, since there is no finality at the end of the Central Pollution Control Board, the State has not been able to collect the environmental compensation. Therefore, the position as on today in the State of Kerala is that no environmental compensation is being collected. Consequently, it is not being utilized to implement restorative measures as contemplated under the Rules of 2016, and the burden of such measures falls on the citizens - taxpayers, sparing the offenders.

7. Though it may be correct that a robust mechanism is necessary for the collection of environmental compensation as it affects a large number of producers and manufacturers, considering the purpose for which it is being collected, the process cannot continue at its present leisurely pace. The environmental compensation is a statutory recognition of the 'polluter pays' principle which is one of the basic

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principle of environmental jurisprudence. According to the Petitioner, the delay is not merely administrative, but tends to defeat the very object of the provision and delays in accruing to the benefit of the offenders.

8. We direct the Central Pollution Control Board to place on record an affidavit before the time limit within which the internal procedures, as stated in the affidavit, will be finalized, so that the regime of environmental compensation can be put into effect at the earliest.

9. Let an affidavit be filed by a senior officer of the Central Pollution Control Board. If the Court finds that the time frame stipulated therein is not reasonable, the Court may direct a binding time limit.

10. Post on 15 December 2025.

Sd/-

NITIN JAMDAR
CHIEF JUSTICE

Sd/-

SYAM KUMAR V.M.
JUDGE

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