



GOVERNMENT OF KERALA

No: RC4/187/2016/LSGD
Local Self Government (RC) Department
Thiruvananthapuram,
Dated: 16/08/2021

CIRCULAR

- Sub: Local Self Government Department - Eviction of Encroachment of roads / footpaths and Unauthorized constructions - Instructions-reg.
- Ref: 1) Order of the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 8519/2006 dated 18.01.2013.
2) Interim order of the Hon'ble High Court of Kerala dated 08.06.2021 in WP(C) No. 11886/2021.

The Hon'ble Supreme Court in Special Leave to Appeal (Civil)No.8519/2006 dated 18.01.2013, directed that until further orders, State Government shall not grant any permission for the installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places except for installation of high mast lights, street lights or construction relating to electrification, traffic, toll or for the development and beautification of the streets, roads, highways etc. and relating to public utility and facilities.

In the interim order dated 08.06.2021in WP(C) No. 11886/2021, the Division Bench of the Hon'ble High Court of Kerala, has directed to place on record the steps taken to ensure the strict enforcement of the orders of the Hon'ble Supreme Court in SLP (Civil) No. 8519/2006 and connected cases and various judgements of the Hon'ble High Court of Kerala in connection with the implementation of the statutory provision and the guidelines for pedestrian facilities formulated by Indian Roads Congress (IRC) to prevent encroachment of any nature of the right of way or pedestrian facilities on public roads.

The Kerala Panchayat Raj Act 1994 Section 170 states that it shall be the duty of the Panchayat to maintain properly the roads vested in it and to prevent encroachment on it. The Village Panchayat shall keep all

public roads and important public paths in its area free from garbage, sewage and other waste materials and shall protect such roads and public paths from encroachment.

As per the Kerala Panchayat Raj Act 1994 Section 220, no person shall build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road. Construct any building or structure other than a compound wall in any land abutting any National Highway, State High way, District roads or any other roads notified by the village panchayat within a distance of three meters from the boundary of his land abutting the road.

The Kerala Panchayat Raj (Removal of encroachment and imposition and recovery of penalty for unauthorized occupation) Rules 1996 Rules 3(1), envisages prevention of encroachment stating that no person shall occupy any land belonging to or vested in a Panchayat without the permission of the Panchayat or not in accordance with the Act or the rules made thereunder or except in accordance with the terms and conditions of the license issued by the Panchayat. Any person unauthorisedly occupying any land belonging to or vested in a Panchayat and liable to pay a fine under the rules shall, in addition, be liable to pay such sum as may be fixed by the Panchayat as compensation for the loss or damage caused to the Panchayat by such unauthorised occupation. Whoever occupies any land belonging to or vested in a Panchayat contrary to the provisions shall be liable to be evicted from such unauthorized occupation by Rules (4) & (5).

Similar provisions are also available in the Municipal Act and Rules prevailing in the state. Section 364, 366 to 375 of the Kerala Municipal Act 1994 deals with the provisions to avoid encroachment on streets. Section 369 of the Act denotes that no person shall except with the written permission of a Municipality erect or set up within a municipal area any wall, fence, rail, post, step, booth or other structures or fixtures in or upon any public street or upon or over any open channel, well or tank in any street so as to form an obstruction, or an encroachment upon or a projection over, or to occupy any portion of such street, channel, drain, well or tank. Like wise, Section 372 establishes that the Secretary may, without notice, can remove unauthorized constructions. As per section 376, where any person without the previous sanction of a Municipality occupies any land belonging to it or vested in it or under its control, he shall, from time to time, pay in respect of such occupation such sums by way of penalty as may be demanded by the Municipality, subject to such limits as may be prescribed.

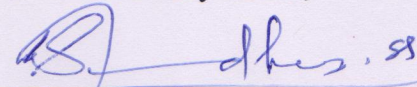
In addition to the above provisions, Government have adopted several measures to ensure the enforcement of orders of the Apex Court since 2006 and related orders of the Hon'ble High Court of Kerala. Even if such provisions, as mentioned above, are prevailing in the State, it is noticed that they are either being violated frequently or not properly executed by the implementing agencies. Therefore, the Government, in compliance with the court orders under reference, hereby, direct that the Director of Urban Affairs and the Director of Panchayats shall not grant any permission for the installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places except for installation of high mast lights, street lights or construction relating to electrification, traffic, toll or for the development and beautification of the streets, roads, highways etc. and relating to public utility and facilities, in compliance with the direction of the Hon'ble Supreme Court. The Director of Urban Affairs and the Director of Panchayats shall instruct LSGs accordingly and shall regularly monitor removal of unauthorized constructions from the roads as per the provisions in the respective statutes, in compliance with the directions in the orders under reference.

SARADA MURALEEDHARAN I A S
ADDITIONAL CHIEF SECRETARY

To:

The Advocate General of Kerala, Ernakulam (Through covering letter)
The Director of Panchayat, Thiruvananthapuram
The Director of Urban Affairs, Thiruvananthapuram
The Secretaries of all Local Self Government Institutions (Through
The Director of Panchayat and the Director of Urban Affairs)
The Chief Town Planner, Thiruvananthapuram
The Director of Audit Department, Kerala
The Executive Director, Information Kerala Mission, Thiruvananthapuram
Stock file / Office copy

Forwarded / By order,



Section Officer.

Copy to:

Home (SC) Department