



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945

WP(C) NO. 28947 OF 2022

PETITIONERS:

- 1 RAHUL SUBASH,
AGED 24 YEARS,
S/O. SUBASH BABU,
MANYALSSERIL HOUSE,
NEDUMKANDAM P.O,
IDUKKI, PIN - 685553
- 2 KIRAN,
AGED 24 YEARS,
S/O KRISHNANKUTTY,
SHEERAKUZHI VEEDU,
PAZHAYANNUR P.O,
THRISSUR-680587. मेव जयते
- 3 AKHILESH V.R. ,
AGED 24 YEARS,
SON OF RAMACHANDRAN V.K. ,
VADAKKUMURI HOUSE,
HARISREE NAGAR,
PUTTARAKKARA, AYYANTHOLE P.O. ,
THRISSUR, PIN - 680003
- 4 SHYAM KUMAR R. ,
AGED 24 YEARS,
SON OF RAMAN.G. ,
GOKULAM HOUSE,
NEAR MANATHITTA TEMPLE,
AYYANTHOLE P.O. ,
THRISSUR, PIN - 680003
- 5 GOPI DAS T. ,
AGED 23 YEARS,
SON OF SHIVADAS.P,
SARASWATHI VILLAS, CHELAKKARA VILA,
VENGALLUR P.O,
THRISSUR, PIN - 680586



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: 2 :

- 6 RAHUL.M.S,
AGED 20 YEARS,
SON OF MOHANA KUMAR.K, MOHANA VILASAM,
KUDUMBANOOR, NENMOM P.O.,
THIRUVANANTHAPURAM-PIN - 695020
- 7 VIJESH.T,
AGED 23 YEARS,
SON OF THANKARAJAN, NIJA BHAVAN,
IDAMALAKKAL, ANAVOOR,
THIRUVANANTHAPURAM, PIN - 695124
- 8 MIDHILAJ.N,
AGED 24 YEARS,
SON OF NUJUMUDHEEN.A.K, HAMIDHA MANZIL,
POOZHANAD P.O., OTTASEKHARAMANGALAM,
THIRUVANANTHAPURAM, PIN - 695125
- 9 ANU J.S.,
AGED 24 YEARS,
SON OF JAYAKUMAR.C, VARIPARA,
THAZHEPUTHANVEEDU, MYLACHAL,
DHALUMGHOM P.O., KEEZHAROOR,
THIRUVANANTHAPURAM, PIN - 695125
- 10 RAMESH S.V.,
AGED 21 YEARS,
SON OF SELVARAJ, KANNIMATHATTU, THUDALY,
DALUMMUKAM P.O, KEEZHAROOR,
THIRUVANANTHAPURAM, PIN - 695125
- 11 TOM TOMICHAN,
AGED 24 YEARS
S/O. TOMICHAN, KOCHUKUDIYIL HOUSE,
CUMBUMMETTU P.O., ACHAKAD,
IDUKKI DISTRICT, PIN - 685526
- 12 MIDHUN MOHAN,
AGED 21 YEARS,
SON OF MOHANAN UNNITHAN, SALINI BHAVANAM,
KOZHUVALOOR P.O, MUKKUZHA, CHENGANNUR,
ALAPPUZHA DISTRICT, PIN - 689121
- 13 MANEESH P.M.,
AGED 23 YEARS,
POCHAYIL HOUSE, PANUR, THRIKKUNNAPPUZHA,
ALAPPUZHA-680515, PIN - 680515
- 14 ASWIN H.,
AGED 22 YEARS,
SON OF HARSHA KUMAR N., ASWATHI BHAVAN,
EDAKKODU P.O., THIRUVANANTHAPURAM.



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: 3 :

- 15 SIJO MATHAI,
AGED 22 YEARS,
SON OF MATHAI BABY, KADAVILVADAKKETHIL,
MANNAR, KUTEMPERUR, ALAPPUZHA, PIN - 689623.
- 16 ARUN RAJ.R,
AGED 24 YEARS,
SON OF RAJESH.R, MURIYAMVELI,
SOUTH ARYAD, AVALOOKUNNU P.O,
KOMALAPURAM, ALAPPUZHA, PIN - 688006
- 17 AMAL.S,
AGED 21 YEARS,
SON OF SHAJU, 269-A, KALLUVILA HOUSE,
ELAKAMAN P.O, VARKALA, PIN - 695310
- 18 MUHAMMED SHEJEER.S,
AGED 21 YEARS,
S/O. SHAJI,S, PANDIKASSALAYIL,
KOTTEMURI, THRIKKUNNAPPUZHA,
ALAPPUZHA, PIN - 690515
- 19 SREERAG U.E.,
AGED 23 YEARS,
SON OF G. UDAYAN, V ETTUKANDATHIL HOUSE,
S.L. PURAM, MARARIKULAM NORTH,
ALAPPUZHA, PIN - 688523
- 20 SARATH KUMAR V.J.,
AGED 24 YEARS, SON OF VIJAYA KUMARAN NAIR,
SARATH BHAVAN, KOONALLOOR,
CHIRAYINKEEZHU P.O, CHIRAYINKEEZHU,
THIRUVANATHAPURAM, PIN - 695304
- 21 SANJU SAMBAN,
AGED 24 YEARS,
SON OF SAMBAN, S.J. BHAVAN,
ELAMPA P.O, MUDAKKAL, AVANAVANCHERRY,
THIRUVANANTHAPURAM, PIN-695103
- 22 MIDHUN KRISHANA,
AGED 21 YEARS,
SON OF K.S.KRISHNA KUMAR, USHAS,
CHOTTAYIL, KILIMANOOR,
THIRUVANANTHAPURAM-, PIN - 695601
- 23 ANANDAKRISHNAN U.,
AGED 24 YEARS
SON OF UNNIKRISHAN.G, GEETHABHAVAN,
KARUKAYIL WARD, AVALAOOKUNNU P.O,
ALAPPUZHA, PIN - 688006



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- 24 AROMAL.J.S,
AGED 21 YEARS
SON OF JYOTHI.D, CHARUVILA PUTHEN VEEDU,
VATTAKAITHA, KILIMANOR VILLAGE, VTC,
PAZHAYAKUNNUMMEL,
THIRUVANANTHAPURAM PIN - 695614
- 25 VIJAY .V. PILLAI,
AGED 21 YEARS,
SON OF VISHNU PILLAI E.K. PUTHENPURAYIL HOUSE,
BHUDHANOOR P.O. CHENGANOR, ENNAKKADU,
ALAPPUZHA, PIN - 689541
- 26 AKHIL DAS M.,
AGED 24 YEARS,
SON OF MOHAN DAS, MANCHERI HOUSE, ANAD P.O,
THIRUVANANTHAPURAM, PIN - 695541
- 27 BENJITH KURIAN,
AGED 23 YEARS,
SON OF KURIAN K.K, KUMBETTU HOUSE,
IDUKKI COLONY, VAZHATHOPE P.O.,
IDUKKI DISTRICT, PIN - 685602
- 28 ARAVIND S,
AGED 23 YEARS,
SON OF SHAIJUKUMAR P,
MELEKKADA ROADARIKATH VEEDU,
IRINCHAYAM P.O.,
THIRUVANATHAPURAM, PIN - 695561

BY ADVS.
SHRI.B.VINOD
SHRI.I.V.PRAMOD
SMT.SAIRA SOURAJ P.
SHRI.SAJEENA ABDU T.K.

RESPONDENTS :

- 1 UNION OF INDIA,
REPRESENTED BY SECRETARY TO MINISTRY OF
DEFENSE, NEW DELHI, PIN - 110011
- 2 CHIEF OF ARMY STAFF,
SENA BHAVAN, K. KAMARAJ MARG,
NIRMAN BHAVAN P.O, CHANAKYAPURI,
NEW DELHI, PIN - 110011



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3 THE ARMY RECRUITMENT OFFICER,
OFFICE OF THE ARMY RECRUITMENT OFFICE,
FXWM+V2Q, CHERUKARA GARDENS,
POOJAPURA,
THIRUVANANTHAPURAM, KERALA - 695012

4 THE ARMY RECRUITMENT OFFICER,
THE ARMY RECRUITMENT OFFICE,
SH54, EAST HILL, KOZHIKODE,
KERALA - 673 005.

BY ADVS.

SHRI.MANU S., DSG OF INDIA

SHRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 22.12.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

HIGH COURT OF KERALA
CERTIFIED COPY



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CR

N. NAGARESH, J.

.....
W.P.(C) No.28947 of 2022
.....

Dated this the 22nd day of December, 2023

J U D G M E N T

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सत्यमेव जयते

The petitioners, who are aspirants for enlistment in Indian Army, seek to quash Ext.P10 and to direct the respondents to continue the earlier recruitment process commenced by Exts.P1 and P2 irrespective of Ext.P10. The petitioners are aggrieved by Ext.P10 Recruitment Rally Notification for appointment as Agniveer General Duty, Agniveer Technical, Agniveer Clerk / Store Keeper Technical and Agniveer Personnel.

2. The petitioners state that they have applied pursuant to notifications dated 21.10.2020 and 18.12.2020



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for recruitment in Indian Army. They have cleared the recruitment rally held before the lockdown in 2020. The petitioners have cleared Medical Examination. Written Examination was, however, postponed from time to time. According to the petitioners, the Union Government had committed before the Parliament that they will finalise the recruitment already commenced.

3. To the surprise of the petitioners, the Government of India cancelled the recruitment process and framed a new Scheme called Agnipath Scheme for recruitment to Military Service. The Scheme modified only the age limit and maximum age limit to 21 years and for the present year, the upper age limit was relaxed to two years. The service conditions including pay and pension were altered substantially.

4. The petitioners state that having undergone the recruitment rally, they have legitimate expectation to be recruited to Indian Army. Ext.P10 notification for recruitment as Agniveers has undermined their legitimate expectation.



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The petitioners contend that after holding recruitment to Military, the abandonment of the same is arbitrary, illegal and unconstitutional. The Government of India cannot, without appropriate legislation or rules framed under Article 309 of the Constitution of India, substitute permanent soldiers with temporary staff.

5. The petitioners argued that making the Army young by reducing the recruitment age is unscientific. The Government has miserably failed to assess the social impact that could possibly be caused by trained unemployed youth aged 21 to 25 years. Agniveers, who get enlisted in the forces will find it difficult to settle into a married life since they have only a temporary job for four years.

6. Short term training of Agniveers will only make them tough and not responsible. The ex-servicemen now in service are responsible soldiers because they have served ten or more years and secured comfortably shouldering family responsibilities. The Government of India has considered only fiscal advantages and has ignored the social



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impact. Life of Agniveers in barracks is not addressed while taking the crucial decision. Ext.P10 is therefore liable to be set aside and the respondents are compellable to continue the earlier recruitment process commenced as per Exts.P1 and P2.

7. The Deputy Solicitor General of India entered appearance and resisted the writ petition. On behalf of the respondents, the Deputy Solicitor General urged that the Scheme of Agniveers was framed taking into account the peculiar border situation and incessant threats made by hostile neighbouring nations to infiltrate the borders of India. Geographical terrain of India inclusive of mountain ranges, swampy marshes, jungles, deserts, riverine and glaciated regions as well as isolated island territories forced the Government to establish a more youthful, agile and physically fit Armed Forces which is well equipped to deal with such terrains.

8. The Deputy Solicitor General of India pointed out that the average age of officers of the Armed Forces was 32



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years as opposed to the global average of 26 years. The Agniveer Scheme is intended to have a force of young Jawans, Sailors and Airmen between the age of 18 to 25 years, supervised by experienced regular cadre personnel. While taking a decision in the matter, deliberations were held and studies were conducted. Military “intake and retention” models of the United States, United Kingdom, Canada and France were considered to analyse the efficiency and organisational benefits of short term military engagement. At any rate, Ext.P10 is the result of a policy decision taken by the Government of India and it is not liable to be interfered with by this Court in exercise of the powers conferred under Article 226 of the Constitution of India.

9. I have heard the learned counsel for the petitioners and the learned Deputy Solicitor General of India representing the respondents.

10. The Government of India notified Agniveer Scheme on 15.06.2022 to enable Indian youth to join Indian Armed Forces for a term of four years. The Agniveers so



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recruited under the Scheme are to hold a distinct rank in the Indian Armed Forces. On completion of their engagement period, Agniveers will go through a selection process and 25% of them will be enrolled in regular cadre. The remaining Agniveers will exit into civil domain.

11. The respondents have stated that after completion of four years, Agniveers will be provided with skill certificates as per their trade in the Indian Army, which will enable them to apply for various jobs in the Government sector as well as in private sectors.

12. It is evident that the Agniveer Scheme has been prepared after studying the military “intake and retention” model of several countries. The impugned Scheme is framed by the Government of India after detailed deliberations.

13. The issue raised by the petitioners is one concerning the method of recruitment to the Indian Armed Forces. It is a sensitive issue. In matters concerning national security, policy decision should be left to the



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Government. So long as the decision of the Government does not infringe fundamental rights of citizens, the Courts have no reason to interfere. In assessing the propriety of a decision of the Government, the Court cannot interfere even if a second view is possible. The Hon'ble Apex Court in the judgments in ***State of Orissa v. Gopinath Dash*** [(2005) 13 SCC 495], ***Centre for Public Interest Litigation v. Union of India*** [(2016) 6 SCC 408] and ***State of Maharashtra v. Bhagwan*** [(2022) 4 SCC 193] has reiterated that the courts should refrain from interfering with policy decisions, which might have a cascading effect.

14. The argument of the petitioners is that they have a legitimate expectations for recruitment to the Armed Forces through the regular stream. It is a settled proposition of service jurisprudence that participation in a recruitment rally or written examination will not confer any right on the candidates who took part in the recruitment process. Even those candidates who have found a place in the final select list, do not have any indefeasible rights for appointment.



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Therefore, the contention of the petitioners that they have a legitimate expectation for appointment as Jawans through regular stream, is unacceptable.

15. While reducing the age limit from 21 years to 17½ years for recruitment as Agniveers, the Government has considered various aspects including the distinct and challenging geographical terrains in the borders of India and also the system of Army maintained in various world countries. The petitioners have not advanced any tangible reason warranting interference by this Court, in the Agnipath Scheme.

In the facts of the case, I am not inclined to grant any relief to the petitioners. The writ petition is therefore dismissed.

Sd/-

N. NAGARESH, JUDGE

aks/22.12.2023



APPENDIX OF WP (C) 28947/2022

PETITIONERS' EXHIBITS:

- Exhibit P1 A TRUE COPY OF THE ARMY RALLY NOTIFICATION 2020-2021 FROM RECRUITMENT OFFICE, TRIVANDRUM FOR CANDIDATES FROM 7 SOUTHERN DISTRICTS OF KERALA, DATED 21/10/2020
- Exhibit P2 A TRUE COPY OF THE ARMY RALLY NOTIFICATION 2020-2021 FROM RECRUITMENT OFFICE, CALICUT FOR CANDIDATES FROM 7 NORTHERN DISTRICTS OF KERALA, DATED 18/12/2020
- Exhibit P3 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE (COMMON ENTRANCE EXAMINATION) ON 15/04/2021
- Exhibit P4 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE (COMMON ENTRANCE EXAMINATION) ON 3/05/2021
- Exhibit P5 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE ON 23/7/2021
- Exhibit P6 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE ON 26/8/2021
- Exhibit P7 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE ON 18/10/2021
- Exhibit P8 A TRUE COPY OF THE SCREEN IMAGE RESCHEDULING THE CEE ON 12/11/2021
- Exhibit P9 A TRUE COPY OF THE REPLY OF THE HONORABLE MINISTER FOR DEFENSE TO SRI RAJKUMAR CHAHAR M.P (LOK SABHA) DATED 21/3/2021 ALONG WITH ENGLISH TRANSLATION
- Exhibit P10 A TRUE COPY OF THE NOTIFICATION AGNIPATH SCHEME DATED NIL
- Exhibit P11 A TRUE COPY OF THE ADMIT CARD RMDS NUMBER 3863 AND ROLL NUMBER BAN/TRI/GD/250421/2408 DATED NIL ISSUED TO THE 1ST PETITIONER
- Exhibit P12 A TRUE COPY OF THE ADMIT CARD NUMBER DATED NIL ISSUED TO THE 2ND PETITIONER



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- Exhibit P13 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 4425 AND ROLL NO.
BAN/CAL/NA/250421/50062 DATED NIL
ISSUED TO THE 3RD PETITIONER
- Exhibit P14 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS 4427 AND ROLL NUMBER
BAN/CAL/NA/250421/50058 DATED NIL
ISSUED TO THE 4TH PETITIONER
- Exhibit P15 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1369 AND ROLL NO.
BAN/CAL/ST/250421/44752 DATED NIL
ISSUED TO THE 5TH PETITIONER
- Exhibit P16 A TRUE COPY OF THE ADMIT CARD RMDS
NUMBER 3863 AND ROLL NUMBER
BAN/TRI/GD/250421/2408 DATED NIL
ISSUED TO THE 6TH PETITIONER
- Exhibit P 17 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3996 AND ROLL NO.
BAN/TRI/TM/250421/54683 DATED NIL
ISSUED TO THE 7TH PETITIONER
- Exhibit P18 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 4028 AND ROLL NO.
BAN/TRI/ST/250421/39693 DATED NIL
ISSUED TO THE 7TH PETITIONER
- Exhibit P19 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3979 AND ROLL NO.
BAN/TRI/TW/250421/53081 DATED NIL
ISSUED TO THE 9TH PETITIONER
- Exhibit P20 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3785 AND ROLL NO.
BAN/TRI/GD/250421/2009 DATED NIL
ISSUED TO THE 10TH PETITIONER
- Exhibit P21 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1667 AND ROLL NO.
BAN/TRI/CL/250421/47050 DATED NIL
ISSUED TO THE 11TH PETITIONER
- Exhibit P22 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1302 AND ROLL NO.
BAN/TRI/CL/250421/47007 DATED NIL
ISSUED TO THE 12TH PETITIONER
- Exhibit P23 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1572 AND ROLL NO.
BAN/TRI/TM/250421/54730 DATED NIL
ISSUED TO THE 13TH PETITIONER



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- Exhibit P24 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3322 AND ROLL NO.
BAN/TRI/ST/250421/44764 DATED NIL
ISSUED TO THE 14TH PETITIONER
- Exhibit P25 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1453 AND ROLL NO.
BAN/TRI/GD/250421/1195 DATED NIL
ISSUED TO THE 15TH PETITIONER
- Exhibit P26 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1313 AND ROLL NO.
BAN/TRI/CL/250421/47012 DATED NIL
ISSUED TO THE 16TH PETITIONER
- Exhibit P27 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3778 AND ROLL NO.
BAN/TRI/GD/250421/1974 DATED NIL
ISSUED TO THE 17TH PETITIONER
- Exhibit P28 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1380 AND ROLL NO.
BAN/TRI/GD/250421/1143 DATED NIL
ISSUED TO THE 18TH PETITIONER
- Exhibit P29 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1305 AND ROLL NO.
BAN/TRI/CL/250421/47020 DATED NIL
ISSUED TO THE 19TH PETITIONER
- Exhibit P30 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3315 AND ROLL NO.
BAN/TRI/NA/250421/50032 DATED NIL
ISSUED TO THE 20TH PETITIONER
- Exhibit P31 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3344 AND ROLL NO.
BAN/TRI/ST/250421/39645 DATED NIL
ISSUED TO THE 21ST PETITIONER
- Exhibit P32 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3152 AND ROLL NO.
BAN/TRI/GD/250421/2223 DATED NIL
ISSUED TO THE 22ND PETITIONER.
- Exhibit P33 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3036 AND ROLL NO.
3EM/KER/CL/250721/47003 DATED NIL
ISSUED TO THE 23RD PETITIONER
- Exhibit P34 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3206 AND ROLL NO.
BAN/TRI/GD/250421/2229 DATED NIL
ISSUED TO THE 24TH PETITIONER



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- Exhibit P35 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1460 AND ROLL NO.
BAN/TRI/GD/250421/2184 DATED NIL
ISSUED TO THE 25TH PETITIONER
- Exhibit P36 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3369 AND ROLL NO.
BAN/TRI/CL/250421/47121 DATED NIL
ISSUED TO THE 26TH PETITIONER
- Exhibit P37 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 1377 AND ROLL NO.
BAN/TRI/GD/250421/1214 DATED NIL
ISSUED TO THE 27TH PETITIONER
- Exhibit P38 A TRUE COPY OF THE ADMIT CARD NUMBER
RMDS NO. 3687 AND ROLL NO.
BAN/TRI/ST/250421/39649 DATED NIL
ISSUED TO THE 28TH PETITIONER

RESPONDENTS' ANNEXURES:

- Annexure A1 A TRUE COPY OF THE JUDGEMENT IN
W.P.(C) 11011/2022 DATED 27-02-2023
(NEUTRAL CITATION NUMBER:
2023/DHC/001414)

HIGH COURT OF KERALA
CERTIFIED COPY