



2026:KER:16591

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

FRIDAY, THE 27TH DAY OF FEBRUARY 2026/8TH PHALGUNA, 1947

WP(C) NO. 16469 OF 2025

PETITIONER:

ADV. P. T. JOSEPH,
AGED 53 YEARS,
S/O P. J. THOMAS,
PUTHENPURACKAL HOUSE,
THATHAMPALLY P. O.,
ALAPPUZHA,
PIN-688 013.

BY ADVS.
SHRI. B. PRAMOD
SHRI. ATHUL M. V.
SHRI. AJAY S. KOSHY

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY,
HOME DEPARTMENT,
THIRUVANANTHAPURAM,
PIN - 695028
- 2 THE DISTRICT COLLECTOR,
CIVIL STATION/COLLECTORATE,
ALAPPUZHA, PIN - 688001
- 3 THE SECRETARY,
LAW DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.



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W.P.(C) Nos.16469 & 16901/2025

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4 LEGITHA D'CRUZ P.B.,
AGED 50 YEARS,
W/O. BENSON J. LAWRENCE,
KOILPARAMBIL, KUTHIRAPANTHY,
THIRUVAMPADY P.O.,
ALAPPUZHA DISTRICT - 688 002.

BY ADVS.
SRI.T.B.HOOD
SMT.M.ISHA
SRI.GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTIONS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 12.01.2026, ALONG WITH WP(C).16901/2025, THE
COURT ON 27.02.2026 DELIVERED THE FOLLOWING:



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W.P.(C) Nos.16469 & 16901/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 27TH DAY OF FEBRUARY 2026/8TH PHALGUNA, 1947

WP(C) NO. 16901 OF 2025

PETITIONER:

ADV.D.JAYESH,
AGED 50 YEARS,
S/O K. DEVADAS,
MANEESHA BHAVAN AVALUKKUNNU P.O,
ALAPPUZHA, PIN - 688006

BY ADV.
SRI.L.RAM MOHAN

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY,
HOME DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR,
CIVIL STATION/COLLECTORATE,
ALAPPUZHA, PIN - 688001
- 3 THE SECRETARY,
LAW DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM
- 4 LEGITHA D'CRUZ P.B.,
AGED 50 YEARS,
W/O. BENSON J. LAWRENCE,



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KOILPARAMBIL, KUTHIRAPANTHY,
THIRUVAMPADY P.O.,
ALAPPUZHA DISTRICT - 688002.

BY ADVS.
SRI.T.B.HOOD
SMT.M.ISHA
SRI.GRACIOUS KURIAKOSE, ADDL.DIRECTOR GENERAL OF
PROSECUTION

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 12.01.2026, ALONG WITH WP(C).16469/2025, THE
COURT ON 27.02.2026 DELIVERED THE FOLLOWING:



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CR

N. NAGARESH, J.

.....
W.P.(C) Nos.16469 and 16901 of 2025
.....

Dated this the 27th day of February, 2026

J U D G M E N T

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Both these writ petitions have been filed by practicing Lawyers challenging the selection for appointment to the post of Government Pleader / Public Prosecutor.

2. In W.P.(C) No.16469 of 2025, the petitioner is a Lawyer practicing in different Courts in Alappuzha District. The petitioner has 25 years of practice. Ext.P2 notice dated 18.12.2024 was issued inviting application for the post of Government Pleader / Public Prosecutor. As the petitioner



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satisfies the eligibility conditions prescribed in the notice, he submitted Ext.P3 application.

3. The petitioner states that the District Judge did not offer any specific comment about five Lawyers who were included in the list forwarded by the District Collector. The District Judge made only a general observations that those Lawyers have no expected experience in conducting trial of Sessions Cases including murder cases and criminal appeals. Finally, the 4th respondent was appointed as Government Pleader / Public Prosecutor.

4. According to the petitioner, the selection and appointment of the 4th respondent violates Rule 7 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978. The selection also violates the law laid down by this Court in the judgments in ***Sanjeesh S.S. v. State of Kerala*** [2023 KHC 582], ***Aju Mathew and others v. State of Kerala*** [2018 (5) KHC 770]



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and ***Vinod E.R. v. State of Kerala and others [2016 (4) KHC 737]***.

5. The petitioner in W.P.(C) No.16901 of 2025 is an Advocate enrolled with the Bar Council of Kerala in the year 2001. The additional 4th respondent was appointed as Government Pleader / Public Prosecutor. The petitioner would urge that the additional 4th respondent does not have the knowledge and experience in the conduct of Sessions Cases or criminal appeals.

6. The petitioner would argue that he satisfied the eligibility condition prescribed in Section 18 of BNSS. However, since the notice was meant for filling up the post of Government Pleader alone, he did not respond to the same on a belief that there would be separate recruitment drive for the post of Public Prosecutor. The additional 4th respondent was appointed as Public Prosecutor as well, which is impermissible.



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7. The 3rd respondent-District Collector filed counter affidavit in W.P.(C) No.16469 of 2025. The 3rd respondent stated that the newly appointed District Government Pleader and Public Prosecutor, Aluva is from among the three Advocates recommended by the District and Sessions Judge, Alappuzha.

8. The 3rd respondent submitted that the District Collector, while preparing the list of Advocates for being appointed as District Government Pleader and Public Prosecutor had included the name of the petitioner in the list of Advocates and the same was forwarded to the District and Sessions Judge for consultation. The District Judge recommended the names of only three Advocates out of eight. The name of the petitioner in W.P.(C) No.16469 of 2025 was not recommended by the District Judge. The 3rd respondent further submitted that effective consultations with the District and Sessions Judge were made before effecting appointment.



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9. I have heard the learned counsel for the petitioners in both the writ petitions, the learned Additional Director General of Prosecution representing the Government and the learned counsel appearing for the contesting respondent.

10. Selection for appointment to the post of Government Pleader / Public Prosecutor is dealt with in the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978. Rules 7 and 8 of the Rules, 1978 read as follows:

“7. Set up in District Court Centres, Additional District Court Centres and Sub Court Centres-

(1) There shall be one District Government Pleader and Public Prosecutor at each District Court Centre. There may also be such number of Additional Government Pleaders and Additional Public Prosecutors as may be considered necessary by the Government at each District Court Centre, Additional District Court Centre and Sub Court Centre.

(2) Notwithstanding anything contained in sub-rule (1) the Government may, if deemed necessary at any time separate the offices of



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Government Pleaders and Public Prosecutors at any Court and make separate appointments accordingly.

8. Method of appointment of Government Law Officers at District Court, Additional District Court and Sub Court Centres-

(1) Government Law Officer at a District Court Centre, Additional District Court Centre or Sub Court Centre shall be appointed by the Government from a panel of names of Advocates furnished by the District Collector concerned:

Provided that the Government shall try to give adequate representation to members of Scheduled Caste/Scheduled Tribe Communities in the matter of appointment of Government Law Officers.

(2) For preparing the panel, the District Collector shall follow the following procedure, namely --

(a) A list of advocates from the roll of advocates of the Bar Council of Kerala having at least seven years of practice in the Bar and who having regard to their qualification, experience, integrity, reliability, reputation and character and antecedents, are, in the opinion of the District Collector, fit to be appointed as a Government Law Officer shall be prepared and sent to the concerned District and Sessions Judge for consultation. The District and Sessions Judge shall return the list with his remarks within ten clear days from the date of receipt of the same by him:



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Provided that in preparing the list it shall not be necessary to advertise the vacancies or invite applications for the appointment.

(b) After the expiry of the lime limit mentioned in Clause (a) for return of the list from the District and Sessions Judge the District Collector shall prepare the panel of advocates based on the list forwarded by him to the District and Sessions Judge under the said clause.

(c) In preparing the panel, the District Collector shall not include the name of any Advocate whose name was not included in the list prepared by him under clause (a) or whose name was specifically disapproved by the District and Sessions Judge on specific grounds.

(d) The character and antecedents of all persons included in the panel shall be got verified through the concerned Superintendent of Police:

Provided that if members of the Scheduled Caste or Scheduled Tribe Communities are qualified to be appointed as Law Officer, the panel shall contain the name of one member from such community.”

Rule 7(2) would indicate that the Government is empowered to separate the offices of Government Pleaders and Public Prosecutors at any Court and make separate appointments accordingly.



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11. Section 18 of the Bharatiya Nagarik

Suraksha Sanhita, 2023 reads as follows:

“18. Public Prosecutors. -

(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or the State Government, as the case may be:

Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district:

Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a



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panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under subsection (4).

(6) Notwithstanding anything in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre:

Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment, that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

Explanation—For the purposes of this sub-section,-

(a) "regular Cadre of Prosecuting Officers" means Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, Special



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Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor under this Sanhita.

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor:

Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as an advocate, or has rendered (whether before or after the commencement of this Sanhita) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.”

12. The question of appointment of Public Prosecutors and the primacy to be given to the opinion of the District Judge in the consultative process contemplated under



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Section 18 of the BNSS, came up for consideration before a Division Bench of this Court in ***Suo motu revision petition initiated by the High Court v. State of Kerala [2025 KLT OnLine 1731]***. This Court declared that the State Government is under mandate to give primacy to the opinion of the District Judge in the consultative process contemplated under Section 18 of the BNSS while making appointments to the post of Public Prosecutor under Section 18(3) of the BNSS.

13. The notice dated 18.12.2024 for appointment as District Government Pleader, Alappuzha is seen published under the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978. The Rules, 1978 are framed by the State of Kerala under the Kerala Public Services Act, 1968 to govern the appointment and conditions of service of Government Officers. The Rules, 1978 therefore will apply only to the Government Law Officers who hold a public post in public service of the State.



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14. The question whether the Rules, 1978 framed in relation to “public post” under the Act, 1968 are applicable to the Public Prosecutors to be appointed under the BNSS was considered by the Division Bench. The Division Bench held that even assuming that the Rules, 1978 are traceable to Article 309 of the Constitution of India, that would pertain only to public service. This Court held that since Public Prosecutors do not hold public post, the Rules, 1978 in so far as they relate to Public Prosecutors would have no application to them.

15. If that be so, appointment of Public Prosecutors will be governed by Section 24 of the Code of Criminal Procedure, and now by Section 18 of the BNSS. Appointments of Public Prosecutors therefore has to be made following the consultative process prescribed by Section 18. The age old tradition on the part of the State in appointing the District Government Counsel on the basis of the



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recommendations of the District Collector in consultation with the District Judge is based on certain principles. The District Judge is supposed to know the merit, competency and capability of the concerned Lawyers for discharging their duties. The District Magistrate is supposed to know their conduct outside the court vis-a-vis the victims of offence, public officers, witnesses, etc. The District Magistrate is also supposed to know about the conduct of the Government Counsel as also their integrity.

16. In W.P.(C) No.16469 of 2025, the petitioner is challenging the legality of the consultative process. The petitioner argues that the District Judge weeded out candidates including the petitioner from the list and sent the names of only three Lawyers to the District Collector and the District Collector, in turn, sent the panel of those three Lawyers to the State Government for making appointment. The petitioner would allege that the District Judge has only



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made general observation in respect of those Lawyers who are excluded.

17. The pleadings in the writ petitions would indicate that the District Magistrate had forwarded the list of candidates which contained the names of eight Advocates. The District Judge called for report/opinion from Sessions Judges of the District with respect to the eight Advocates regarding their experience in the respective field of law, approach, performance and behaviour in the Court in conducting the cases. The Principal District and Sessions Judge scrutinised the credentials of each Advocate and interacted with them separately. It is after analysing all the materials available, including the reports of the Sessions Judges and after interaction with each candidates, that the Principal District and Sessions Judge sent the names of three Advocates included in the panel. While sending the panel to the District Collector, the District and Sessions Judge has



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categorically stated that the remaining five candidates have no expected experience in conducting trial of serious Sessions Cases including murder cases and appeal matters to appoint them as District Government Pleader and Public Prosecutor. Therefore, it is evident that the District and Sessions Judge has applied his mind with reference to relevant materials gathered, during the consultative process. I therefore do not find any illegality or irregularity in the consultative process.

18. At the same time, the petitioner in W.P.(C) No.16901 of 2025, who has not applied for the post of Government Pleader / Public Prosecutor, points out that the public notice dated 18.12.2024 of the District Collector was for appointment to the post of Government Pleader alone. As the petitioner had more experience in criminal law practice, the petitioner was expecting a separate notice for appointment as Public Prosecutor. After inviting application for appointment as District Government Pleader, respondents 1 to 3 have



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made appointment to the post of District Government Pleader and Public Prosecutor, which is illegal.

19. Respondents 1 to 3 would meet the said argument stating that the post of Government Pleader and Public Prosecutor is one integrated post and in the notice dated 18.12.2024, the post of District Government Pleader and Public Prosecutor was referred to. Therefore, there was no lack of clarity or confusion in the notification dated 18.12.2024. The argument of the petitioner that he did not apply for the post as the selection was purportedly for appointment of District Government Pleader alone, is unsustainable.

20. In this regard, one should keep in mind that Rule 7 of the Rules, 1978 enables the Government to separate the offices of Government Pleaders and Public Prosecutors at any Court and make separate appointments accordingly. Therefore, if the public notice is for appointment



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to the post of District Government Pleader, one will be justified in assuming that the Government will come up with another notification for appointment to the post of Public Prosecutor.

21. The notice dated 18.12.2024 was issued inviting application for appointment of District Government Pleaders. The notice indicated that applications are invited as stipulated under Rule 8 of the Rules, 1978. If the notice is for appointment as District Government Pleader alone, the panel of Advocates could not have been prepared for appointment to the post of Public Prosecutor.

22. True, there was a reference to the post of Public Prosecutor in the “subject” part of the notice. But, in the notice, only the post of District Government Pleader was mentioned. A reading of the notice does not indicate that the appointment was intended to the post of District Government Pleader and Public Prosecutor. Therefore, the notice cannot be treated as one calling applications for the post of Public



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Prosecutor.

23. The omission in the notice dated 18.12.2024 cannot be condoned because persons like the petitioners might have refrained from applying for the post on the belief that the notice was only for appointment to the post of District Government Pleader. Therefore, even though there is due consultative process in selection, eligible Lawyers have been excluded from consideration as they could not apply for appointment as District Government Pleader and Public Prosecutor.

24. In the circumstances, the entire selection process and appointment to the post of District Government Pleader and Public Prosecutor, Alappuzha pursuant to the notification dated 18.12.2024 is set aside. The respondents are directed to issue fresh notice/notification for appointment to the post of District Government Pleader and Public Prosecutor and make appointment after considering all eligible



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candidates who apply for the post. In the facts of the case, it is directed that the present incumbent appointed pursuant to the notice dated 18.12.2024 shall be permitted to continue as District Government Pleader and Public Prosecutor till a fresh selection and appointment is made.

The writ petitions are disposed of as above.

Sd/-
N. NAGARESH, JUDGE

aks/24.02.2026



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APPENDIX OF WP(C) NO. 16469 OF 2025

PETITIONER'S EXHIBITS:

- Exhibit P-1 A TRUE COPY OF THE CERTIFICATE OF PRACTICE DATED 26.12.2022 ISSUED TO THE PETITIONER FROM THE BAR COUNCIL OF KERALA
- Exhibit P-2 A TRUE COPY OF THE NOTICE DATED 18.12.2024 ISSUED BY THE 2ND RESPONDENT DISTRICT COLLECTOR
- Exhibit P-3 A TRUE COPY OF THE APPLICATION DATED 08.01.2025 ALONG WITH BIO-DATA SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DISTRICT COLLECTOR

RESPONDENTS' EXHIBITS:

- Exhibit R3(a) Copy of the G.O.(Ms) No. 49/2025/Law dated 12.06.2025
- Exhibit R3(b) Copy of the Letter No.DCALP/9911/2024-SC3 from District Collector, Alappuzha dated 25.03.2025 along with panel
- Exhibit R3(c) Copy of the panel prepared by the Principal District and Sessions Judge, dated 20.03.2025

PETITIONER'S EXHIBITS:

- Exhibit P-4 A TRUE COPY OF THE LETTER DATED 20.03.2025 ISSUED BY THE DISTRICT JUDGE, ALAPPUZHA TO THE DISTRICT COLLECTOR, ALAPPUZHA ALONG WITH A PENAL OF THREE LAWYERS INCLUDING THE ADDL. 4TH RESPONDENT
- Exhibit P-5 A TRUE COPY OF THE LETTER DATED 25.03.2025 ISSUED BY THE TO THE DISTRICT COLLECTOR, ALAPPUZHA TO THE LAW SECRETARY



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- Exhibit P-6 A TRUE COPY OF G.O (MS) NO. 49/2025 /LAW DATED 12.06.2025 ISSUED BY THE ADDL. 3RD RESPONDENT
- Exhibit P-7 A TRUE COPY OF THE PRINTOUT OF THE WHATSAPP MESSAGE CONTAINING THE DECISIONS TAKEN BY THE DISTRICT COMMITTEE OF AILU CONVENED ON 04.07.2025 WHICH WAS FORWARDED TO ME
- Exhibit P-8 A TRUE COPY OF THE PRINTOUT OF THE WHATSAPP MESSAGE CONTAINING THE DECISIONS TAKEN BY THE DISTRICT COMMITTEE OF AILU CONVENED ON 18.09.2025 AT HARIPPAD WHICH WAS FORWARDED TO ME.



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APPENDIX OF WP(C) NO. 16901 OF 2025

PETITIONER'S EXHIBITS:

- Exhibit P-1 A TRUE COPY OF THE CERTIFICATE OF ENROLLMENT DATED 26.12.2022 ISSUED TO THE PETITIONER FROM THE BAR COUNCIL OF KERALA
- Exhibit P-2 A TRUE COPY OF THE NOTICE DATED 18.12.2024 ISSUED BY THE 2ND RESPONDENT DISTRICT COLLECTOR
- Exhibit P-3 A TRUE COPY OF THE LETTER DATED 20.03.2025 ISSUED BY THE DISTRICT JUDGE, ALAPPUZHA TO THE DISTRICT COLLECTOR, ALAPPUZHA ALONG WITH A PENAL OF THREE LAWYERS INCLUDING THE ADDL. 4TH RESPONDENT
- Exhibit P-4 A TRUE COPY OF THE LETTER DATED 25.03.2025 ISSUED BY THE TO THE DISTRICT COLLECTOR, ALAPPUZHA TO THE LAW SECRETARY
- Exhibit P-5 A TRUE COPY OF G.O (MS) NO. 49/2025 /LAW DATED 12.06.2025 ISSUED BY THE ADDL. 3RD RESPONDENT
- Exhibit P-6 A TRUE COPY OF THE NOTIFICATION DATED 01.08.2025 ISSUED BY THE 1ST RESPONDENT.