

# VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR  
&  
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

Monday, the 19<sup>th</sup> day of December 2022 / 28th Agrahayana, 1944  
WP(C) NO. 222 OF 2019(S)

## PETITIONER:

KERALA CHAMBER OF COMMERCE AND INDUSTRY,  
REPRESENTED BY ITS CHAIRMAN DR.BIJU RAMESH, CHAMBER CORNER,  
SHANMUGHAM ROAD, ERNAKULAM, KOCHI-682 031.

## RESPONDENTS:

- 1.STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 2.THE STATE POLICE CHIEF, POLICE HEADQUARTERS, VAZHUTHACAUD,  
THIRUVANANTHAPURAM-695014.
- 3.COMMUNIST PARTY OF INDIA(MARXIST),  
REPRESENTED BY ITS SECRETARY, A.K.G. CENTRE, PALAYAM,  
THIRUVANANTHAPURAM-695 034.
- 4.INDIAN NATIONAL CONGRESS, REPRESENTED BY ITS PRESIDENT,  
KERALA PRADESH CONGRESS COMMITTEE OFFICE, SASTHAMANGALAM,  
THIRUVANANTHAPURAM-695 010.
- 5.COMMUNIST PARTY OF INDIA, REPRESENTED BY ITS SECRETARY,  
M.N.SMARAKAM, MODEL SCHOOL JUNCTION, THYCAUD,  
THIRUVANANTHAPURAM -695 014.
- 6.BHARATHIYA JANATHA PARTY, REPRESENTED BY ITS STATE PRESIDENT,  
MARARJI BHAVAN, KUNNUKUZHY, THIRUVANANTHAPURAM-695037.
- 7.INDIAN UNION MUSLIM LEAGUE, REPRESENTED BY ITS STATE PRESIDENT,  
C.H. MUHAMMED KOYA HOUSE, KOZHIKODE-673 001

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8.KERALA CONGRESS (MANI), REPRESENTED BY ITS CHAIRMAN,  
STATE COMMITTEE OFFICE, NEAR FIRE STATION, KOTTAYAM-686 001.

ADDL. R9 TO R11 IMPEADED

9.ADV. DEAN KURIAKOSE, PRESIDENT, YOUTH CONGRESS,  
KERALA STATE UNIT, AGED 37, S/O. KURIAKOSE, ENANIKKAL VERDI,  
KULAPPURAM, PAINGOTTOOR P.O., ERNAKULAM-686 671.

10.M.C.KAMARUDEEN, UDF CHAIRMAN, KASARAGODE DIST.& PRESIDENT,  
IUML KASARAGOD DIST., S/O. O.MUHAMMED KUNHI,  
MOILAKKARILATH HOUSE, NEAR GRAMIN BANK, EDACHAKKAI P.O.,  
VIA PADANNA, KASARGOD.

11.A. GOVINDAN NAIR, UDF CONVENER,  
KASARAGODE DIST.& DCC SECRETARY, THANNITHODU,  
PERIYA POST, KASARAGOD.

ADDL. R9 TO R11 ARE SUO MOTU IMPEADED AS PER ORDER DATED 18/02/2019 IN WPC.

ADDL. R12 & R13 IMPEADED

12.POPULAR FRONT OF INDIA, REPRESENTED BY  
STATE GENERAL SECRETARY.

13.SRI.A. ABDUL SATHAR, STATE GENERAL SECRETARY,  
POPULAR FRONT OF INDIA, KERALA STATE COMMITTEE.

ADDL. R12 & R13 ARE SUO MOTU IMPEADED AS PER ORDER DATED 23/09/2022 IN WPC.222  
OF 2019

ADDL. R14 IMPEADED

14.KERALA STATE ROAD TRANSPORT CORPORATION LTD.,  
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,  
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM-695023

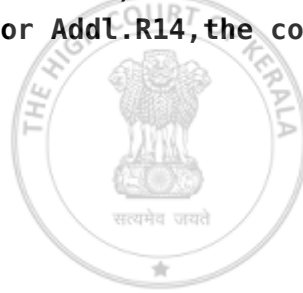
ADDL. R14 IS IMPEADED AS PER ORDER DATED 29/09/2022 IN IA 1/22 IN WPC.222 OF  
2019

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## VERDICTUM.IN

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction to respondents 1 and 2 to see that adequate measures are adopted to prohibit respondents 3 to 8 or any other organization calling hartal or strike in the State pending disposal of the Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 08/12/2022 and upon hearing the arguments of SRI.K.P. SATHEESAN, SENIOR ADVOCATE ALONG WITH M/S K. SUDHINKUMAR, MUHAMMED IBRAHIM ABDULSAMAD, P. MOHANDAS (EKM), SABU PULLAN, S.K. ADHITHYAN & S. VIBHEESHANAN, Advocates for the petitioner, SRI. T.A.SHAJI, DIRECTOR GENERAL OF PROSECUTION, SRI.N. MANOJ KUMAR, STATE ATTORNEY, SRI.P. NARAYANAN, SENIOR GOVERNMENT PLEADER & SRI. S.SAJJU, SENIOR PUBLIC PROSECUTOR for R1 & R2, M/S.T.ASAFALI, LALIZA.T.Y. & RASHEED C.NOORANAD, Advocates for R4, SRI.M. MUHAMMED SHAFI & SRI.T. RASINI, Advocates for R7, SRI.SUJITH MATHEW JOSE & SRI.CYRIAC KURIAN, Advocates for R8, SRI.K.P. DANDAPANI (SENIOR ADVOCATE) for Addl. R9, M/S. P.A. MOHAMMED SHAH, V.A. HARITHA, SIDHARTH B.PRASAD & ASWIN KUMAR M.J. Advocate for Addl. R10, SRI.TONY GEORGE KANNANTHANAM, Advocate for Addl. R11 and of M/S.DEEPUN THANKAN, UMMUL FIDA, LAKSHMI SREEDHAR & SHAHNAS K.P. for Addl.R14, the court passed the following:



**A.K.JAYASANKARAN NAMBIAR  
&  
MOHAMMED NIAS C.P., JJ**

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**W.P. (C) No. 222 of 2019, W.P (C) No. 244 of 2019  
&  
Con. Case (C) 1766 of 2022 in W.P.(C) No. 222 of 2019**  
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Dated this the 19<sup>th</sup> day of December, 2022

**ORDER**

**A.K.Jayasankaran Nambiar, J.**

Despite the peremptory directions issued by us in the past, directing the State Government through the Additional Chief Secretary to take immediate steps, inter alia, by invoking the provisions of the Revenue Recovery Act to proceed against the assets/properties of the additional 12<sup>th</sup> respondent Organization as well as the personal assets of its office bearers including the Secretary, the additional 13<sup>th</sup> respondent in these writ petitions, for realisation of the amount of Rs. 5.20 crores, we find that nothing substantial has been done by the State Government towards complying with the said directions.

2. As a matter of fact, on the last occasion when these cases came up before us on 8-11-2022 the assurance of the Government ,

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was that proper directions had been given to the Revenue Department for initiating recovery proceedings after receipt of the assessment of properties/assets of respondent Nos.12 and 13. We were also assured that recovery action would be proceeded and taken to fruition within a month from that date. It is thereafter, and despite the further assurance that a Claims Commissioner had already been appointed through the Government Order dated 1-11-2022, and that the District Collectors concerned of the various districts in the State had been duly instructed to provide assistance to the Claims Commissioner, that an affidavit has today been filed before us by the State Government through the Additional Secretary to the Government, Home Department which reads as follows:-

“The Revenue Department has already issued directions to all 14 district collectors to identify the movable and immovable properties of the 12<sup>th</sup> and 13<sup>th</sup> respondents urgently. Further, a requisition authority has to be appointed, and the requisition authority thus appointed has to submit requisitions to the District Collectors. On the basis of the requisitions the District Collectors have to serve notice to the arrear parties through the Revenue Officials as per Kerala Revenue Recovery Act. 7 days prior notice has to be given to the defaulting party for payment of the arrears under Section 7 & 34 of the Revenue Recovery Act and if the dues are not paid within 7 days after serving the notices, then a forfeiture notice under Section 36 has to be issued to the defaulting parties. If the defaulting

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party does not pay the amount, a notice of auction should be given as per Section 49 (2) which should be duly served and advertised at least 30 days before the date of auction. Therefore, the Revenue Department has informed that it is unfeasible to complete the above procedure within a short period of one month.

7. Even though direction was given to the District Collector, Ernakulam to ensure Secretarial assistance, including office space/infrastructure to the claims Commissioner, the District Collector has now informed their inability to give assistance in Collectorate due to insufficiency of staff and lack of office space for accommodating the Claims Commissioner. Alternate arrangements are being taken to provide support for the same, in consultation with the District Collector, Ernakulam.”

3. We find the attitude of the State Government, as discernible from the averments in the paragraphs of the affidavit extracted above, to be wholly unacceptable, and *per se* disrespectful to the directions of this Court. The State Government cannot adopt such a callous attitude when called upon to implement the directions of this Court especially in matters of public interest and involving destruction of public property. We, therefore, direct the Additional Chief Secretary, Home Department to be personally present before this Court on Friday, the 23<sup>rd</sup> day of December 2022, along with an affidavit sworn to by him detailing the

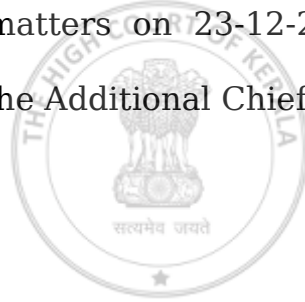
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time frame within which the directions issued by us towards recovery of the amount of Rs. 5.20 crores will be completed.

4. We make it clear that under no circumstances will the time granted for compliance with the earlier directions be extended beyond 31.01 2023.

Post the above matters on 23-12-2022 for the affidavit and personal appearance of the Additional Chief Secretary.



**Sd/-  
A.K.JAYASANKARAN NAMBIAR  
JUDGE**

**Sd/-  
MOHAMMED NIAS C.P.  
JUDGE**

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