

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8248/2023

(Arising out of impugned final judgment and order dated 01-12-2022 in WA No. 1039/2022 passed by the High Court of Kerala at Ernakulam)

JAYACHANDRAN KALLINGAL @ JAYACHANDRAN Petitioner(s)

VERSUS

STATE OF KERALA & ORS. Respondent(s)

Date : 03-11-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Ranjith Thampan, Sr. Adv.
Mr. Mohammed Sadique T.A., AOR
Mr. Abraham Mathew, Adv.
Mr. Alim Anvar, Adv.

For Respondent(s) Mr. Pallav Shishodia, Sr. Adv.
Mr. C.K. Sasi, AOR
Ms. Meena K Poullose, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard the learned senior counsel appearing for the first respondent-State.

Notice was issued in this petition on 4th May, 2023. On 25th August, 2023, time was granted to the State to file the counter affidavit. The order dated 9th October, 2023 reads thus:

"Learned counsel appearing for the first respondent seeks time to file the counter affidavit and also to take instructions on the question whether documents can be made available to the petitioner.

List the matter on 30th October, 2023."

Thereafter, on 30th October, 2023, we pointed out to the learned counsel appearing for the first respondent that the report was submitted to the State Government on 30th April, 2021 and till 30th October, 2023, it was admittedly not placed before the Cabinet.

We, therefore, informed the learned counsel for the State that for two and a half years, the status of the document cannot remain as a 'potential Cabinet document'. Though we were inclined to pass final order granting relief to the petitioner for providing a copy of the document, we granted time to the learned counsel appearing for the State on 30th October, 2023 till today. The order records that the time was granted at his request.

Now, today, the learned senior counsel appearing for the first respondent states that after 30th October, 2023, the document has been placed before the Cabinet. We are sorry to say this that the State Government has taken undue advantage of the leniency shown by this Court by granting adjournment. Such a conduct of the State cannot be tolerated. We, therefore, direct the Chief Secretary of the State of Kerala to personally remain present in the Court on the next date of hearing for the purposes of explaining the conduct of the State Government. He has an option to appear through video conference.

The learned senior counsel appearing for the petitioner states that even the said statement that the report has been placed before the Cabinet is not entirely correct and in fact, another Committee has been constituted for the purpose of studying the report.

At this stage, the learned senior counsel for the first respondent states that the report was placed before the Cabinet on

1st November, 2023, on which day, the Cabinet has decided to constitute a Committee to consider the report. Thus, it appears that after taking adjournment from the Court, the report was hurriedly placed before the Cabinet.

The Chief Secretary of the State Government to remain personally present before this Court on 10th November, 2023 at 10:30 a.m., either physically or virtually. It will be always open for the State Government to provide a copy of the report to the petitioner without prejudice to the rights and contentions of the State.

If the State Government supplies the document to the petitioner before 10th November, 2023, the personal presence of the Chief Secretary will stand dispensed with and only his affidavit can be filed.

List the matter on 10th November, 2023, on the top of the Board.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)