



2025:KER:15112

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 20TH DAY OF FEBRUARY 2025 / 1ST PHALGUNA, 1946

WP(C) NO. 1671 OF 2021

PETITIONER/S:

THE MANNAM SUGAR MILLS CO-OPERATIVE LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, DR.
THULASEEDHARAN NAIR, MSM (P.O), PANDALAM,
PATHANAMTHITTA-689 501.

BY ADVS.
R.T.PRADEEP
SRI.V.VIJULAL
SMT.M.BINDUDAS
SRI.K.C.HARISH

RESPONDENT/S:

- 1 DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF DEPUTY SUPERINTENDENT OF POLICE,
PANDALAM, MSM P.O., PATHANAMTHITTA-691 014.
- 2 STATION HOUSE OFFICER
PANDALAM POLICE STATION, PANDALAM, MSM (P.O),
PATHANAMTHITTA-691 014.
- 3 REVENUE DIVISIONAL OFFICER
OFFICE OF THE REVENUE DIVISIONAL OFFICER, ADOOR
P.O., PATHANAMTHITTA-691 523.



- 4 ADDL.R4. T.ROOPESH
PRESIDENT, MUNICIPAL COMMITTEE, B.J.P., PANDALAM,
RESIDING AT ROOPARAGA NILAYAM, KURAMPALA P.O.,
PANDALAM, PATHANAMTHITTA-689501.
- 5 ADDL.R5. BIJU
SECRETARY, VILLAGE COMMITTEE, DYFI, RESIDING AT
EDAYILAPPURAYIL, MSM (P.O), MANGARAM, PANDALAM,
PATHANAMTHITTA-689 501.
- 6 ADDL.R6. SANTHAPPAN
SECRETARY, LOCAL COMMITTEE, CPI(M), PANDALAM,
RESIDING AT MUDIYOORKONAM, PANDALAM P.O.,
PATHANAMTHITTA-689 501.
- 7 ADDL.R7. THE ASSISTANT ENGINEER
P.W.D ROADS SECTION, PANDALAM P.O.,
PATHANAMTHITTA-689 501. (ADDITIONAL R4 TO R7 ARE
IMPLEADED AS PER ORDER DATED 27.1.2021 IN
I.A.1/2021)
- 8 ADDL.R8. STATE OF KERALA, REPRESENTED BY THE
SECRETARY,
REVENUE DEPARTMENT.
- 9 ADDL.R9. THE SECRETARY,
LOCAL SELF GOVERNMENT INSTITUTIONS. ARE SUO MOTU
IMPLEADED AS PER ORDER DATED 12-10-2021.

BY ADVS.

SRI.SHYAMPRASANTH T.S., GOVERNMENT PLEADER
SHRI.ASOK M.CHERIAN, ADDL. ADVOCATE GENERAL

OTHER PRESENT:

SRI T S SHYAM PRASANTH-GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**‘C.R.’****DEVAN RAMACHANDRAN, J****-----
W.P.(C) No.1671 of 2021
-----**Dated this the 20th day of February, 2025**JUDGMENT**

Though impelled as a private concern, the petitioner - which is a Society registered under the Kerala Co-operative Societies Act - in fact, projects a very compelling public cause, namely, that persons and entities are installing permanent Flag Masts in public places around the State, without obtaining even a semblance of permission from any Authority.

2. The petitioner approached this Court seeking directions to the Police Officers concerned to afford them adequate and effective protection, so as to remove illegal flag masts allegedly erected by certain political parties - namely respondents 4, 5 and 6, on the public road leading to their property.

3. This Court took cognizance of the matter as being one in public cause also, because it was conceded even by the official respondents that such illegal flag masts/posts are ubiquitous in our State.



4. Certain interim orders were then issued - with which I will deal presently - and, consequent to it, it is now reported by Sri.R.T Pradeep, learned counsel for the petitioner, that all offending Flag Posts/Masts have been removed pending this lis. He, however, raised a concern that unless this Court issues stringent general orders, respondents 4 to 6 or other may place such Posts/Masts again.

5. I felt justification in this apprehension and it is thus that this matter is still pending.

6. Interestingly, the Government, through its learned Additional Advocate General, Shri.Ashok M. Cherian, instructed by Shri. T.S.Shyam Prasanth - learned Government Pleader, informed this Court, as early as on 20.12.2021, that the Government is taking the issue very seriously; and that they intend to ensure that no unauthorised and illegal Flag Masts are put up in future. This was recorded in the order of the said day, as follows:

The learned Additional Advocate General, Sri.Asok M.Chерian, submitted that the Government has taken the observation of this Court very seriously and that they propose to bring out Regulations with respect to the unauthorised flagmasts. He added that some of the District Collectors have already taken action in terms of the directions in the afore order and that the other District Collectors will do so and report before this Court;



for which purpose, he requested another month's time.

I do not need to reiterate the resolve of this Court, since it has already been unambiguously stated in the earlier orders.

What is illegal must be deemed to be illegal, whoever has done it. No one is above law and, as they say: however, high you are, the law is always above you.

Imperative actions certainly will have to be taken in terms of law and under the constitutional mandate, without looking at the entities or persons who are the perpetrators.

I, therefore, adjourn this matter to be called on 27.01.2022.

Since I have heard this matter fully and since interim orders have also been issued, leading to the issuance of a final judgment, I deem it appropriate that this matter be treated as being "part-heard".

Needless to say, the District Collectors will act as per the afore referred order in its true spirit; and reports will be filed by the next posting date.

7. Subsequently, on 27.01.2022, Shri.S.Kannan, learned Government Pleader, reaffirmed that the Government will not permit any new permanent Flag Masts to be erected anywhere illegally; and this was also recorded in the order issued on that day, with certain directions issued on its basis, *ut infra*:

Sri.S.Kannan - learned Senior Government Pleader, requested for time on behalf of the learned Additional Advocate General - Sr.Asok M.Churian, saying



that he is presently indisposed.

Sri.S.Kannan, however, submitted that, imbibing the spirit of the orders passed by this Court already, no new flag masts are being allowed to be erected, and that action has also been taken in various districts to remove those which have been illegally done. In fact, Sri.R.T.Pradeep - learned counsel for the petitioner, affirms that the illegal flag masts involved in this case have already been removed.

That said, this Court is aware of the stand of the Government that they are in the process of evolving a comprehensive policy with respect to flag masts to be erected in future and those which have already been installed. Since this is a matter of policy and the learned Additional Advocate General is stated to be indisposed presently, I deem it appropriate to grant three more weeks time.

Needless to say, the earlier orders issued against the District Collectors will continue to be in operation and this Court would expect reports from each of the districts as to the action already taken with respect to illegally installed posts and flag masts.

It also goes without saying that no new flag masts or posts will be allowed to be erected anywhere in Kerala until the policy is evolved by the Government, as stated before me by the learned Senior Government Pleader. I, therefore, adjourn this matter to be called on 21.02.2022.

8. This matter was listed several times thereafter; and on 28.03.2022, the Additional Advocate General was heard in



detail, thus leading to another order, reproduced below:

In the order dated 20.12.2021, I have recorded the submission of the learned Additional Advocate General that the Government proposes to bring out adequate Regulations with respect to permanent flag-masts in the territory of this State.

Through that order and the subsequent order dated 27.01.2022, this Court directed that no new permanent flag-masts or posts be allowed to be erected anywhere in Kerala, until a Policy is evolved by the Government.

Today, the learned Additional Advocate General submitted that, in terms of the intent and spirit of the various orders issued by this Court, the Government have constituted a High Level Committee, comprised of the learned Additional Advocate General, the Chief Secretary, the Law Secretary and the Home Secretary, who have been entrusted with the task of propounding Regulations and instructions for the purpose of erection of new permanent flag-masts and for removal of those which are unauthorized.

I must say that the afore effort of the Government is certainly in the right direction and this Court will be only to happy to support the same, under the hortative hope that affirmative action will be forthcoming through the same.

Therefore, confirming the order dated 27.01.2022, I direct the competent Authorities to ensure that no one is allowed to put up any permanent flag-masts or posts anywhere in Kerala, until the afore Policy/Regulations is evolved and placed before this



Court for evaluation. I record that the learned Additional Advocate General also affirmed this.

As far as permanent flag posts and masts which have been erected dangerously on the road sides or on such public places are concerned, I make it clear that the District Collectors or such other Authorities, including the Secretaries of the Local Self Government Institutions, are still enjoined to act in terms of the Land Conservancy Act and such other applicable Statutes; for which purpose, they are not required to wait until the afore Policy/Regulations are brought in.

List this matter for further consideration on 01.06.2022, at the request of the learned Additional Advocate General.

9. Nothing went forward thereafter; but on 02.06.2022, the Additional Advocate General submitted that the Government has issued a Circular, bearing No. RC 2/315/202/LSGD dated 06.05.2022; but conceded that this was against the installation of unauthorised boards, flags, festoons and such other on the public spaces, including pedestrian paths.

10. However, since the specific issue in this case relates to the indiscriminate installation of unauthorised and illegal permanent Flag Posts/Masts by entities and persons on every nook and corner of the State, the learned Additional Advocate General took more time.

11. The matter continued without much progress; with



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the Government repeatedly assuring and reassuring this Court that necessary Orders/Circulars will be issued. In fact, on 03.08.2022, the learned Government Pleader reiterated that no new permanent Flag Masts will be allowed anywhere, without specific permission under all applicable laws being obtained; and this was recorded in the order which I indited on that day, which also deserves full reading, for which, it is extracted under:

A new Circular, dated 02.08.2022, is stated to have been issued by the Additional Chief Secretary in compliance with the directions of this Court dated 07.07.2022.

Sri.S.Kannan - learned Senior Government Pleader, submitted that the aforementioned Circular, read with Circulars dated 06.05.2022 and 05.07.2022, covers the field exhaustively and that no flags/festoons/boards/banners and such other will henceforth be permitted on any pedestrian rail, centre medians or traffic islands. He added that steps will be taken by the Secretaries of Local Self Government Institutions to remove them, if it is found in future.

Interestingly, the Circulars above mentioned relate to boards, flags, banners etc. which are removable and not permanent. This Court is already considering issues relating to the same in another batch of Writ Petitions, namely WP(C)No.22750/2018 and connected cases.

However, what is noticed in this case, as evident from earlier orders, is with respect to the permanent flag-masts that are found very common in



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almost every streets and traffic junctions of Kerala, which are put up by various entities, including Unions of autorikshaws/taxis, political parties and such other. The Circulars above mentioned do not deal with this at all.

As this Court has been reminding the Government consistently, including through the order dated 12.10.2021, one fails to understand how a person can put up a permanent flagmast in a public space or 'purambokku' area without any permission. Such installations, if put up by any other person, would have invited action from the competent Authorities under the various penal laws, including the Land Conservancy Act. However, when such are put up by political parties, Unions and such other, a blind eye is often what it attracts and nothing else.

Going by the facts of this case also, the impugned permanent installation was almost in the centre of a road. It is submitted that the same has been removed under the orders of this Court.

In fact, the petitioner in WP(C)No.16965/2022 has produced Ext.P2(a) photograph to show how such permanent flag-masts can create havoc to drivers of vehicles and pedestrians; but citizens are unable to respond against the same, for fear of retribution. The tendency of vested interests to place flag-masts wherever they want certainly must be arrested, since this is a nation which is ruled by law.

Obviously, therefore, the Government has to inform this Court how and in what manner the existing permanent flag masts on various roads and public spaces will be dealt with. I also record the submission of Sri.S.Kannan that, as regards any new masts, it will be



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done only subject to permission being granted and that too, after following all requisite procedures under various laws, including the Land Conservancy Act.

I, therefore, in deference to the request of time as made by the learned Government Pleader – so as to enable the learned Additional Advocate General – Sri.Ashok M. Cherian to appear – adjourn this matter to be called on 24.08.2022; within which time, this Court expects the Government to answer the afore observations, specifically clarifying that what is in question in this case are not flex boards/flag-masts/banners, but the permanent flag-masts that have been or are put up by vested interests without any care for law and without obtaining any permission.

An appropriate proceedings/circular shall be issued by the competent Authority in this regard, particularly within the ambit of Land Conservancy Act, suggesting the manner and mode under which the existing illegal permanent flag-masts will be regulated and removed.

12. Thereafter, when this matter was considered on 24th August 2022, the learned Additional Advocate General once again reiterated that no new permanent Flag Posts/Masts will be allowed to be erected anywhere in Kerala without specific permission in law being obtained; but sought further time with respect to the removal of the ones already available, explaining that, it will require some amount of diplomacy and tactics, since they have been put up by “powerful” interests, including Political Parties,



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Trade Unions and such other entities. He concluded, undertaking that the Government will come out with a policy for removing the old illegal Flag Posts/Masts; and believing such, I adjourned this case to be called on 22.09.2022.

13. Rather distressingly, the Policy, as promised above, was never brought before this Court, and this matter was then listed on 16.10.2024. On this day also, the learned Government Pleader - Sri.T.S.Shyam Prasanth, submitted that, since most, if not all, illegal permanent Flag Posts/Masts have been put up by Political Parties, Trade Unions and such other, the Government is still deliberating upon bring out the new Policy - as was assured before this Court - since, discussions with such entities are being carried on. I, therefore, adjourned this matter to 11.12.2024; but recording disappointment that the Government is taking unreasonably long time - of more than two years - to even report the results of the stated "discussions" they had with this stake holders.

14. However, even today, the learned Government Pleader sought more time; reiterating the earlier submissions of the learned Additional Advocate General, that no new unauthorised permanent Flag Masts/Posts will be allowed to be installed any further.

15. It is thus rather obvious that the Government is



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procrastinating the formulation of protocols to remove the illegally installed Flag Masts/Posts on the public spaces of the State because of the reasons they candidly admitted above, namely that they are all put up by entities, like Political Parties, Trade Unions, etc.

16. That said, however, since the Government has, through the various orders on record, made unequivocal undertakings that no new permanent Flag Masts/Posts will be allowed on any part of the public spaces of the State without specific permissions being granted by, or obtained, from the competent Authorities, I am certain that this Court will be justified in recording the same.

17. Resultantly, I order this Writ Petition, recording the repeated undertakings made by the learned Additional Advocate General and the learned Government Pleader - as available in the afore extracted orders dated 27.01.2022, 28.03.2022, 03.08.2022 and 16.10.2024 - that no new illegal and unauthorised Flag Masts/Posts - either permanent or temporary - will be allowed to be installed on any public space, or "puramboke" area, or road margins in the State of Kerala, without having obtained specific permission for such from the Authorities concerned under the applicable laws.

18. I further record the undertaking of the learned



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Additional Advocate General that a Policy is being brought out to remove the illegal Flag Masts/Posts which have been installed in the past; and that this will be done at the earliest, but not later than six months from the date of receipt of a copy of this judgment.

19. Consequently, interim orders referred to in this judgment supra, and the directions contained in the order dated 27.01.2022 are confirmed; and it is ordered that no new permanent or temporary Flag Masts/Posts will be allowed to be erected by any person/entity in any public space of the State, or in any "puramboke" area; or in the road margins, without having obtained the requisite and necessary permissions/clearances/concessions from the competent Authorities/Officials under the various applicable statutes, including the Land Conservancy Act, the Panchayat Raj Act, the Municipal Corporations Act and such other.

20. I direct the 9th respondent - the Secretary, Local Self Government Institutions to issue a circular to all Local Self Government Institutions, as also to other entities who are concerned, informing them of the afore directions and ordering that they be complied with, implicitly. This shall be done within a period of two weeks from the date of receipt of a copy of this judgment.

Though this Writ Petition will stand disposed of on the basis of the afore directions, I order the 9th respondent to file an Action



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Taken Report, containing the steps pursued or completed, along with the Circular in terms of the above directions, within a period of one month from the date of receipt of the copy of this judgment. In such event, the Registry will list the same before me for apposite orders.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

MSA



APPENDIX OF WP(C) 1671/2021

PETITIONER EXHIBITS

- | | |
|----------------------|---|
| EXHIBIT P1 | TRUE COPY OF THE PROCEEDINGS OF REVENUE
DIVISIONAL OFFICER INLA NO.171/62 AS
REGARD 19 CENTS OF PROPERTY COMPRISED IN
OLD SURVEY NO.380/2-1 OF THONNALLOOR
VILLAGE. |
| EXHIBIT P2 | TRUE COPY OF THE PROCEEDINGS OF REVENUE
DIVISIONAL OFFICERIN LA NO.80/62 AS
REGARD 1 ACRE 7 1/2 CENTS OF PROPERTY
COMPRISED IN OLD SURVEY NO.380/1-1 OF
THONNALLOOR VILLAGE. |
| EXHIBIT P3 | TRUE COPY OF THE PROCEEDINGS OF REVENUE
DIVISIONAL OFFICER IN LA NO.182/62 AS
REGARD 55 CENTS OF PROPERTY COMPRISED IN
SURVEY NO.380/2-5 OF THONNALLOOR VILLAGE. |
| EXHIBIT P4 | TRUE COPY OF THE COMPLAINT DATED
25.11.2020 BY THE SOCIETY BEFORE REVENUE
DIVISIONAL OFFICER. |
| EXHIBIT P5 | PHOTOGRAPH OF ERECTION OF FLAG MAST IN
FRONT OF ROUND ABOUT OF LIGHT TOMB. |
| EXHIBIT P6 | TRUE COPY OF THE REPRESENTATION DATED
3.12.2020 BY PETITIONER BEFORE THE
RESPONDENT. |
| EXHIBIT P6(A) | TRUE COPY OF THE RECEIPT OF COMPLAINT
DATED 3.12.2020 BY PANDALAM POLICE
STATION. |
| EXHIBIT P7 | TRUE COPY OF COMPLAINT DATED 30.1.2021
SUBMITTED BY PETITIONER BEFORE STATION
HOUSE OFFICE, PANDALAM. |
| EXHIBIT P7(a) | TRUE COPY OF RECEIPT DATED 30.01.2021
ISSUED FOR EXHIBIT-P3 COMPLAINT. |