

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945

WP(C) NO. 38634 OF 2016

PETITIONER/S:

N.K.PRABHAKARA NAICK, AGED 64 YEARS,
S/O N.N.KRISHNA NAICK, NEDUMPULLISSERIPARAMBIL,
GOPALAPRABHU ROAD, ERNAKULAM.KOCHI.35.

BY ADVS.

SRI.O.V.MANIPRASAD

SRI.GEORGE G.POOTHICOTE

SRI.JOSE ANTONY

SRI.VINODE V. LUKA

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNEMENT, HOME
DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.695001.
- 2 DIRECTOR GENERAL OF POLICE
KERALA, POLICE HEADQUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM.695001.
- 3 THE ADDITIONAL DIRECTOR GENERAL OF POLICE CRIMES
POLICE HEAD QUARTERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM.695001
- 4 INSPECTOR GENERAL OF POLICE CRIMES
POLICE HEADQUARTERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM.695001.
- 5 THE SUPERINTENDENT OF POLICE
STATE TEMPLE ANTI-THEFT SQUAD, OFFICE OF THE
SUPERINTENDENT OF POLICE, STATE TEMPLE ANTI-THEFT
SQUAD, CBCID, THIRUVANANTHAPURAM.
- 6 DEPUTY SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE, STATE
TEMPLE ANTI-THEFT SQUAD, CBCID,
THIRUVANANTHAPURAM.
- 7 *(CORRECTED) ERNAKULAM THIRUMALA DEVASWOM,

T.D.ROAD, ERNAKULAM, KOCHI-682 035, REPRESENTED BY ITS COMMITTEE MEMBERS.

1. P.RANGADASA PRABHU, S/O R.PADMANABHA PRABHU, MANAGING ADHIKARI, ERNAKULAM THIRUMALA DEVASWOM(RESIDING AT SREE RANGA NIVAS, T.D WEST ROAD, KOCHI- 682 035.

2. K.J.RADHAKRISHNAN KAMATH, S/O K.S.JANARDHANA KAMATH, MANAGING ADHIKARI, ERNAKULAM THIRUMALA DEVASWOM(RESIDING AT KAMATH LANE, T.D. ROAD, ERNAKULAM-682035.

3. P.S.JAYAPRAKASH PRABHU, S/O P.R.SRINIVASA PRABHU, MANAGING COMMITTEE MEMBER, ERNAKULAM THIRUMALA DEVASWOM(RESIDING AT 40/8799- C, SRINIVASA ENCLAVE, T.D.EAST ROAD, ERNAKULAM-682 035.

4. T.G.RAJARAM SHENOY, MANAGING COMMITTEE MEMBER, ERNAKULAM THIRUMALADEVASWOM, S/O T.V.GOVINDA SHENOY, RADHE SHYAM, T.D. EAST, SANNIDHI ROAD, ERNAKULAM, KOCHI-35.

5. RAMA NARAYANA PRABHU, S/O A. RAMA PRABHU, MANAGING COMMITTEE MEMBER, ERNAKULAM THIRUMALA DEVASWOM(RESIDING AT AYODHYA, JEWS STREET, KOCHI, 682 035).

ADDL. R7 IS IMPEADED AS PER ORDER DATED 23-02-2017 IN IA 450/2017.

ADDRESS OF ADDL R7 IS CORRECTED AS

" 7. ERNAKULAM THIRUVMALA DEVASWOM, PUNJABJIPURAM, THIRUMALA DEVAWOM ROAD, ERNAKULAM, KOCHI 682 035, A DENOMINATION TEMPLE OF THE GSB COMMUNITY REPRESENTED BY MANAGING ADHIKARI ETD.

1) SREEKUMAR R KAMATH, AGED 61, MANAGING ADHIKARI ETD, S/O.N.RAVEENDRA KAMATH, 6194, GOWRAGHAR, GOPALAPRABHU ROAD, ERNAKULAM, PIN -682 035.

2) NAVEEN R KAMATH, AGED 47, MANAGING ADHIKARI ETD, S/O.K.J.RADHAKRISHNA KAMATH, THERUVIL PARAMBIL HOUSE, KAMATH LANE, T.D.ROAD, ERNAKULAM, PIN -682 035.

3) T.G.RAJARAM SHENOY @ RAJARAM GOVIND SHENOY, AGED 55, MANAGING COMMITTEE MEMBER, ETD, S/O, GOVINDA SHENOY, 40/7069, RADHESHYAM, T.D.EAST SANNIDHI ROAD, ERNAKULAM, PIN -682 035.

4) T.V.RAJESH SHENOY, AGED 54, MANAGING COMMITTEE MEMBER, S/O. T.M.V.SHENOY, SATHYABHAMA, MAHAKAVI BHARATHIYAR ROAD, ERNAKULAM, PIN - 682 035.

5). R.RAMA NARAYANA PRABHU, AGED 56, MANAGING COMMITTEE MEMBER, ETD, S/O. RAMA PRABHU,

W.P.(C) Nos. 28421 & 38634 of 2016

ADVOCATE, 40/7024E, AYODHYA, JEWS STREET,
ERNAKULAM, PIN - 682 035.
AS PER ORDER DATED 20-10-2023 IN IA 1/2023 IN
WP(C) 38634/2016.

BY ADVS.

SRI.K.V.SOHAN, STATE ATTORNEY

DINESH R.SHENOY

SRI.A.G.ADITYA SHENOY

SRI.K.V.SOHAN STATE ATTORNEY

SRI.V.SANTHARAM

P.ROHIT PREMANANDAN SHENOY

SILESH S. PRABHU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 31.10.2023, ALONG WITH WP(C).28421/2016, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945

WP(C) NO. 28421 OF 2016

PETITIONER/S:

- 1 ERNAKULAM THIRUMALA DEVASWOM
T.D ROAD, ERNAKULAM, KOCHI-682035, KOCHI-682035,
REPRESENTED BY ITS COMMITTEE MEMBERS P.RANGADASA
PRABHU, AGED:68 YEARS, S/O R.P.PRABHU, MANAGING
ADHIKARI NO. 1, ERNAKULAM THIRUMALA DEVASWOM,
(RESIDING AT DR. R.S.KAMATH LANE, T D ROAD,
KOCHI-682035)
- 2 K.J.RADHAKRISHNA KAMATH
AGED:70 YEARS, S/O JANARDHANA KAMATH, MANAGING
ADHIKARI NO. 2, ERNAKULAM THIRUMALA DEVASWOM,
(RESIDING AT DR. R.S.KAMATH LANE, T D ROAD,
KOCHI-682035)
- 3 P.S.JAYAPRAKASH PRABHU
AGED 72 YEARS, S/O SREENIVASA PRABHU, MANAGING
COMMITTEE MEMBER, ERNAKULAM THIRUMALA DEVASWOM,
(RESIDING AT "SREENIVAS ENCLAVE", T D EAST
SANNIDHI ROAD, KOCHI-682035)
- 4 T.G.RAJARAM SHENOY
AGED:46 YEARS, S/O T.V.GOVINDA SHENOY, MANAGING
COMMITTEE MEMBER, ERNAKULAM THIRUMALA DEVASWOM,
(RESIDING AT 'RADHYE SHYAM', T D EAST SANNIDHI
ROAD, KOCHI-682035)
- 5 R.RAMA NARAYANA PRABHU
AGED:48 YEARS, S/O A RAMA PRABHU, MANAGING
COMMITTEE MEMBER, ERNAKULAM THIRUMALA DEVASWOM,
(RESIDING AT 'AYODHYA', JEWS STREET, KOCHI-
682035)
BY ADVS.
DINESH R.SHENOY
EBIN MATHEW
P.ROHIT PREMANANDAN SHENOY

RESPONDENT/S :

- 1 THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695001
- 2 DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS, VAZHATAAUD,
THIRUVANANTHAPURAM-695001
- 3 INSPECTOR GENERAL OF POLICE
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
CENTRAL RANGE, ERNAKULAM-695001
- 4 SUPERINTENDENT OF POLICE
STATE TEMPLE ANTI THEFT SQUAD (STATS) OFFICE OF
SUPERINTENDENT OF POLICE, STATE TEMPLE ANTI THEFT
SQUAD, THIRUVANANTHAPURAM-695001
- 5 DEPUTY SUPERINTENDENT OF POLICE
(INVESTIGATING) OFFICER, STATE TEMPLE ANTI THEFT
SQUAD (STATS) OFFICE OF THE DEPUTY SUPERINTENDENT
OF POLICE, THIRUVANANTHAPURAM-695001
- 6 THE STATION OFFICER
CENTRAL POLICE STATION ERNAKULAM-682031
- 7 SUPERINTENDENT OF POLICE
C B I, MALABAR HOUSE, KHESTON ROAD, T C 11/304,
VELLAYAMBALAM, THIRUVANANTHAPURAM-695003
- 8 JANARDHAN PAI K.V
AGED 49 YEARS
S/O K.N.VENKATESWARA PAI, K.N.G TEXTILES, GOPALA
PRABHU ROAD, ERNAKULAM-682035, KERALA.
BY ADVS.
SRI.S.B.PREMACHANDRA PRABHU
SRI.P.CHANDRASEKHARA PILLAI, C.B.I.
SOBHAN GEORGE SOBHAN GEORGE
SRI.A.G.ADITYA SHENOY
SRI.K.V.SOHAN STATE ATTORNEY
SRI.GEORGE G.POOTHICOTE
SRI.O.V.MANIPRASAD
SRI.K.B.RAJESH
SRI.P.CHANDRASEKHARA PILLAI C.B.I.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 31.10.2023, ALONG WITH WP(C).38634/2016, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

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W.P.(C) Nos. 28421 & 38634 of 2016

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Dated this the 31st day of October, 2023

JUDGMENT

These two writ petitions are connected and therefore, I am disposing of these two writ petitions by a common judgment. The prayers in these writ petitions are extracted hereunder:

W.P.(C) No.38634 of 2016

“i.To issue a writ of mandamus, order or direction directing respondents 1 and 2 to constitute a Special Investigating Team headed by an officer not below the rank of Deputy Inspector General of Police, under the direct supervision of the 3rd respondent to investigate the Crime No.360/CR/STATS/2013 Crime Branch CID STATS, (Special Temple Anti Theft Squad) and to entrust the investigation in the crime to such special investigating team.

ii. To issue a writ of mandamus, order or direction directing the Special Investigation Team to conduct a proper and fair investigation and complete the investigation in Ext P2 crime within a reasonable time frame, fixed by this Hon'ble Court. And

iii. Such other reliefs as this Hon'ble court deems fit and proper to grant on the facts and in the circumstances of the case.” (sic)

W.P.(C) No.28421 of 2016:

“1) Issue writ of mandamus or other appropriate writ, order or directions, directing the respondents 1 to 6 to handover investigation of Crime No. 360/CR/STATES/13 to the 7th respondent within shorter time frame fixed by this Hon'ble court.

2) Issue writ of mandamus or other appropriate writ or direction, directing the 7th respondent to conduct investigation into the crime and commissions of offence as pointed out in Crime No. 360/CR/STATES/13 and other materials that may come across during the course of the investigation and proceed against the offenders strictly in accordance with law in a time bound manner.

3) Issue such other writs, orders or directions as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case. And

4) allow this Writ petition with cost.” (sic)

2. The main prayers in these writ petition is to transfer the case to the Central Bureau of Investigation. Today when the matter came up for consideration, the Public Prosecutor submitted that the investigation was conducted by the Crime Branch and the Crime Branch filed a UN Report (undetected) on 13.01.2021 before the Chief Judicial Magistrate Court, Ernakulam. If the petitioners are aggrieved

by the UN Report, the petitioners are free to challenge the same, in accordance with law.

Granting liberty to the petitioners to challenge the UN Report, these writ petitions are closed.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

das

APPENDIX OF WP(C) 28421/2016

PETITIONER EXHIBITS

EXHIBIT:P1	TRUE COPY OF THE COMPLAINT SUBMITTED BY THE NIRMANA COMMITTEE BEFORE THE COMMISSIONER OF POLICE, KOCHI CITY, ON 5/10/2013 WITH ACKNOWLEDGEMENT
EXHIBIT:P2	TRUE COPY OF THE REPRESENTATION DATED 7/10/2013 SUBMITTED BY THE PETITIONER TO THE MINISTER FOR HOME AFFAIRS
EXHIBIT:P3	TRUE COPY OF THE FIR NO. 2029 DATED 5/10/2013
EXHIBIT:P4	TRUE COPY OF THE ORDER DATED 25/10/2013 ISSUED BY THE ADDL. DIRECTOR GENERAL OF POLICE (CRIMES)
EXHIBIT:P5	TRUE COPY OF THE AGREEMENT/UNDERTAKING DATED 21/1/2014
EXHIBIT:P6	TRUE COPY OF THE REMAND REPORT DATED 28/2/2014 SUBMITTED BY 5TH RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM
EXHIBIT:P7	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE NIRMANA COMMITTEE BEFORE HON.HOME MINISTER DATED 28/2/2014
EXHIBIT:P8	TRUE COPY OF THE INTERIM REPORT FILED BY THE HON'BLE OMBUDSMAN A DATED 29/4/2014
EXHIBIT:P9	TRUE COPY OF THE ORDER DATED 6/5/2014 OF THE COCHIN DEVASWOM BOARD
EXHIBIT:P10	TRUE COPY OF THE REPORT DATED 23/6/2014 FILED BY THE ENQUIRY OFFICER
EXHIBIT:P11	TRUE COPY OF THE FINAL REPORT DATED 29/10/2014 OF HON'BLE OMBUDSMAN
EXHIBIT:P12	TRUE COPY OF THE JUDGMENT DATED 4/9/2015 IN WPC 29268 OF 2014 AND CONNECTED WPC NO. 25352 OF 2015
EXHIBIT:P13	TRUE COPY OF THE ORDER DATED 2/12/2015 PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT IN DBP NO. 144 OF 2014

APPENDIX OF WP(C) 38634/2016

PETITIONER EXHIBITS

EXHIBIT P1	A TRUE COPY OF THE COMPLAINT DATED 5.10.2013.
EXHIBIT P2	A TRUE COPY OF THE FIR AND FI STATEMENT IN CRIME NO.2029/2013.
EXHIBIT P3	A TRUE COPY OF THE REMAND REPORT DATED 28.2.2014 SUBMITTED BY THE 5TH RESPONDENT THE INVESTIGATING OFFICER, BEFORE THE CJM COURT, ERNAKULAM.
EXHIBIT P4	A TRUE COPY OF THE ORDER DATED 29.4.2014 OF THE HON'BLE OMBUDSMAN FOR TRAVANCORE AND COCHIN DEVASWOM BOARDS IN COMPLAINT NO.272/13 291/13 AND 310/13
EXHIBIT P5	A TRUE COPY OF THE REPORT SUBMITTED BY THE DEPUTY SECRETARY OF COCHIN DEVASWOM BOARD ON 23.6.2014.
EXHIBIT P6	A TRUE COPY OF THE REPORT OF THE HON'BLE OMBUDSMAN DATED 29.10.2014 BEFORE THIS HON'BLE COURT.
EXHIBIT P7	A TRUE COPY OF THE STATEMENT DATED 20.11.2014 IN WPC 29268/2014.
EXHIBIT P8	A TRUE COPY OF THE ORDER DATED 3.7.2015 IN WPC NO.29268/2014.
EXHIBIT P9	A TRUE COPY OF THE REPORT OF THE 4TH RESPONDENT IN WPC NO.29268/2014.
EXHIBIT P10	A TRUE COPY OF THE ORDER DATED 30.7.2015.
EXHIBIT P11	A TRUE COPY OF THE REPORT DATED 1.9.2015 IN WPC 29268/2014.
EXHIBIT P12	A TRUE COPY OF THE JUDGMENT DATED 4.9.2015 IN WPC 29268/2014AND 25325/2015.
EXHIBIT P13	A TRUE COPY OF THE JUDGMENT DATED 23.9.2016 IN WPC 28421/2016.
EXHIBIT P14	A TRUE COPY OF THE INTERIM ORDER DATED 14.11.2016 IN WPC NO.28421/2016.
EXHIBIT P15	A TRUE COPY OF THE PETITION DATED 12.9.2016 SUBMITTED BEFORE THE 2ND RESPONDENT BY THE PETITIONER.