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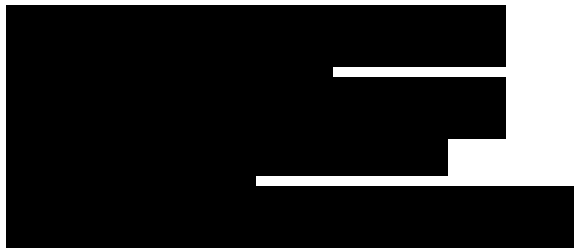
WP(C) NO. 33217 OF 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 23RD DAY OF OCTOBER 2026 / 1ST KARTHIKA, 1948WP(C) NO. 33217 OF 2026PETITIONER:

BY ADVS.

SRI.P.MARTIN JOSE

SRI.P.PRIJITH

SRI.THOMAS P.KURUVILLA

SHRI.AJAY BEN JOSE

SRI.MANJUNATH MENON

SHRI.HARIKRISHNAN S.

SMT.ANAVADYA SANIL KUMAR

SMT.ANJALI KRISHNA

SHRI.ADARSH V. MANOJ

SHRI.ABHINAV P. S.

SRI.S.SREEKUMAR (SR.)

RESPONDENTS:

- 1 THE REGISTRAR (DISTRICT JUDICIARY)
HIGH COURT OF KERALA,
ERNAKULAM,, PIN - 682031
- 2 THE INQUIRING AUTHORITY IN ENQUIRY NO.RDJ 25/24-I-1, THE HIGH COURT OF KERALA, ERNAKULAM,
COCHIN - REPRESENTED BY INQUIRY OFFICER, PIN -
682031



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3 THE HIGH COURT OF KERALA,
REPRESENTED BY THE REGISTRAR GENERAL, ERNAKULAM,
COCHIN - 682 031

ADV. SHAJNA M . SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24.09.2026 AND HAVING BEEN FINALLY HEARD AND RESERVED ON
09.10.2026, THE COURT ON 23.10.2026 DELIVERED THE FOLLOWING:



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‘C.R’**JUDGMENT**

The petitioner, a serving Additional District and Sessions Judge, is before this court contending that the issuance of a revised memo of charges during the course of disciplinary proceedings being conducted against him in terms of the provisions contained in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 (hereinafter referred to as the ‘1960 Rules’) cannot be sustained in law. He contends that, after examining some witnesses, including the complainant, the Inquiring Authority could not have issued a revised memo of charges to the petitioner. It is also contended that, in the facts and circumstances of this case, the request of the petitioner to engage a lawyer to represent him in the proceedings before the Inquiring Authority ought to have been permitted. It is stated that though the Inquiring Authority, initially, permitted the request of the petitioner to engage a lawyer, subsequently, and on an application by the Presenting Officer, the permission to engage a lawyer was withdrawn. The petitioner is thus before this court praying *inter alia* seeking to quash Ext.P13 (the order recalling the



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proceedings permitting the petitioner to engage a lawyer to represent him in the disciplinary proceedings), Ext.P15 order rejecting the application filed by the petitioner to engage a lawyer to represent him in the proceedings, Ext.P18 proceedings of the Inquiring Authority finding that the memo of charges had to be modified and Ext.P19 modified memo of charges issued to him. The petitioner also seeks a direction to the 2nd respondent (Inquiring Authority) to proceed with the enquiry on the basis of the memo of charges originally issued to the petitioner, in accordance with the law.

2. A reference to the allegations that resulted in the disciplinary proceedings being initiated against the petitioner and the response of the petitioner to those allegations are not germane to the determination of the questions arising for consideration in this case, as the questions raised are purely questions of law and the allegations raised against the petitioner and his response to those allegations are not relevant to answer those issues of law. Thus, there will be no reference to such facts in this judgment.

3. Sri. S. Sreekumar, the learned senior counsel appearing for the petitioner on the instructions of Adv. Martin Jose, *inter alia*, contends that the act of the Inquiring Authority in choosing to issue a



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modified/alterd memo of charges cannot be sustained in law. It is submitted that, though the provisions of Rule 15(3) of the 1960 Rules permit the Inquiring Authority to amend, alter or modify the charges framed during the course of an enquiry, such amendment/alteration or modification of the memo of charges could not have been made after several witnesses, including the complainant, had been examined in the disciplinary proceedings. It is submitted that, if the memo of charges is permitted to be modified or altered after several witnesses, including the complainant, had been examined, the petitioner will be put to serious prejudice, injury, and hardship. It is submitted that the memo of charges now issued to the petitioner in modification of the earlier memo of charges practically alters the entire case against the petitioner. It is submitted that the petitioner had preferred an application to engage a lawyer to represent him in the enquiry proceedings and the Inquiring Authority had permitted the same on 02.08.2025. It is submitted that, thereafter, the enquiry proceedings were advanced from 15.08.2025 to 06.08.2025 for consideration of an application preferred by the Presenting Officer to recall the proceedings dated 02.08.2025 permitting the petitioner to engage a lawyer and thereafter, by order marked as Ext.P15, the



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Inquiring Authority rejected the application for engaging a lawyer of the choice of the petitioner to represent him in the proceedings. It is submitted that, though the petitioner has requested and obtained the assistance of an officer in the cadre of District Judge to represent him in the proceedings, since the Inquiring Authority is a Judge of this court, the petitioner may be extended the assistance of a lawyer to represent him in the enquiry.

4. Smt. Shajna M., the learned counsel appearing for the respondents, would submit that Rule 15(3) of the 1960 Rules specifically authorises the Inquiring Authority to amend, alter or modify the charges framed against the Government servant at any stage during the course of the enquiry. It is submitted that there is no legal backing for the submission made before this court that such amendment ought not to be permitted after certain witnesses have been examined. It is submitted that the petitioner may file any application for recalling any witness who has already been examined, if he wishes to do so. It is submitted that absolutely no prejudice is caused to the petitioner on account of the issuance of the modified/altered memo of charges, and the petitioner will get full opportunity to defend the modified memo of charges. Insofar as the



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request for appointment of a lawyer to represent the petitioner in the enquiry proceedings is concerned, the learned counsel has referred to the provisions of Rule 15(6) of the 1960 Rules to contend that the right to engage a legal practitioner to represent the petitioner during the course of the enquiry is specifically prohibited.

5. Having heard the learned senior counsel for the petitioner and the learned counsel appearing for the respondents, I am of the view that the petitioner has not made out any case for interference with the proceedings of the Inquiring Authority, altering the memo of charges issued to the petitioner. Sub-Rule (3) of Rule 15 of the 1960 Rules specifically authorises the Inquiring Authority to amend, alter or modify the charges framed against the delinquent employee, and there is nothing in that Rule which would suggest that such amendment, alteration or modification to the memo of charges must be done at any particular stage of the enquiry. In the absence of any challenge to Sub-Rule (3) of Rule 15 of the 1960 Rules, I hold that the amendment, alteration or modification to the memo of charges cannot, in the facts of this case, be declared illegal in any manner.

6. The contention that the petitioner should have been



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permitted to engage a lawyer to represent him in the proceedings before the Inquiring Authority is also to be rejected. Initially, on account of the observations of the Supreme Court in ***Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni and Others, (1983) 1 SCC 124*** and ***Ramesh Chandra v. Delhi University, (2015) 5 SCC 549***, I was of the view that the request of the petitioner ought to be permitted. However, on a close reading of the *ratio* in ***Dinesh Chandra Pandey v. High Court of Madhya Pradesh and another, (2010) 11 SCC 500***, I am of the view that in the facts of this case, the contention of the petitioner must be rejected.

7. In ***Board of Trustees of the Port of Bombay*** (*supra*), it was held:-

“12. Are we charting a new course? The answer is obviously in the negative. In C.L. Subramaniam v. Collector of Customs, Cochin a government employee requested the Enquiry Officer to permit him to appear through a legal practitioner and even though a trained Public Prosecutor was appointed as Presenting Officer, this request was turned down. When the matter reached this Court, it was held that the enquiry was in breach of the principles of natural justice. The order of the domestic tribunal was sought to be sustained



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on the submission that sub-rule (5) of Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957 that “the Government servant may present his case with the assistance of any Government servant approved by the Disciplinary Authority but may not engage a legal practitioner for the purpose unless the person nominated by the Disciplinary Authority as aforesaid is a legal practitioner or unless the Disciplinary Authority, having regard to the circumstances of the case, so permits”. The submission was that it is a matter within the discretion of the Enquiry Officer whether to grant permission and more so because the relevant rule fetters the claim to appear through a legal practitioner. Negating this contention, this Court held that the fact that the case against the appellant was being handled by a trained prosecutor was by itself a good ground for allowing the appellant to engage a legal practitioner to defend him lest the scales should be weighted against him. This conclusion was recorded after reference to the earlier decisions in Brooke Bond India (Pvt) Ltd. v. Subba Raman(S.) and Dunlop Rubber Co. v. Workmen. Reference was made to Pett case, referred to earlier, but it is observed that this case has not commended itself to this Court. The earlier cases of this Court were distinguished. In our view we have reached a stage in our onward march to fair play in action that where in an enquiry before a domestic tribunal the delinquent officer is pitted against a legally trained mind, if he seeks permission to appear through a legal practitioner the refusal to grant this request would amount to denial of a



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reasonable request to defend himself and the essential principles of natural justice would be violated. This view has been taken by a learned Single Judge and while dismissing the appeal in limine approved by the Division Bench of the High Court commends to us. Therefore, this appeal is liable to be dismissed.”

In **Ramesh Chandra** (*supra*) it was held:-

“70. In view of the law laid down by this Court, we are of the view that if any person who is or was a legal practitioner, including a retired Hon'ble Judge is appointed as an enquiry officer in an inquiry initiated against an employee, the denial of assistance of a legal practitioner to the charged employee would be unfair.”

The above observation in **Ramesh Chandra** (*supra*) is, no doubt, an indication that where the Inquiring Authority is a legally trained mind or a Judge, the denial of legal assistance to the charged employee would be unfair.

8. In the facts of the present case, there is no dearth of legally trained minds in the enquiry in question. The Inquiring Authority is a Judge of this court. The Presenting Officer is an officer in the rank of District Judge. The delinquent employee is an officer in the rank of Additional District Judge. The delinquent officer has chosen



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another officer in the rank of District Judge to represent him in the proceedings. The facts in ***Dinesh Chandra Pandey (supra)***, to the extent that it concerns the right of representation through a legal practitioner in disciplinary proceedings, are almost identical. In that case, the Supreme Court was considering a challenge to disciplinary proceedings initiated against a Civil Judge in the Madhya Pradesh Judicial Service. One of the contentions taken as a ground to challenge the disciplinary proceedings was that the employee in that case had requested the assistance of a legal practitioner to represent him during the course of the enquiry, and this request was unfairly denied to him. Rule 14(8) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, which were applicable in that case, is for all intents and purposes *in pari materia* with the provisions of Rule 15(6) of the 1960 Rules. Rule 14(8) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 (as extracted in the judgment of the Supreme Court) reads thus:-

“The Government servant may take the assistance of any other Government servant to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the presenting officer appointed by the disciplinary



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authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits.”

While considering the issue in ***Dinesh Chandra Pandey*** (*supra*), the Supreme Court concluded that the Presenting Officer and the delinquent employee had similar qualifications, professionally or otherwise. It also held that an Additional District Judge, as the Presenting Officer, could not under any circumstances be termed a 'Legal Practitioner'; therefore, the delinquent employee in that case did not have the right to engage a legal practitioner/Advocate to defend him in the departmental proceedings. The relevant findings of the Supreme Court read thus:-

“14. The bare reading of this Rule shows that the government servant may take the assistance of any other government servant to represent his case but may not engage a legal practitioner for the purpose unless the presenting officer appointed by the authority is a “legal practitioner” or the disciplinary authority, having regard to the circumstances of the case, so permits. The expression “may” cannot be read as “shall”. The normal rule is that a delinquent officer would be entitled to engage another officer to present his case. But if the presenting officer is a “legal practitioner”, he may normally be permitted to engage a legal practitioner. The



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third category is where the disciplinary authority having regard to the circumstances of the case so permits. It is, therefore, not absolutely mandatory that the disciplinary authority should permit the engagement of a legal practitioner irrespective of the facts and circumstances of the case. There is some element of discretion vested with the authority which, of course, has to be exercised properly and in accordance with the settled principles of service jurisprudence.

15.

16. In the light of these principles, we are of the considered view that the expression “may”, used in Rule 14(8) of the 1966 Rules would have to be construed as directory and not absolutely mandatory with reference to the facts and circumstances of a given case. Of course, it would be desirable that wherever the presenting officer is a legal practitioner, the delinquent officer should be given the option and may be permitted to engage a legal practitioner if he so opts. But this Rule is hardly of any assistance and help to the appellant in the present case. The presenting officer was an Additional District Judge. He was possessed of similar qualification, professionally or otherwise, as was the appellant himself. The appellant could have asked for permission to engage and take assistance of any other judicial officer of that rank or of any rank that he wanted which request ought to have been considered by the disciplinary authority. It will be entirely uncalled for that an Additional Judge should be termed as a legal practitioner



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and, therefore, vesting in the appellant a right to engage a legal practitioner or an advocate for defending him in the departmental proceedings. It will be rather appropriate to apply the principles of contextual interpretation in the facts and circumstances of the case.

17.

18. The learned counsel for the appellant referred to P. Ramanatha Aiyar's Law Lexicon to emphasise that the expression "legal practitioner" appearing in Rule 14(8) would cover even a judicial officer. He relied upon the following explanations given to this expression:

"Legal practitioner.—'Legal practitioner' defined (See also advocate of a High Court; barrister; Government Pleader; pleader; Public Prosecutor; recognised agent) Act 18, 1879, Section 3; Act 18, 1881, Section 4(2); Act 16, 1887, Section 4(16); Act 17, 1889, Section 3(13); Act 23, 1923, Section 2; Act 21, 1926, Section 2.

'Legal practitioner' means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue agent. Act 18 of 1879 (Legal Practitioners), Section 3."

The abovereferred explanations clearly show that a Judge in service cannot be termed as a legal practitioner, as it will mean and include only an advocate or a vakil of the court practicing in a court, may even be a barrister, special pleader, solicitors depending on the facts of a given case.

19. Rule 2(e) of the Central Administrative Rules, 1987 also defines the words "legal practitioner". However, it, in turn, requires that this expression shall have the same meaning as



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is assigned to it under the Advocates Act, 1961. In that Act the words “legal practitioner” has been defined under Section 2(1)(i) to mean an advocate or vakil of any High Court, a pleader, mukhtar or a revenue agent. In other words, this is an expression of definite connotation and cannot be granted an extended or inclusive meaning, so as to include what is not specifically covered. A Judge may be a law graduate holding a Bachelor Degree in Law from any university established by law in India but this by itself would not render him as a “legal practitioner”. On the contrary, there is a definite restriction upon the Judge from practising law. Such an implied inclusion, as argued by the appellant, would not only lead to absurdity but would even offend the laws in force in India.

20. John Indermaur, Principles of the Common Law 169 (Edmund H. Bennett Ed., 1st Am.Edn. 1878) explains the term as follows:

“Legal practitioners may be either barristers, special pleaders not at the Bar, certified conveyancers, or solicitors. The three latter may recover their fees, but the first may not, their acting being deemed of a voluntary nature, and their fees merely in the light of honorary payments; and it follows from this, that no action lies against them for negligence or unskilfulness.”

21. Thus, the expression “legal practitioner” is a well-defined and explained term. It, by any stretch of imagination, cannot include a serving Judge who might have been appointed as a presenting officer in the departmental proceedings. Besides



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this legal aspect of the matter, even on the principle of fairness we do not think that the order has caused any prejudice to the appellant. The appellant could have asked for appointment of any colleague whose assistance he wanted to take and who would have been as well qualified and experienced as the presenting officer. The request of the appellant has been rightly rejected by the disciplinary authority. Furthermore, the application was made on 7-12-1988 itself and thereafter the appellant took no steps whatsoever to challenge the order of the disciplinary authority declining assistance of an advocate. On the contrary, he participated without any further protest in the entire departmental enquiry and raised no objections.

22. The enquiry officer conducted the proceedings in a just, fair manner and in accordance with rules. In fact, there is no challenge to that aspect of the matter. In the application, the appellant had stated "that the complainant neither has necessary experience nor the required skill to handle his defence in such circumstances". This statement ex facie is not correct. The appellant must have dealt with a variety of cases during his tenure as a Judge. He was fully capable of defending himself in the departmental enquiry. In the alternative he could easily ask for assistance of any senior colleague from the service if he was under pressure of any kind that the presenting officer was senior to him and belonged to the Higher Judicial Service. He did not exercise this choice, at any stage, for reasons best known to him. However, he made an application praying for permission to



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engage an advocate and nothing else.

23. The charge against the appellant was not of a very complicated nature, which a person having qualification and experience of the appellant would not be able to defend. In these circumstances, we are of the considered view that no prejudice whatsoever has been caused to the interest of the delinquent officer. These are the rules primarily of procedure, an element of prejudice would be one of the necessary features, before departmental proceedings can be held to be vitiated on that ground.”

In the facts of the present case, the charges against the petitioner may be serious. However, they are not complicated in themselves. The petitioner, with the assistance of another officer in the cadre of District Judge, can very well defend those charges. Though the petitioner in this case has raised a challenge to the order of the Inquiring Authority denying him the right to engage a legal practitioner before the enquiry is concluded (unlike in the facts of the case considered by the Supreme Court in **Dinesh Chandra Pandey**), it must be noted that in the facts of the present case, the order of the Inquiring Authority rejecting the request of the petitioner for engaging a legal practitioner was passed on 17.11.2025 and the petitioner had taken part in the proceedings thereafter, after



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seeking the assistance of another judicial officer of his choice. Therefore, I find that the petitioner cannot insist that he must be permitted to engage a legal practitioner to defend him in the proceedings before the Inquiring Authority.

On account of the above findings, I find no reason to grant any of the reliefs sought. The writ petition fails, and it is accordingly dismissed. However, it is made clear that if the petitioner requires any further time to reply to the modified/alterd memo of charges, he may file an application before the Inquiring Authority for the same. Similarly, if the petitioner wishes to recall and examine any person who has already been examined, he may make a request for the same before the Inquiring Authority. I have no reason to believe that, if such requests are made, the same will be denied by the Inquiring Authority.

sd/-

GOPINATH P.**JUDGE**

acd



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APPENDIX OF WP(C) NO. 33217 OF 2026

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF SUGGESTIONS IN WRITING DATED 09-12-2024 SUBMITTED BY MR.AKSHY, A CLERICKAL STAFF ATTACHED TO THE COURT
Exhibit P2	TRUE COPY OF REPORT DATED 17-12-2024 SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT AND SESSIONS JUDGE, KOZHIKODE
Exhibit P3	TRUE COPY OF NOTICE BEARING NO.RDJ 25/24-I-1 DATED 07-01-2025 RECEIVED BY THE PETITIONER FROM THE 1ST RESPONDENT
Exhibit P4	TRUE COPY OF EXPLANATION DATED 14-01-2025 TO EXHIBIT.P3 NOTICE SUBMITTED BY THE PETITIONER
Exhibit P5	TRUE COPY OF SCREENSHOT OF THE DETAILS OF THE CALL RECEIVED BY THE PETITIONER IN HIS MOBILE NUMBER ON 21-12-2024
Exhibit P6	TRUE COPY OF MEMO OF CHARGES ON 11-04-2025 ISSUED BY THE 1ST RESPONDENT TO PETITIONER
Exhibit P7	TRUE COPY OF REPORT DATED 23-12-2024 OF THE DISTRICT JUDGE, KOZHIKODE REFERRED TO IN EXHIBIT.P6 MEMO OF CHARGES
Exhibit P8	TRUE COPY OF REPORT DATED 24-12-2024 OF THE DISTRICT JUDGE, KOZHIKODE REFERRED TO IN EXHIBIT.P6 MEMO OF CHARGES
Exhibit P9	TRUE COPY OF DETAILED WRITTEN STATEMENT DATED 26-04-2025 SUBMITTED BY THE PETITIONER IN EXHIBIT.P6 MEMO OF CHARGES AND IMPUTATION OF ALLEGATIONS BEFORE THE 1ST RESPONDENT
Exhibit P10	TRUE COPY OF ADDITIONAL WRITTEN STATEMENT DATED 29-07-2025 SUBMITTED BY THE PETITIONER ON 02-08-2025 BEFORE THE 1ST RESPONDENT
Exhibit P11	TRUE COPY OF APPLICATION DATED 04-08-2025 SUBMITTED BY THE PRESENTING OFFICER BEFORE THE ENQUIRING AUTHORITY
Exhibit P12	TRUE COPY OF COUNTER STATEMENT DATED 06-08-2025 TO EXHIBIT.P11 SUBMITTED BY THE PETITIONER BEFORE THE INQUIRING



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AUTHORITY

Exhibit P13	TRUE COPY OF ORDER BEARING NO.RDJ 25/24-I-1 DATED 10-10-2025 OF THE 2ND RESPONDENT INQUIRING AUTHORITY
Exhibit P14	TRUE COPY OF OBJECTION DATED 30-10-2025 FILED BY THE PRESENTING OFFICER TO THE APPLICATION FILED BY THE PETITIONER
Exhibit P15	TRUE COPY OF ORDER DATED 17-11-2025 OF THE 2ND RESPONDENT
Exhibit P16	TRUE COPY OF WRITTEN OBJECTION DATED 01-06-2026 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
Exhibit P17	TRUE COPY OF OBJECTION DATED 11-06-2026 TO EXHIBIT.P16 FILED BY THE PRESENTING OFFICER BEFORE THE 2ND RESPONDENT
Exhibit P18	TRUE COPY OF ORDER BEARING NO.RDJ 25/24-I-1 DATED 13-08-2026 OF THE 2ND RESPONDENT
Exhibit P19	TRUE COPY OF MEMO OF CHARGES HAVING NO.RDJ 25/24-I-1 DATED 14-09-2026 AND STATEMENT OF ALLEGATIONS ISSUED BY THE 1ST RESPONDENT
Exhibit P20	TRUE COPY OF PROCEEDING SHEET OF THE ENQUIRY