

IN THE HIGH COURT OF JUDICATURE OF KERALA  
AT ERNAKULAM.

(Special Original Jurisdiction)

W.P.(C) NO. \_\_\_\_\_ OF 2011

Wayanad Prakruthi Samrakshana Samithi --- Petitioner.  
-Versus-  
The Union of India and others --- Respondents.

I N D E X

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1. Synopsis, List of Dates and Events & Relevant Statutory Provisions.	- 1 & 2
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W6-1769/09. - 19 & 20

COUNSEL FOR THE PETITIONER.

Presented on - 11-4-2011.

O/C

"WILDLIFE (PROTECTION) ACT, 1972 - SECTION 28"IN THE HIGH COURT OF JUDICATURE OF KERALA  
AT ERNAKULAM.

(Special Original Jurisdiction)

W.P.(C) NO. 12238 OF 2011*[Writ Petition (Civil) under Article 226 of the Constitution of India]*Wayanad Prakruthi Samrakshana Samithi --- Petitioner.  
-Versus-  
The Union of India and others --- Respondents.MEMORANDUM OF WRIT PETITION (C) AND INTERIM RELIEF.

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Court fee paid --- Rs.100-00

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**P.B.KRISHNAN (K-119),  
R.SURAJ KUMAR (S-1815),  
GEETHA P.MENON (G-37),  
N.ANITH (A-1083) &  
P.B.SUBRAMANYAN (S-2511).**

**COUNSEL FOR THE PETITIONER.**  
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RELEVANT STATUTORY PROVISIONS

1. Constitution of India – Articles 14, 21, 51(g), 226.
  2. Wildlife (Protection) Act, 1972 - Section 27, 28.
- 

COUNSEL FOR THE PETITIONER.

IN THE HIGH COURT OF JUDICATURE OF KERALA  
AT ERNAKULAM.

(Special Original Jurisdiction)

W.P.(C) NO. 12238 OF 2011

BETWEEN:

**PETITIONER:**

Wayanad Prakruthi Samrakshana Samithi (a Society registered under the Societies Act, 1860 with Regn. No. 293/3 dated 2-4-2003) represented by its Secretary, Shri Thomas Ambalavayal, S/o. A.J.Thomas, aged 51, Sulthan Bathery, Wayanad - 673 592.

AND:

**RESPONDENTS:**

1. The Union of India,  
represented by the Secretary,  
Ministry of Environment & Forests,  
Paryavaran Bhavan, C.G.O. Complex, Lodhi Road,  
New Delhi - 110 003.
2. The State of Kerala,  
represented by the Secretary, Department of Forests,  
Secretariat, Thiruvananthapuram.
3. The Principal Chief Conservator of Forest,  
Forest Headquarters, Vazhuthacaud,  
Thiruvananthapuram-695 014.
4. The Chief Wildlife Warden,  
Forest Headquarters, Vazhuthacaud,  
Thiruvananthapuram - 695 014.
5. The Wildlife Warden,  
Waynad Wildlife Division, Sulthan Bathery,  
Wayanad - 673 592.
6. The Divisional Forest Officer,  
South Wayanad, Kalpetta, Wayanad.

7. The Divisional Forest Officer,  
North Wayanad, Mananthavady, Wayanad.

**MEMORANDUM OF WRIT PETITION (CIVIL) UNDER  
ARTICLE 226 OF THE CONSTITUTION OF INDIA.**

The Petitioner abovenamed begs to state as follows:

(A) **The Address of the Petitioner:** for service of notices, summons etc. on the Petitioner is that of its Counsel M/s. P.B.Krishnan, R.Suraj Kumar, Geetha P.Menon, N.Ajith, and P.B.Subramanyan, Advocates, Geethanjali, Warriam Road, Ernakulam, Kochi-16.

(B) **The Address of the Respondents:** for service of notices, summons etc. on the Respondents is as shown in the cause title above, or if they appoint any Advocate, those may be served on such Advocate.

1. The Petitioner is a Society registered under the Societies Registration Act, 1860. The registration Number is 239/03 dated 2-4-2003. The Petitioner has over 500 members. The Petitioner, as an organization, has been active in the field of environment protection and wildlife conservation. The Petitioner has been coordinating with the Forest Department in conducting nature campus and awareness campaigns. The Petitioner has no commercial activities and is dependent on voluntary donations from its members and the general public.

2. Waynad District consists of three important forest divisions. The Wayanad Wildlife Division, with a total reserve forest area of 344.44 square kilometres, consists of areas in Muthanga, Sulthan Bathery, Kurichiat and Tholpetty. This

division borders the states of Tamil Nadu and Karnataka and the forest areas of Mudumalai and Bandipur. This division was declared as a sanctuary in 1973. The South Wayanad Division, with a total area of 320 sq. km. consists of areas in Pulpally, Meppadi and Kalpetta. The North Wayanad division, with a total area of 218 sq. km. consists of areas in Thirunelli, Manathawady and Periya.

3. The forest areas of Wayanad District are part of the Nilgiri Biosphere reserve notified in 1986. The areas fall in the eastern aspect of the western ghats and consist of an important landscape that can be characterized as a sensitive and fragile eco-system.

4. N.H.212 connecting Kozhikode and Mysore passes through Wayanad District. In certain areas, tourism is permitted in the forest areas. A 17 km. circular road in Muthanga and 18 km circular road in Tholpety are permitted areas for tourists and are designated as tourist zones. These two circular roads lie in proximity to N.H. 212. In fact, at Muthanga 7 km. of the circular road runs parallel to N.H. 212. 4 km. of the circular road is actually N.H. 212. The circular road at Muthanga is parallel to the Nugu River, the main tributary of the Cauvery. In both places, the tourist zones includes perennial water sources and sensitive areas from the point of view of wildlife conservation. The core areas of the forest abut the designated tourist zones.

5. There is a drastic increase in the tourist footfalls in each of the forest divisions in Wayanad. The footfalls are

particularly heavy during April/May and other periods when educational institutions are on holiday. The details of the visitors at the Eco-tourism points in South Wayanad Forest Division is produced herewith and marked as Exhibit P-1. A true copy of the details of visitors to the Pakkam Kuruva V.S.S. During 2006-07 to 2010-11 is produced herewith and marked as Exhibit P-2. A true copy of Annexure-I giving details of tourists to Muthanga and Tholpetty is produced herewith and marked as Exhibit P-3. A true English translation of Ext.P3 is produced herewith and marked as Exhibit P-3(a). A true copy of the details of tourists from January to December, 2010 issued by the Assistant Wildlife Warden, Muthanga Range is produced herewith and marked as Exhibit P-4.

6. The Petitioner has also secured the existing tourist zones. The existing zones are abutting the core areas of the forest. A true copy of the Wayanad Wildlife Division Zonation plan is produced herewith and marked as Exhibit P-5. A perusal of Ext.P5 will establish that the existing tourists are permitted to proceed upto the edges of the core areas of the sanctuary. As there is no restriction on entry, there is severe disturbance to the wildlife and environment.

7. The Respondents, taking note of the problems related to eco-tourism, decided to constitute an expert committee to study the problem and suggest remedial measures. A true copy of the communication No.W6-1769/09 dated 21-4-2009 is produced herewith and marked as Exhibit P-6.

8. However, <sup>constitute</sup> steps to constituting and <sup>notify</sup> notifying the expert committee have not been taken till date. In other words, no action has been taken on the proposal made in Ext.P6. Resultantly, eco-tourism in Wayanad District continues to be promoted in a haphazard manner without any restrictions. The proposed redefining of tourist zones has also not taken place.

9. It is submitted that Sections 27 and 28 of the Wildlife (Protection) Act, 1972 provides for restriction on entry into sanctuary. The Chief Wildlife Warden, who is the competent authority, has to determine if entry should be permitted. The power to grant entry is coupled with the duty to ensure that such entry does not violate the cause of environment protection or the provisions of the Act. The Petitioner has no other efficacious alternate remedy in the matter other than to invoke the extraordinary jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. The writs prayed for are liable to be issued by this Hon'ble Court on the following among other:

#### GROUND S

(a) There is a sharp increase in the entry of tourists and private vehicles into the forested areas of Wayanad District. The unbridled and unregulated entry into eco-sensitive points is causing considerable environment damage. The tourist zones, that virtually abut the core areas, have become no go zones for wildlife. The critical habitats of wildlife have been truncated.

and fragmented. Appropriate directions are liable to be issued by this Hon'ble Court.

(b) There is an urgent need to redefine the existing tourist zones and determine the carrying capacity of the forested areas. The Chief Wildlife Warden is obliged by the provisions of the Act to restrict the entry of tourists. The grant of permission must be subject to suitable study of the carrying capacity and zonation. The inaction in the matter even after the issue of Ext.P6 is illegal and arbitrary. Appropriate directions are liable to be issued by this Hon'ble Court.

(c) The Petitioner and its members have a fundamental duty to protect the environment. The destruction of wildlife habitats of Wayanad District is a matter of great concern. Already man-animal conflicts have greatly increased in the area. Urgent steps are necessary to prevent an environmental catastrophe. The guidelines issued by the Moef insist on approved micro-plan for eco-development before permitting entry of tourists. The management plan of Wayanad Wildlife Division is also not prepared. Appropriate directions are liable to be issued by this Hon'ble Court.

It is therefore humbly prayed that this Hon'ble Court may be pleased to call for the records leading to Ext.P6 from the Respondents and

(i) issue a Writ of Mandamus or any other appropriate writ, order or direction directing Respondents 1 to 4

to constitute an expert committee to study the carrying capacity of the forested areas and redefine the tourist zones in Wayanad District pursuant to Ext.P6;

- (ii) issue a writ of mandamus or any other appropriate writ, order or direction restraining the Respondents from permitting the entry of tourists in the forested areas of Wayanad District pending redefinition of the tourist zones;
  - (iii) grant the Petitioner such other appropriate reliefs that this Hon'ble Court may deem fit to grant; AND
- ii) award the Petitioner the costs of this Writ Petition.

Dated this the 7<sup>th</sup> day of April, 2011.

PETITIONER:

COUNSEL FOR THE PETITIONER:

INTERIM RELIEF

*[Under Rule 150 of the Rules of the High Court of Kerala]*

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For the reasons stated in the accompanying Writ Petition and the affidavit filed in support thereof, it is humbly prayed that this Hon'ble Court may be pleased to pass an order restraining the Respondents from permitting the entry of

tourists in the forested areas of Wayanad District pending  
redefinition of the tourist zones, pending disposal of the above  
Writ Petition.

Dated this the 7<sup>th</sup> day of April, 2011.

COUNSEL FOR THE PETITIONER.



4. I further submit that the Petitioner has not filed any Writ Petition seeking the same or similar reliefs as sought for this Writ Petition.

5. I submit that the Exhibits marked and produced alongwith the Writ Petition are true copies of their originals.

All the facts stated above are.  
Dated this the 7<sup>th</sup> day of April, 2011.

DEPONENT:

Solemnly affirmed at Ernakulam on  
This the 7th day of April, 2011 and  
signed in my presence:

2<sup>nd</sup> and last page:  
Corrections:

Advocate, Ernakulam.

## DETAILS OF VISITORS IN ECO-TOURISM POINTS IN SOUTH WAYANAD FDA

Sl. No.	Collection Point	Visitors no.			Remarks
		Children	Adults	Total	
1	<b>Pakkom Kuruva</b>				
	2007 - 2008	22565	74526	97091	
	2008 - 2009	42559	116511	159070	
	2009 - 2010	59227	206684	186187	
	2010 - 2011	3125	62108	65233	
	<b>TOTAL</b>	<b>127476</b>	<b>459829</b>		
2	<b>Meenmutty</b>				
	2008 - 2009	216	8677	8893	Started 15-11-2008
	2009 - 2010	7912	29123	37035	
	<b>TOTAL</b>	<b>8128</b>	<b>37800</b>	<b>45928</b>	
3	<b>Soochipara</b>	54834	121209	176043	Started 26-02-2009
4	<b>Chembra</b>	2539	11505	14044	Started 11-09-2008
5	<b>Varambetta</b>	968	7840	8808	Started 30-08-2009
	<b>GRAND TOTAL</b>	<b>161753</b>	<b>514064</b>	<b>675817</b>	

This is the true copy of document marked as Ext. P  
the above W.P.(C)

Advocate

in

EXHIBIT

P

**DETAILS OF VISITORS - PAKKAM KURUVA VSS DURING 2006-07 TO 2010-11**

Year	April		May		June		July		August		September		October		November		December		January		February		March		TOTAL
	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	Adults	Child	
2006-07	5740	750	4551	73	947	0	0	0	0	0	2782	195	4544	853	2584	2054	6305	1929	8824	2716	5061	1993	5244	1365	56402
2007-08	9827	666	12218	483	3668	41	0	0	0	0	773	105	5272	1894	4886	4980	11578	3741	9434	4272	8021	4196	8891	2217	97164
2008-09	13723	1586	18051	425	3305	20	18921	0	1363	307	4588	1345	12937	3635	8278	10992	16701	7548	13963	7628	11421	5088	10459	3735	174279
2009-10	21534	1608	24119	1085	6392	253	0	0	1190	185	12624	2452	7252	4152	8901	10711	16804	10437	18917	13176	18577	10477	13962	4568	209376
2010-11	29368	2520	32831	605	4257	34	0	0	0	0	5156	2298	10638	6702	10454	12213	24954	16270	23756	17184					199138
<b>Total</b>	<b>80190</b>	<b>7130</b>	<b>91770</b>	<b>2871</b>	<b>18569</b>	<b>348</b>	<b>18921</b>	<b>0</b>	<b>2553</b>	<b>492</b>	<b>25923</b>	<b>6395</b>	<b>40703</b>	<b>17436</b>	<b>35103</b>	<b>40950</b>	<b>76240</b>	<b>39924</b>	<b>72894</b>	<b>44976</b>	<b>43080</b>	<b>21647</b>	<b>38556</b>	<b>11883</b>	<b>736358</b>

This is the true copy of document marked as Ext. P  
the above W.P.(C)

Advocate

in

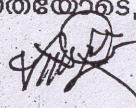
EXHIBIT B

ഉള്ളടക്കം - I

വയനാട് വന്യജീവി കേന്ദ്രത്തിലെ മുത്തങ്ങ, തോൽപ്പെട്ടി വിനോദ സഞ്ചാര കേന്ദ്രങ്ങളിൽ 2005 -2006 മുതൽ 2009 -2010 വരെ എത്തിയ വിനോദ സഞ്ചാരികളുടെ എണ്ണവും വിശദ വിവരങ്ങളും ചുവടെ ചേർക്കുന്നു.

1. 2005 -06	ദേശീയർ - 36165 വിദേശികൾ - 2067 വിദ്യാർത്ഥികൾ - 14651 ദേശീയർ - 47440	5. 2009-2010 ദേശീയർ - 113650 വിദേശികൾ - 4935
2. 2006-07	വിദേശികൾ - 3762 വിദ്യാർത്ഥികൾ - 14751 ദേശീയർ - 82810	
3. 2007-08	വിദേശികൾ - 2913 വിദ്യാർത്ഥികൾ - 11990 ദേശീയർ - 99839	
4. 2008-09	വിദേശികൾ - 5719 വിദ്യാർത്ഥികൾ - 38386	

ദേശീയർ എന്ന വിഭാഗത്തിൽ കേരളത്തിലേയും, മറ്റ് സംസ്ഥാനങ്ങളിലേയും സഞ്ചാരികൾ ഉൾപ്പെടുന്നു.

വിശ്വസ്തതയോടെ,  
  
 സ്റ്റേറ്റ് പബ്ലിക് ഇൻഫർമേഷൻ ഓഫീസർ &  
 വൈൽഡ്‌ലൈഫ് വാർഡൻ  
 സുൽത്താൻ ബത്തേരി,  
 വയനാട്.

ആർ/24/6

This is the true copy of document marked as Ext. P<sub>3</sub> in  
 the above W.P.(C)  
 Advocate

Annexure - 1

Details of tourists who visited Muttanga and Tholpetty during 2005-2006 to 2009-2010.

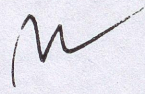
- 1. 2005 -2006 - Domestic - 36165  
Foreigners- 2067  
Students - 14651  
Domestic - 47440
- 2. 2006 -2007 - Foreigners- 3762  
students - 14751  
Domestic - 82810
- 3. 2007 -2008 - Foreigners -2913  
Students - 11990  
Domestic - 99839
- 4. 2008-09 - Foreigners- 5719  
Students - 38386
- 5. 2009-2010 - Domestic - 113650  
Foreigners - 4935

Tourists of Kerala and other States are included in the category.

Sd/-  
State Public Information Officer & Wildlife Warden, Sulthan Batheri, Wayanad.

/true copy/

This is the true English translation of Exhibit P3 and referred to as Exhibit P3(a) in the writ Petition.



ADVOCATE

2010 ജനറാരി മുതൽ ഡിസംബർ വരെയുള്ള ടൂറിസ്റ്റുകളുടെ വിവരങ്ങൾ  
 Jan onwards to December - Details of Tourists.

	January	February	March	April	May	June	July	August	September	October	November	December
Adults	8375	3658	Nil	6335	13464	3685	2807	7707	6543	5461	<del>9182</del> 7201	9835
Student	4768	2437	Nil	1306	2558	337	528	2647	2446	4053	7209	6696
Foreigners	663	430	Nil	115	129	59	267	330	169	182	330	475
Vehicles	2129	977	Nil	1194	291	758	669	1584	1473	1471	2182	2200

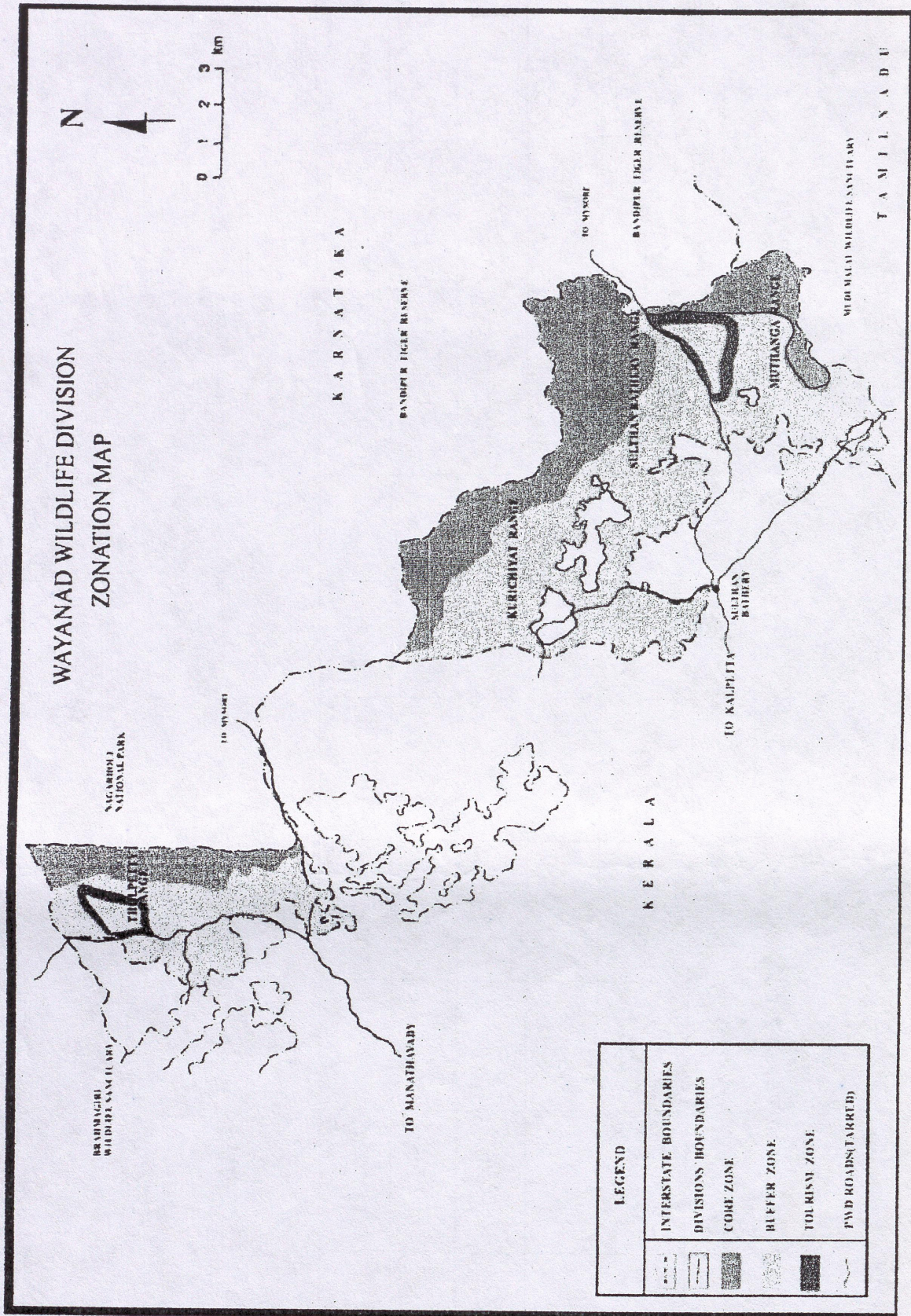
This is the true copy of document marked as Ext. P  
 the above W.P.(C)

Advocate

in

*[Signature]*  
 Asst. Wildlife Warden  
 Muthanga Range

EXHIBIT  
*P4*



Map - 8

This is the true copy of document marked as Ext. P5 in the above W.P.(C)

Advocate

2225000 III

No. W6- 1769 /09

Office of the Wildlife Warden  
Wayanad Wildlife Division  
Sulthan Bathery - 673592  
Phone: Off: 04936-220454, Resi: 220455  
e-mail: koz\_wydwls@sanicharnet.in  
Dated: 21-04-2009.

From

V.K. Sreevalsan,  
Wildlife Warden,  
Sulthan Bathery.

*Kind attention to  
The PCCF*

To

The Principal Chief Conservator of Forests,  
Forest Headquarters,  
Vazhuthakkad,  
Thiruvananthapuram

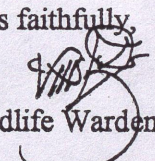
Sir,

Sub: - Eco-Tourism - Wayanad District - Study - Reg.

Ref:-Decision in the meeting at Mananthavady on 03-04-2009.

As directed by the Principal Chief Conservator of Forests in the meeting held at Mananthavady on 03-04-2009, I am submitting herewith a panel of 17 persons for consideration for constituting an expert Committee for study of various aspects on Eco-tourism in Wayanad District, particularly the need and scope for redefining the zonation in Wayanad Wildlife Sanctuary and for submission of suitable suggestions. ✓

Yours faithfully,

  
Wildlife Warden

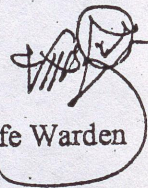
Copy with copy of the panel is submitted to the Chief Conservator of Forests (Wildlife) & Chief Wildlife warden, Thiruvananthapuram

Copy with copy of the panel is submitted to the Chief Conservator of Forests (Wildlife) Palakkad

DESPATCHED  
Dated 22/04/09

**Study on Eco-tourism in Wayanad District**  
**Panel for an expert Committee**

Sl. No.	Name	Designation/Address	Contact No.	Remarks
1	Sri. K.P. Ouseph.IFS,	Chief Conservator of Forests & Chief Wildlife Warden	9447979009	
2	Sri. P.N. Unnikrishnan.IFS,	Chief Conservator of Forests (E&TW), Thiruvananthapuram.	9447979016	
3	Sri. W.S. Suitings.IFS,	Conservator of Forests (Wildlife), Palakkad.	9447979017	
4	Sri. R.R. Sukhla.IFS,	Chief Conservator of Forests (Northern Region), Kozhikode	9447979011	
5	Sri. T.P. Narayanan Kutty.IFS,	Director, Eco-Tourism, Thiruvananthapuram	9447066590	
6	Dr. Satheesh Chandran Nair,	Environmentalist, Thiruvananthapuram	0471-2310714	Consented
7	Prof. E. Kunhikrishnan,	Department of Zoology, University College, Thiruvananthapuram.	9447653786	Consented
8	Dr. A.G. Pandurangan,	Head, Plant Systematic & Evolutionary Science, TBGRI, Thiruvananthapuram.	94446422458	Consented
9	Dr. E. Jayson,	Wildlife Department, KFRI, Peechi, Thrissur.	9496216496	Consented
10	Dr. Thomas P. Thomas	Soil Science Division, KFRI, Peechi.	9447671813	
11	Dr. Laliitha Vijayan	Ornithologist, SACON, Anakkatty, Coimbatore.	9442633061	Consented
12	Prof. K.V. Jayakumar	Executive Director, CWRDM, Kozhikode	9446531806	Consented
13	Dr. C.S. Hari Kumar	Scientist, C.W.R.D.M, Kozhikode	9847781444	Consented
14	Sri. A. Manibhooshan	Dy. Director, Anthropology, KIRTADS, Kozhikode	9446164383	Consented
15	Sri. C. Sasi Kumar	Ornithologist, M.N.H.S		Consented
16	Smt.C.M. Sarasamma Teacher	Dist. Panchayath President, Wayanad	9446347997	Consented
17	Sri. Badhusha	Wayanad Prakrithy Samrakshana Samithy, Sulthan Bathery	04936270222	Consented

  
Wildlife Warden

Ppk/21.4

This is the true copy of document marked as Ext. P6 in  
the above W.P.(C)

Advocate