

DEVAN RAMACHANDRAN, J.

I.A.No.3/2019

in

W.P.(C) No.32680 of 2008

Dated this the 13th day of December, 2019

ORDER

The State of Kerala today woke up to the horrific news of a young boy, merely 23 years of age, who was the mainstay for his family - of an ailing mother and a struggling father-having been devoured by a pothole on the side of the Highway at Palarivattom. The young boy, named Yadhu Lal, is reported to have been riding a motor cycle, when he was caught unawares by the pothole and to have then violently hit by a lorry, passing in the same direction, thus killing him on the spot.

2. This news is more distressing for this Court than anyone else because, this I.A. has been pending and orders are being passed virtually on weekly basis, with respect to

the maintenance and filling up of potholes; and every time this matter was taken up, as is clear from the proceedings on record, assurances were given to this Court by the learned Counsel for the respective stakeholders that all the roads within their jurisdiction have already been maintained, at least to a minimum standard so as to avoid such accidents. In fact, at no point of time, was the pothole that killed Yadhu Lal brought to the notice of this Court, even though specific questions were asked every posting date as to whether any such potholes require to be filled up or maintained.

3. This certainly points to an extremely sorry state of affairs and I am certain that the system has now failed to address a hazard that could have been easily avoided, had the concerned Authorities and officials put their minds to it sincerely.

4. Alas, had this been done, Yadhu Lal would not have been lost to his parents.

5. The indubitable systemic failure - the persons

responsible for which will certainly be required to be identified through a proper enquiry - compels this Court to place on record the deepest apology on behalf of the society to the hapless parents. I am sure, this is the least that we can do for them!

6. The lack of sincerity and commitment of the persons vested with specific duties becomes expressly clear in the manner in which the works with respect to the various roads have been handled by the PWD, the Corporation of Cochin, the GCDA and such other.

7. I am certain that I will be, axiomatically, fully justified, when this Court records that it has now become unable to accept, without clear corroboration, the statements being made at the Bar by the respondents.

8. That said, it is heartening that Sri. C.P. Sudhakara Prasad, learned Advocate General, assisted by Adv. Sri. K.V. Manoj Kumar, learned Senior Government Pleader, also shared the distress of this Court and submitted that necessary enquiry into

this incident will be conducted by the Competent Authorities, as also the Government; and that necessary protocols will be placed on record to ensure that co-ordination between the various agencies, especially relating to cutting open and subsequent maintenance of the roads, are clearly specified and delineated. The learned Advocate General also assures this Court that the District Collector has ordered a Magisterial Enquiry into the incident and that corrective measures will be taken without any delay.

9. Even though this Court has no reason to disbelieve the learned Advocate General in any manner and even when I am willing to accept his submissions as afore, I am certain that a blind reliance on the submissions made by the other stakeholders would be now imprudent. This is particularly because, even though detailed directions had been issued in the judgment in this writ petition, dated 18.10.2019, holding the concerned officials and Engineers in charge of the roads to be personally responsible, the situation does not appear to have changed much. Of course,

the learned Government Pleader submits that the names of the Officers and Engineers in charge of the roads have been published in the website as directed by this Court and that complaints received through Toll Free numbers are being addressed sequentially. However, the death of Yadhu Lal has clearly demonstrated that this has made no change and that the concerned Officers/Engineers have not woken to their full responsibilities.

10. This is more so, since assurances become without purpose and would serve no intent when our citizens loose their lives in potholes and craters in the roads caused only on account of the insouciance and lackadaisical approach of the various stakeholders - including the concerned Engineers and officials.

11. I am, therefore, of the firm view that this Court must now be assisted by learned counsel of this Court, who will act as Amici Curiae and file reports before this Court, so as to enable issuance of appropriate orders to ensure that such incidents do

not recur. I, thus appoint Adv. Smt. S.Krishna, Adv.Sri. P. Deepak and Adv. Sri. Vinod Bhat, to assist this Court as Amici Curiae, to visit the various roads and pedestrian paths within the city limits of Kochi and file appropriate reports before this Court.

The Registry is directed to serve a copy of the present I.A., along with a copy of this writ petition (not other papers) to the learned Amici Curiae, within a period of four days from today, so as to enable them to make a preliminary enquiry into the various roads and pedestrian areas in the city and file their first report before this Court on or before 20.12.2019.

List this case for further consideration on 20.12.2019.

DEVAN RAMACHANDRAN
JUDGE