

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE A. BADHARUDEEN  
Friday, the 10<sup>th</sup> day of April 2026 / 20th Chaithra, 1948  
CONTEMPT CASE(C) NO. 908 OF 2025(S) IN WP(C) 25863/2020

PETITIONER/PETITIONER IN WPC:

KADAKAMPALLY MANOJ, AGED 50 YEARS, S/O.KUTTAPPAN,  
KADAKAMPALLY HOUSE, VADAKKEVILA POST, KOLLAM, PIN - 691 010.

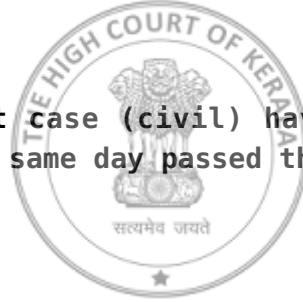
BY ADVOCATE SRI. D.ANIL KUMAR

RESPONDENT/2ND RESPONDENT IN WP(C):

MOHAMMED HANISH, PRINCIPAL SECRETARY,  
INDUSTRIES DEPARTMENT (CASHEW), GOVERNMENT OF KERALA,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 033.

BY GOVERNMENT PLEADER

This Contempt of court case (civil) having come up for orders on  
10.04.2026, the court on the same day passed the following:



P.T.O.

**“C.R”****A. BADHARUDEEN, J.**

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*Cont.Case(C) No.908 of 2025*  
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*Dated this the 10<sup>th</sup> day of April, 2026*

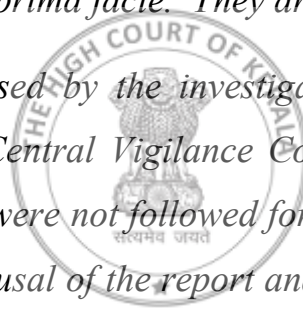
**ORDER**

This Contempt Case (Civil) arises from the judgment dated 24.07.2004 in W.P©.No.25863/2020 of this Court viz, Annexure A1, filed by the petitioner in the above Writ Petition. The summary of the allegation in this Contempt Petition is that as per Annexure A1 judgment, this Court directed the respondent herein to consider the request of the CBI to grant sanction afresh and to take a decision thereon, in the light of the observations made in Annexure-A1 judgment. But the contention raised by the contempt petitioner is that the respondent failed to comply with the order and thereby committed civil contempt, for which he is liable to be proceeded under the Contempt of Courts Act, 1971, to award appropriate punishment as per law.

2. Heard the learned counsel for the petitioner and the learned Director General of Prosecution ('DGP' for short hereafter) in detail. Perused the records including the decisions cited by both sides.

3. Earlier, this Court considered this Contempt Petition and passed an interim order on 21.08.2025, which is Annexure A7. Paragraph No.4 to last of the order are extracted hereunder:

*“4. On perusal of Annexure A6 Government Order in comparison with Annexure A1 judgment, it is discernible that in paragraph No.19 of Annexure A1 judgment, enlisted reasons (i) to (iv) whereby the Sanctioning Authority declined Sanction prima facie. They are,*

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- (i) *The allegation raised by the investigating agency is that the guidelines of the Central Vigilance Commission and the Store Purchase Manual were not followed for procurement of the raw cashew nuts. A perusal of the report and the available materials show that apart from such allegations, there is no prosecutable evidence to confirm that the Central Vigilance Commission Guidelines and Store Purchase Manual are applicable to KSCDC.*
- (ii) *All the contracts mentioned are sanctioned by the Board of Directors. The Board of Directors of KSCDC includes 11 members from various Government departments, including Senior Civil Service Officers. Thus, the alleged action of the accused is*

*based on the decisions of the Board of Directors based on the said Government Order.*

- (iii) *No supporting materials or prosecutable evidence are produced for the allegation with regard to the diversion of funds. Even though some allegations are made, no supporting materials are made out to establish that the accused have committed criminal misconduct as public servants and by corrupt or illegal means obtained for themselves or to any other person any valuable thing or pecuniary advantage.*
- (iv) *The majority of the allegations in the report submitted by the CBI related to the fourteen tenders issued in favour of accused No.4 of the period ranging from 2006-2015. It is alleged that all the contracts were made resorting to the Government Order of the year 2007 and that the said Government Order was not issued with due application of mind. It is beyond the scope of the investigating agency to comment upon the Order issued by the Government.*

5. On addressing reasons (i) to (iv), this Court did not accept the reasons as observed in paragraph Nos.20 to 23 as under:

“20. The materials collected by the investigating agency during the investigation and the findings in the final report show that the Government of Kerala had issued orders from time to time for the proper functioning

*of KSCDC which includes the order dated 26/3/1996 allowing the Board of Directors of KSCDC and CAPEX, “Freedom with Responsibility” in the matter of purchase and import of raw nuts, keeping in mind the general interest of the organization and the industry in modification of existing guidelines. KSCDC entered into a long-term agreement with State Trading Corporation (STC) during 2005-06, 2009 and 2015 for the purchase of cashew nuts through STC and the State Government had made an agreement with the Government of Tanzania for the import of nuts. The findings in the final report suggest that the accused Nos.1 to 3 did not make any earnest efforts to materialise the object of the said agreement to favour accused No.4. Further, they discarded the State Government policy to locally purchase Kerala origin raw nuts and resorted to procure imported nuts to favour accused No.4. The investigation revealed that during the period between 2006 and 2015, several contracts were awarded to the accused No.4 by flouting all the norms and procedures issued by the Government of Kerala from time to time. The specific finding is that fourteen contracts were awarded to accused No.4 by misusing the “Freedom with Responsibility” granted by the Government and also by violating the Store Purchase Manual of KSCDC and*

*CVC Guidelines for procurement of raw cashew nuts, resulting in huge loss to KSCDC. The findings in Ext.P3 that there is no evidence to confirm that Central Vigilance Commission Guidelines and Store Purchase Manual are applicable to KSCDC are factually incorrect. The Store Purchase Manual forms the basis for the procurement system of Government Departments, Public Sector Undertaking, Local Self Government Institutions, Universities and Autonomous Bodies. Annexure 1 of the Store Purchase Manual is the list of Local Bodies, Autonomous Bodies and Public Sector Undertakings. In the said list, KSCDC is shown as item No.77 in Public Sector Undertakings. That apart, KSCDC uses public money for procurement of raw cashew nuts. Therefore, it is a public procurement. Chapter 1 of the Store Purchase Manual merely stipulates that in public procurement, CVC guidelines shall be applicable to all PSUs. KSCDC does not have their own independent purchase manual. These materials and facts were not considered by the sanctioning authority while entering into finding No (i) in Ext. P3 that there is no prosecutable evidence to confirm that the Central Vigilance Commission Guidelines and Store Purchase Manual are applicable to KSCDC.*

21. *The Director Board of KSCDC consists of 11 members, 2 members as Additional Secretaries, one from the Industries Department and the other from the Finance Department; others are representatives of trade unions from ruling and opposition parties. The Managing Director is the Chief Executive of the company who is responsible for the regular conduct of the business and operations. The day-to-day functioning of the company is controlled and managed by him. The Chairman shall preside over all the meetings of the Board of Directors and shall exercise all such powers delegated to him from time to time by the Board of Directors. The findings in the final report show that the Chairman and Managing Director had to attend the entire Board Meetings for the finalization of tenders, whereas the attendance of other Board members may vary on each occasion and that the finalization of the tender and award of the contract for the procurement of raw cashew nut has been done on behalf of the Board of Directors, which was presided over by the Chairman. The findings further show that the accused, Nos 1 to 3, were taking all the decisions regarding the procurement of cashew nuts during their respective tenures. The investigation revealed that during the period from 2006*

to 2015, accused Nos.1 and 3, abusing their official capacity as Managing Director and Chairman, respectively of KSCDC, entered into conspiracy with accused No.4 and awarded several contracts to his proprietorship concern for import and supply of raw cashew nuts violating the Rules. It was further found that grants aggregating to the tune of `80 crores were released by the Government of Kerala during the period 2008-2013 for procurement of raw cashew nuts from local sources in Kerala. But instead of procuring raw cashew nuts of Kerala origin, the accused Nos. 1 to 3 with dishonest intention utilized the major portion of the fund for procuring imported nuts through private contractors like accused No.4. It was also found that the grants given by the Government of Kerala from 2007-2008 to 2012-13 for procurement of raw cashew nuts were diverted and false certificate of utilization in Form K.F.R. 44 was submitted by accused No.1 to the Government. These materials and facts collected by the investigating agency and placed before the sanctioning authority were not all considered by the sanctioning authority before arriving at the finding Nos. (ii) and (iii).

22. So far as finding No (iv) in Ext. P3 is concerned, it is not the case of the prosecution that the

*Government Order of 2007, based on which contracts were made by KSCDC in favour of accused No. 4, was not issued with due application of mind. On the other hand, the finding in the final report is that pursuant to the conspiracy hatched by accused Nos. 1 to 3 with accused No. 4, accused No.1 succeeded in getting the said Order from the Government allowing KSCDC to continue prevailing of using “Freedom with Responsibility” in the matter of purchase and import of raw cashew nuts and contrary to the spirit of the said Order and the earlier guidelines, accused Nos. 1 to 3 did not protect the legitimate interest of KSCDC and misutilised the freedom granted by the Government of Kerala in conspiracy with accused No.4.*

*23. It is evident from the above discussion that the sanctioning authority passed Ext.P3 without considering the materials furnished and report submitted by the CBI in the correct legal perspective. It does not reflect the application of mind to the existence or otherwise of a prima facie case regarding the commission of an offence under Section 13(1)(d) of the PC Act by the accused Nos. 1 and 3. The sanctioning authority must exercise the discretion to refuse or grant sanction judiciously. The sanctioning authority is required to assign valid reasons*

*why it did not consider it necessary to grant sanction for prosecution. Ext. P3 is bereft of reasons. Hence, it cannot be sustained.”*

6. Then this Court held in paragraph No.35 that the upshot of the above discussion is that the challenge against the prosecution on the ground that no prosecution sanction was obtained under Section 197 of Cr.P.C and that the final report does not disclose any offence against accused No.3, must fail and the challenge against Ext.P3 order in WP(C) No.25863/2020 must succeed. Since Ext.P3 order is found to be vitiated by non-application of mind, it is set aside. The 2<sup>nd</sup> respondent in WP(C) No.25863/2020 is directed to examine CBI's request for sanction afresh and take a decision on it in the light of the observations made in this judgment within a period of three months from the date of receipt of a copy of this judgment. The 2<sup>nd</sup> respondent shall communicate the decision to the CBI. Till such a decision is taken, further proceedings in CC No.45/2021 on the file of CJM Court, Thiruvananthapuram shall be kept in abeyance.

7. In fact, in Annexure A6 Government Order, the respondent failed to consider the specific directions issued by this Court. The main reason for rejecting the sanction is stated in paragraph No.12 of Annexure A6 Government Order, which reads as under:

*“12. Hon’ble Supreme Court of India in STATE of HIMACHAL PRADESH VS. NISHANT SAREEN (Criminal Appeal No.2353/2010), in 2010 held that sanction to prosecute public servant on review may be granted only where fresh materials have been collected by investigating agency subsequent to earlier order and matter is reconsidered by sanctioning authority in light of fresh materials. The Power of sanctioning authority, being not of continuing character, could have been exercised only once on same materials”.*

*Thus the sanctioning authority passed Annexure A6 Government Order on the premise of review of the earlier order, though the same was set aside by this Court, ignoring the directions in Annexure A1 judgment. The said procedure is wrong. Therefore, the contempt proceedings opted by the petitioner is having merit to be moved further. However, in the interest of justice, before moving further, I am inclined to provide an opportunity to the respondent to consider the grant of sanction, in accordance with the directions issued by this Court in Annexure A1 judgment in its letter and spirit, and to pass fresh orders as per law. For the said purpose, Annexure A6 Government order is set aside holding that the same was passed without addressing the specific directions issued by this Court.*

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8. *Accordingly, it is ordered that the respondent herein shall consider the question of grant of sanction afresh and pass fresh orders in tune with directions in Annexure A1 judgment, in its letter and spirit, within a period of forty five days from today.*

9. *It is also specifically made clear that for the purpose of granting sanction, hearing of the accused is not mandated in the facts of this case and this process shall be exercised without prejudice and not on the premise of review of the earlier orders (which were already set aside).*

*Post for compliance of the order and further steps on 15.10.2025. This matter will be considered on 15.10.2025 as part heard for further orders."*

4. According to the learned counsel for the petitioner, in Annexure A7 order this Court observed that "*the contempt proceedings opted by the petitioner is having merit to be moved further*" and thereafter this Court provided an opportunity to the respondent to consider grant of sanction in accordance with the directions issued by this Court in Annexure A1 judgment in its letter and spirit and to pass fresh order as per law. Though the order had to be complied on or before 15.10.2025, after extending the time, the respondent issued Annexure A8

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G.O. (Rt) No.1363/2025/ID dated 28.10.2025, as per which also sanction was denied. On perusal of Annexure A8, in paragraph Nos.1 to 12 the history of the case was narrated and thereafter starting from paragraph Nos.13 to 17, the reason for declining sanction was stated. Paragraph Nos.13 to 17 of Annexure A8 are extracted hereunder:

*“13) In the light of the interim order dated 21/08/2025 and subsequent direction on 15/10/2025, Government have examined the matter afresh looking into all records, investigation findings, and relevant materials in the wake of the latest directions of the Hon'ble High Court.*

*14) In the investigation Report of CBI, it is alleged that the guidelines of Central Vigilance Commission and the Store Purchase Manual were not followed for procurement of raw cashew nuts. Even though KSCDC is shown as item No. 77 under the head Public Sector Undertaking in Annexure I of Store Purchase Manual in the matter of procurement of raw cashew nuts, existing rules pertaining to purchase and import of RCN was modified with the consent of Council of Ministers by G.O. (MS) No.74/96/ID dated 26/03/1996, keeping in mind the general interest of the organization and industry as read below:-*

*"As per the Government order read as first paper above [G.O (Rt) No. 1162/91/ID dated 13/12/91] Government had constituted a committee headed by the Chief Secretary to oversee the proposals of the Kerala State Cashew Development Corporation and Kerala State Cashew workers Apex Industrial cooperative society, Kollam for import of raw nuts, As per the G.O. read as 2nd paper above [G.O (Rt) No. 378/93/ID dated 29/03/93] the committee constituted for the purpose was dispensed with and the Board of Directors of the respective institutions viz. CAPEX and Kerala State Cashew Development Corporation were allowed to decide Commercial matters like import of raw nuts etc.*

*Later during 1994, as per the Government letter read as 3rd paper above [Letter No. 12108/K1/94/ID dated 23/03/94], Government had formulated revised guidelines to be followed in the mater for import of raw nuts by CAPEX and Kerala State Cashew Development Corporation. But the Kerala State Cashew Development Corporation could not import raw nuts by following the above guidelines and CAPEX could import only once with the result that the production and export activities of the institutions were adversely affected. Therefore the Board of Directors of CAPEX and Kerala State Cashew Development Corporation have requested Government sanction for import of raw nuts by adopting the traditional method with*

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*the approval of the Board of Directors in relaxation of the existing guidelines.*

*Government have examined the matter in detail and are pleased to allow the Board of Directors of Kerala state Cashew Workers Apex Industrial Co-operative society, Kollam and Kerala State Cashew Development Corporation "freedom with responsibility" in the matter of purchase and import of raw nuts keeping in mind the general interest of the organization and industry, in modification of existing guidelines."*

*15) The aforesaid Government Order was issued by Government with absolute application of mind to the ground realities of the market subsisting in the purchase and import of raw cashew nuts. The Raw Cashew nut is a seasonal crop and the private processors make purchase decisions then and there and stringent procedures being followed by KSCDC and CAPEX will cause much delay in finalization of purchase and by the time sufficient quantity of RCN may not be available in the market to purchase for processing in the factories of KSCDC and CAPEX throughout the year. The peculiarity of RCN is that the quality and value of the kernels will be high if the same is processed during or immediately after crop season.*

*Moreover, the accused persons, A1 and A3 took charge in the affairs of KSCDC in the years 2005 and 2012 respectively, long after 1996 Government Order was issued.*

16) Further, as per G.O.(Ms) No. 149/2007/ID Dtd 26/12/2007, Government accepted the recommendations in the Mridul Eapen Committee Report subject to the change suggested by the Board of Directors of KSCDC regarding purchase of raw nuts. That order also specified that as far as the purchase of raw nuts, the practice then prevailing in KSCDC will continue. The policy of the Government itself has been to protect the traditional cashew sector employees based on social, cultural and human issues with benevolent eyes and not just in the profit making angle.

17) Government have further carefully assessed whether the facts and evidences presented disclose a clear and sustainable prima facie case warranting prosecution under the provisions of the Prevention of Corruption Act. It is observed that the materials relied upon by CBI largely pertain to procedural deviations and administrative lapses in the course of procurement, which by themselves do not conclusively establish elements of criminal misconduct such as dishonest intention, abuse of official position, or obtaining of undue advantage. The decisions in question appear to have been taken in the discharge of official duties within an institutional framework, without sufficient proof of personal gain attributable to the accused persons. In the absence of such essential ingredients constituting an

*offence under the Act, Government, after due application of mind and in compliance with the order of Hon'ble High Court dated 21/08/2025, has arrived at the considered decision that this is not a fit case for granting sanction for prosecution against Shri K A Ratheesh, former MD, KSCDC and Shri R. Chandrasekharan, former Chairman, KSCDC.”*

5. According to the learned counsel for the petitioner, in fact, this Court already found civil contempt *prima facie* to proceed further and had given an opportunity to the accused to rectify the defect by providing a fresh opportunity, but that was also not heeded to. There is no valid reason stated to deny sanction and the observations and the findings in Annexure A1 judgment were not considered while denying sanction while issuing Annexure A8 order after the interim order passed by this Court and both orders were passed against the judgment/order passed by this Court. The learned counsel for the contempt petitioner submitted that, in this case, the allegation is confined to misuse of 80 crores of rupees allotted for the purpose of procurement of raw cashew nuts to the Kerala State Cashew Development Corporation

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[‘KSCDC’ for short hereafter] and its misuse. Even though the police or the vigilance were not inclined to register a case, the petitioner herein actually had moved before this Court by filing W.P(c).No.16144/2014 and a Division Bench of this Court as per judgment dated 23.09.2015 ordered investigation in this crime. The learned counsel placed a copy of the Division Bench judgment for perusal of this Court. The learned counsel for the petitioner placed 2 decisions of the Apex Court which dealt with the civil contempt and the essentials thereof. The first decision cited by the learned counsel for the petitioner is one reported in [1999 KHC 1350 : 1999 (7) SCC 569 : 1999 SC (L&S) 1357 : AIR 1999 SC 3215], ***Kapildeo Prasad Sah & Ors. v. State of Bihar and Ors.*** with reference to paragraph Nos.9 to 11, which are extracted hereunder:

*“9. For holding the respondents to have committed contempt, civil contempt at that, it has to be shown that there has been wilful disobedience of the judgment or order of the court. Power to punish for contempt is to be resorted to when*

*there is clear violation of the court's order. Since notice of contempt and punishment for contempt is of far reaching consequence, these powers should be invoked only when a clear case of wilful disobedience of the court's order has been made out. Whether disobedience is wilful in a particular case depends on the facts and circumstances of that case. Judicial orders are to be properly understood and complied with. Even negligence and carelessness can amount to disobedience particularly when the attention of the person is drawn to the court's orders and its implications. Disobedience of the court's order strikes at the very root of the rule of law on which our system of governance is based. Power to punish for contempt is necessary for the maintenance of effective legal system. It is exercised to prevent perversion of the course of justice.*

10. In his famous passage, Lord Diplock in *Attorney General v. Times Newspapers Ltd.*<sup>2</sup> said that there is also "an element of public policy in punishing civil contempt, since administration of justice would be undermined if the order of any court of law could be disregarded with impunity". Jurisdiction to punish for contempt exists to provide ultimate sanction against the person who refuses to comply with the order of the court or disregards the order continuously. Initiation of contempt proceedings is not a

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*substitute for execution proceedings though at times that purpose may also be achieved.*

*11. No person can defy the court's order. Willful would exclude casual, accidental, bona fide or unintentional acts or genuine inability to comply with the terms of the order. A petitioner who complains breach of the court's order must allege deliberate or contumacious disobedience of the court's order.”*

6. Apart from that, a decision of the Apex Court reported in [2023 KHC 6825 : 2023(5) KHC SN 39 : 2023 KHC OnLine 6825 : 2023 INSC 805 : 2023 SCC OnLine SC 1139 : 2023 KLT OnLine 1773 : AIR 2023 SC 4390 : 2023 (6) KLT SN4], ***Balwantbhai Somabhai Bhandari v. Hiralal Somabhai Contractor (Deceased) Rep. By Lrs***, also is cited. Paragraph Nos.40 to 45, 63 and 116 are extracted hereunder:

*“40. PRINCIPLES GOVERNING THE EXERCISE OF CONTEMPT JURISDICTION The object of the discipline enforced by the court in case of contempt of court is not to*

*vindicate the dignity of the court or the person of the Judge, but to prevent undue interference with the administration of justice.*

*41. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented. (Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers Bombay Pvt. Ltd. and Ors. reported in(1988) 4 SCC 592).*

*42. If a party, who is fully in the know of the judgment/order of the Court, is conscious and aware of the consequences and implications of the order of the Court, acts in violation thereof, it must be held that disobedience is willful. To establish contempt of court, it is sufficient to prove that the conduct was willful, and that the contemnor knew of all the facts which made it a breach of the undertaking.*

*43. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court; (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and (iii) such disobedience of the judgment, decree,*

*direction, order, writ or other process of a court must be willful. [Patel Rajnikant Dhulabhai and Anr. v. Patel Chandrakant Dhulabhai and Ors. reported in(2008) 14 SCC 561]*

44. *It behoves the court to act with as great circumspection as possible, making all allowances for errors of judgment. It is only when a clear case of contumacious conduct, not explainable otherwise, arises that the contemnor must be punished. Punishment under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. Contempt proceedings are quasi-criminal in nature, and the standard of proof is the same as in other criminal cases. The alleged contemnor is entitled to the protection of all safeguards/rights, including benefit of doubt. [Kanwar Singh Saini v. High Court of Delhi reported in (2012) 4 SCC 307].*

45. *The sanctity to judicial proceedings is paramount to a society governed by law. Otherwise, the very edifice of democracy breaks and anarchy reigns. The Act 1971 is intended to correct a person deviating from the norm and trying to breach the law/assuming law on to himself. It intends to secure confidence of the people in the administration of justice by disciplining those erring in disobeying the orders of the Court/undertaking given to court.*

63. *As held by the Delhi High Court in Suman Chadha (supra), in case of reasonable doubt it is not fair and reasonable for the Courts to exercise jurisdiction under the Act for the proceedings are quasi-criminal in nature and the standard of proof required in these proceedings is beyond all reasonable doubt and not mere probabilities. Thus, in cases where two interpretations of an order are possible and if the action is not contumacious, contempt proceedings are not maintainable and for this purpose the order must be read in entirety. The court noted that there is a difference between "standard of proof" and "manner of proof" in contempt proceedings. Contempt proceedings are sui generis in the sense that strict law of evidence and Code of Criminal Procedure, 1973 are not applicable. However, the procedure adopted in the contempt proceedings must be fair and just.*

116. *We may summarise our final conclusion as under:*

(i) *We hold that an assurance in the form of an undertaking given by a counsel/advocate on behalf of his client to the court; the wilful breach or disobedience of the same would amount to "civil contempt" as defined Under Section 2(b) of the Act 1971.*

(ii) *There exists a distinction between an undertaking given to a party to the lis and the undertaking given to a court.*

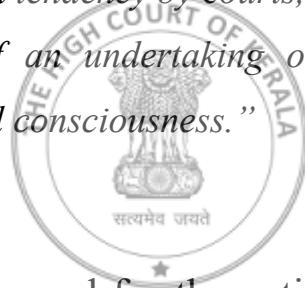
*The undertaking given to a court attracts the provisions of the Act 1971 whereas an undertaking given to a party to the lis by way of an agreement of settlement or otherwise would not attract the provisions of the Act 1971. In the facts of the present case, we hold that the undertaking was given to the High Court and the breach or disobedience would definitely attract the provisions of the Act 1971.*

*(iii) Although the transfer of the suit property pendente lite may not be termed as void ab initio yet when the court is looking into such transfers in contempt proceedings the court can definitely declare such transactions to be void in order to maintain the majesty of law. Apart from punishing the contemnor, for his contumacious conduct, the majesty of law may demand that appropriate directions be issued by the court so that any advantage secured as a result of such contumacious conduct is completely nullified. This may include issue of directions either for reversal of the transactions by declaring such transactions to be void or passing appropriate directions to the concerned authorities to ensure that the contumacious conduct on the part of the contemnor does not continue to enure to the advantage of the contemnor or any one claiming under him.*

*(iv) The beneficiaries of any contumacious transaction have no right or locus to be heard in the contempt proceedings*

*on the ground that they are bona fide purchasers of the property for value without notice and therefore, are necessary parties. Contempt is between the court and the contemnor and no third party can involve itself into the same.*

*(v) The apology tendered should not be accepted as a matter of course and the court is not bound to accept the same. The apology may be unconditional, unqualified and bona fide, still if the conduct is serious, which has caused damage to the dignity of the institution, the same should not be accepted. There ought not to be a tendency by courts, to show compassion when disobedience of an undertaking or an order is with impunity and with total consciousness.”*



7. The learned counsel for the petitioner also has taken this Court to Section 2(b) of the Contempt of Courts Act, 1971, which defines “civil contempt”. “Civil contempt” means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court. The learned counsel has also taken the attention of this Court to the Contempt of Courts (High Court of Kerala) Rules (for short

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Kerala Rules 1971', hereinafter) under the Contempt of Courts Act, 1971 with reference to Rule Nos.1 to 14, contending that now this case is at the stage of Section 12, i.e the stage before hearing of the case and trial.

8. The learned DGP appearing for the respondent justified Annexure A8 order and argued at length to substantiate the same. That apart, for the reasons stated in Annexure A8 order, the respondent filed a detailed counter affidavit justifying denial of sanction. According to the learned DGP, as observed in paragraph 17 of Annexure A1 judgment, grant or refusal of sanction is not a mere formality, but a solemn act and the sanctioning authority must undertake complete and conscious scrutiny of all the relevant records and materials made available to it independently applying its mind. According to the learned DGP, Annexure A8 order was issued after exercising the said power. The learned DGP would contend further that, the respondent placed all the material facts before this Court as to how the decision

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taken by the Government, not to grant sanction for prosecution, was arrived at. The CBI vide its letter dated 30.04.2020 had sought sanction for prosecuting Sri K.A.Ratheesh (A1) former Managing Director KSCDC, and R.Chandrasekharan (A3), former Chairman, KSCDC in Crime No.RC 08(A)/2016/CBI/ACB/COCH registered for offences punishable under section 120B, 420 of the Indian Penal Code and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 ('PC Act, 1988' for short hereafter). The said crime was registered upon the direction issued by the Division Bench of this Court. In the investigation four persons were arrayed as accused (K.A.Ratheesh (A1), E.Kasim (expired) (A2), R.Chandrasekaran (A3) and Jaimon Joseph (A4).

9. In addition to that the learned DGP placed the following 3 decisions of the Apex Court:

(i) [2014 KHC 4351 : 2014(6) SCALE 730 : 2014(7) SCC 416 : AIR 2014 SC 2824 ], ***Bihar State Govt. Sec. Scl. Teachers Assn. v. Ashok Kumar Sinha & Ors.***, where reliance was given to paragraph No.19, which is extracted as hereunder:

*“19. At the outset, we may observe that we are conscious of the limits within which we can undertake the scrutiny of the steps taken by the Respondents, in these Contempt proceedings. The Court is supposed to adopt cautionary approach which would mean that if there is a substantial compliance of the directions given in the judgment, this Court is not supposed to go into the nitty gritty of the various measures taken by the Respondents. It is also correct that only if there is willful and contumacious disobedience of the orders, that the Court would take cognizance. Even when there are two equally consistent possibilities open to the Court, case of contempt is not made out. At the same time, it is permissible for the Court to examine as to whether the steps taken to purportedly comply with the directions of the judgment are in furtherance of its compliance or they tend to defeat the very purpose for which the directions were issued. We can certainly go into the issue as to*

*whether the Government took certain steps in order to implement the directions of this Court and thereafter withdrew those measures and whether it amounts to non-implementation. Limited inquiry from the aforesaid perspective, into the provisions of 2014 Rules can also be undertaken to find out as to whether those provisions amount to nullifying the effect of the very merger of BSES with BES. As all these aspects have a direct co-relation with the issue as to whether the directions are implemented or not. We are, thus, of the opinion that this Court can indulge in this limited scrutiny as to whether provisions made in 2014 Rules frustrate the effect of the judgment and attempt is to achieve those results which were the arguments raised by the Respondents at the time of hearing of C.A. No. 8226-8227 of 2012 but rejected by this Court. To put it otherwise, we can certainly examine as to whether 2014 Rules are made to implement the judgment or these Rules in effect nullify the result of merger of the two cadres.”*

(ii) [2019 KHC 6130 : AIR 2019 SC 818], ***Arumugam ER.***

***K. v. V.Balakrishnan & Ors.***, where reliance was reliance was given to paragraph No.17, which is extracted as hereunder:

*“17. In the contempt jurisdiction, the court has to confine itself to the four corners of the order alleged to have been disobeyed. Observing that in the contempt jurisdiction, the court cannot travel beyond the four corners of the order which is alleged to have been floated, in **Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited and Ors. v. M. George Ravishekar and Ors.** 2014 : (2014) 3 SCC 373, speaking for the Bench, Justice Ranjan Gogoi held as under:*



*“19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of*

*the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, **Jhareswar Prasad Paul v. Tarak Nath Ganguly** (2002) 5 SCC 352, **V.M. Manohar Prasad v. N. Ratnam Raju** (2004) 13*

*SCC 610, Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami (2008) 5 SCC 339 and Union of India v. Subedar Devassy PV MANU/SC/0328/2006 : (2006) 1 SCC 613.*

*Applying the above principles to the present case, it is clear that the Single Judge fell in error in entertaining the contempt petition and further erred in directing the TWAD Board to pay compensation at the rate of Rs. 600/- per sq. ft. which works out to more than Rs. 4,00,00,000/-. It is public money and having implications on the public exchequer, the public money cannot be allowed to be taken away by an individual by fling contempt petition thereby arm-twisting the authorities. The order passed by the learned Single Judge affirmed by the Division Bench is ex-facie erroneous and liable to be set aside.”*

(iii) [2020 KHC 6068 : 2020 (2) SCALE 431], **Bajrang Lal**

**Sharma v. C.K.Mathew**, where reliance was given to paragraph

No.16, which is extracted hereunder:

“16. As a matter of fact, the directions issued by this Court in para 48 were clear that the State and its authorities were to act in terms of the report of the Bhatnagar Committee in accordance with the decisions in *M. Nagraj* ((2006) 8 SCC 212) and *Suraj*

*Bhan Meena ((2011) 1 SCC 467). The basic foundation of the present contempt petitions projecting the issuance of Notification dated 11.09.2011 to be in contempt of the directions issued by this Court, thus, does not survive. In any case, challenge to said Notification and the report of the Bhatnagar Committee is still pending consideration before the High Court where the correctness and validity thereof will be gone into in accordance with law.”*

10. As regards to the legal position, to hold that a person committed 'civil contempt', the law emerges is that, it has to be shown that there has been wilful disobedience of the judgment or order of the court. Power to punish for contempt is to be resorted to when there is clear violation of the court's order. Since notice of contempt and punishment for contempt is of far reaching consequence, these powers should be invoked only when a clear case of wilful disobedience of the court's order has been made out. Whether disobedience is wilful in a particular case depends on the facts and circumstances of the particular case. Judicial orders are to

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be properly understood and complied with. Even negligence and carelessness can amount to disobedience particularly when the attention of the person is drawn to the court's orders and its implications. Disobedience of the court's order strikes at the very root of the rule of law on which our system of governance is based. Power to punish for contempt is necessary for the maintenance of effective legal system. It is exercised to prevent the perversion of the course of justice. The object of the discipline enforced by the court in case of contempt of court is not to vindicate the dignity of the court or the Judge, but to prevent undue interference with the administration of justice. Any interference with the course of justice is an affront to the majesty of law and the conduct of interference is punishable as contempt of court. Public interest demands that there should be no interference with the judicial process, and the effect of the judicial decision should not be pre-empted or circumvented.

***(Reliance Petrochemicals Ltd. v. Proprietors of Indian Express***

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*Newspapers Bombay Pvt. Ltd. and Ors.* reported in(1988) 4 SCC 592).

11. The following conditions must be satisfied before a person can be held to have committed civil contempt: (i) there must be a judgment, decree, direction, order, writ or other process of a court; (ii) there must be disobedience to such judgment, decree, direction, order, writ or other process of a court; and (iii) such disobedience of the judgment, decree, direction, order, writ or other process of a court must be willful. [*Patel Rajnikant Dhulabhai and Anr. v. Patel Chandrakant Dhulabhai and Ors.* reported in(2008) 14 SCC 561]

12. The sanctity to judicial proceedings is paramount to a society governed by law. Otherwise, the very edifice of democracy breaks and anarchy reigns. The Contempt of Courts Act, 1971 is intended to correct a person deviating from the norm and trying to breach the law/assuming law on to himself. It intends to secure

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confidence of the people in the administration of justice by disciplining those erring in disobeying the orders of the Court/undertaking given to court.

13. That apart, the 3 decisions placed by the learned DGP also have relevance in this regard.

14. Coming to the question as to whether, *prima facie*, civil contempt is made out for non compliance of the directions issued by this Court in Annexure A1 judgment while issuing Annexure A6 order, viz. G.O.(Rt)No.324/2025/ID dated 21.03.2025 denying sanction. In this connection, as per the interim order dated 21.08.2025, which is Annexure-A7, this Court found that “the sanctioning authority passed Annexure A6 Government Order on the premise of review of the earlier order, though the same was set aside by this Court, ignoring the directions in Annexure A1 judgment”. That apart, then it was held by this Court that “therefore, the contempt proceedings opted by the petitioner is having merit to be

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moved further”. It was after observing so, this Court provided another opportunity to the respondent to consider the grant of sanction, in accordance with the directions issued by this Court in Annexure A1 judgment in its letter and spirit which, in fact, led to issuance of Annexure A8 order. Thus the finding in the interim order, in fact, conceded by the respondent without challenging the said finding and thereafter Annexure A8 also was issued pursuant to the said order.

15. Before further discussion, it is apposite to refer paragraphs 23 to 36 of the judgment in W.P(c).No.16144/2014 dated 23.09.2015 rendered by a Division Bench of this Court, the same are re-produced as under:

*“23. After hearing both the sides, this Court finds that the necessity to conduct a detailed investigation has been felt by the Government itself; who in turn, has ordered a 'Vigilance Enquiry', as submitted by the learned Advocate General during the course of arguments. Whether this is sufficient, or will it be a proper substitute for 'CBI investigation' in view of the wide range of activities and transactions involved; is the point to be considered. It has also to be looked into, whether the insinuation made will 'prima facie' involve any offence to be investigated and whether it is a fit case to have the matter entrusted with the CBI. So as to analyse the facts and figures, a peep into the*

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*factual data unearthed by the different authorities, at different levels and their recommendations is necessary. The authorities who conducted the enquiry/inspection are mainly four in number;*

*(1) by the Comptroller and Auditor General - 9th respondent - vide Ext. P2 to P4 reports.*

*(2) by the Finance Wing of the Government at the level of Secretary -7th respondent - vide Exts. P5, P6 and P7*

*(3) by the 10th respondent - Public Sector Reconstructing and Internal Audit Board (RIAB) vide Ext. P8*

*(4) by the special committee/expert committee appointed by the Government – vide report dated 23.05.2015 – pursuant to Exts. R8(a) Government Order dated 25.04.2014*

*24. After threadbare analysis of the facts and figures, in the audit by the C & AG, analysing all the 22 tenders and 46 purchase agreements from 2008 - '09 to 2012 - '13, 10th respondent/Comptroller and Auditor General has summed up in Ext. P4 report that the purchases were made disregarding the COPU (Committee of Public Undertakings) and EC (Expert Committee) recommendations, involving the following salient features :*

- Excessive dependence on a local trader for procurement (4.1.3.1 of the audit findings)*
- Unauthorised diversion of grants and furnishing incorrect utilization certificates (4.1.3.2 of the audit findings)*
- purchase of inferior quality Kerala RCN through traders (4.1.3.3 of the audit findings)*

- *Deficiencies in the purchase process of African Raw Cashew Nuts (4.1.3.4 of the audit findings)*
- *Serious deficiencies in Tendering, including inadequate publicity (4.1.3.5 of the audit findings)*
- *Deficiencies in the contract terms and conditions (4.1.3.6 of the audit findings)*
- *Irregularities in award of contract (4.1.3.7 of the audit findings)*
- *Payment of ineligible clearing and forwarding charges (4.1.3.8 of the audit findings)*
- *Impact of the deficiencies in the procurement of cashew nuts (4.1.3.9 of the audit findings)*
- *Inadequate follow up action on inquiry reports (4.1.3.10 of the audit findings)*
- *Violation of the COPU and EC recommendations (4.1.3.11 of the audit findings)*

25. *After the enquiry conducted by the Finance Inspection Wing (NTG) of the Government, regarding the alleged malpractices in connection with the purchase and sale of cashew nuts, Ext. P5 enquiry report was submitted [English translation of which is given by the petitioner as Ext. P5(a)], which contains the following recommendations.*

*“Recommendations*

1. *To conduct a detailed investigations regarding the purchase of raw cashew nuts and sale of cashew kernels*

*besides the market value of cashew kernels/raw cashew nuts and such other matters during preceding years with the aid of Govt. Agency*

2. *To ensure observance of the tender*

*procedures, maintain tender registers/tender schedules showing the details of the tenders received and accepted with the certification of the officer concerned.*

3. *The tender form submitted on 6.1.2011 by JMJ Traders did not reflect important details like the origin of raw cashew nuts, quality, price, out turn, count etc. The administrative department has to conduct a detailed investigation on the irregularity in the acceptance of incomplete tender form submitted by JMJ traders.*

4. *Action should be taken to give a satisfactory reply to the existing paragraphs of Accountant General.*

5. *The information regarding the use of fuel should be recorded in the log book at the end of every month and same should be attested by higher official concerned. The fuel efficiency certificate must be attached to the log book. The official concerned must take care of the above said matters and may give direction to keep log book properly and to ensure that the vehicles are not misused.*

6. *In any event resorting to local purchase after inviting tenders for the import of raw cashew nut is opposed to store purchase manual.*

*Explanation has to be sought from the MD.*

7. *Most of the transaction of the corporation were with JMJ Traders. To avoid this over dependency with the said establishment administrative department should*

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*frame guidelines in the purchase rules regarding purchase of raw cashew nuts.*

26. *Ext. P6 report of the inspection conducted in the first respondent Corporation in respect of three financial years; 2009 – '10 to 2011 – '12; refers to various incriminating circumstances/instances. The significant observations made by the Additional Secretary (Finance)/Government of Kerala,*

*vide Ext. P6, are in the following terms :*

*“OBSERVATION :-*

*(1) The funds sanctioned for the purpose of construction/renovation/modernization activity is not fully utilized. Out of the total amount of Rs.33,95,86,000/- sanctioned under this head, only a meager amount of Rs.9,73,27,708/- was utilized leaving a huge balance of Rs.24,22,58,292/-.*

*(2)For the rejuvenation activity, out of the total sanctioned amount of Rs. 96,40,00,000/- , an amount of Rs.89,68,23,236/- was utilized and the unspent balance in this head isRs.6,71,76,764/-.*

*(3)Instead of total unutilised fund balance ofRs.30,94,35,056/-, only an amount of*

*Rs.2,18,30,256/- is available in various bank accounts. It means Government budgetary allocation has been diverted to other purpose.*

*(4)Audit of accounts was done only upto the year 2006-07 and auditing is pending for the last five financial years. But provisional accounts are prepared upto the year 2011-12.*

*(5)As per the provisional balance sheet figures, it is observed that the company is in grave losses and made loss for the last five financial years continuously.*

*27. The Finance Wing (NTG) of the Government of Kerala, based on a complaint regarding the malpractices of 'etender' in the purchase of raw cashew nuts and sale of cashew kernels by the first respondent Corporation, has submitted Ext.P7 report. Different instances and consequences resulted have been dealt with in detail and the recommendations made by the Addl. Chief Secretary (Finance) vide Ext. P7 are as given below :*

*Recommendations :*

*1) Governing department has to take immediate steps to remove Sri. Ratheesh from the post of Managing Director due to the several irregular actions referred to above and on the ground that he has violated the provisions of store purchase manual while purchasing raw cashew nuts, and also on the ground that he supported the unauthorized receipt of huge amount from certain companies for the purpose selling cashew kernels at a low rate.*

*2) In E-tender held for the purchase of imported "Ginibisavo raw cashew nuts" JMJ traders alone has participated. The store purchase provides for re-tender when only one company submitted tender. But in violation of this rule the Chairman and Managing Director negotiated within the sole company which submitted the tender and confirmed it and thereafter the other nine members ratified and subscribed their signatures. This itself is a serious irregularity and in violation of the existing guidelines and rules. The Governing Department is to view this irregularities very*

*seriously and necessary action is to be taken against all the 9 board members.*

*3) Tender register was not inspected by the Managing Director or higher official of the corporation at least once. In the said register, page certificate was not marked. It is mandatory to mark page certificate and managing director has to verify and certify all entries. The corporation has to constitute a tender committee to invite global tender while importing raw cashew nuts.*

*4) The corporation printed profit-loss accounts up to finance year 2008 – 2009. As such as per the direction of C & AG Profit - loss accounts from 2009 – 10 to 2012 – 13 are to be completed in a time bound manner and intimated and further financial aid to the corporation shall be sanctioned only on that basis. The profit-loss accounts for the said period is to be completed in a time bound manner and intimated urgently to finance department.*

*5) Immediate disciplinary proceedings is to be taken against the liaison officer Sri. R. Rajeev, Assistant Personnel Manager Sri. A. Gopakumar, Sri. A Sudheer of Personnel Department and Office Attender Sri. Sunil who tried to obstruct the inspection of Finance Inspection Wing, which empowered by Government to check financial malpractices in Govt. Institutions and Govt. departments. The information regarding the disciplinary action taken must be intimated to finance department.*

*6) M/s Cee Bee Commodities company entered into agreement to purchase Ivory Coast raw cashew nuts on the basis of tender held on 26.04.2013. But the*

*consideration for the purchase of raw cashew nuts was paid to Asia Commodities which had not even participated in the tender. It was a serious lapse on the part of corporation in paying to a company that has not participated in tender. This resulted in the tax evasion by the companies. Hence Governing department shall cause inspection of the tax returns of companies dealing with corporation by the Commercial Tax Department and the further proceedings taken is to be intimated to finance department forthwith.*

7) *Necessary action should be taken against the nine board members who without participating in the negotiation, managed to put their signature subsequently to make it appear that they had participated and approved the decision of the Chairman and the Managing Director referred to in paragraph 6 of (i) (a) and (b). Necessary action taken must be intimated to Governing Department.*

28. *The allegations in respect of the affairs of the firstrespondent Corporation were enquired into by the RIAB (Public Sector Reconstructing and Internal Audit Board of the Department of Industries and Commerce Government of Kerala) - 10th respondent, who submitted Ext. P8 report. The alleged clandestine deals pursued by the first respondent Corporation and the undue benefits extended to a particular establishment by name 'JMJ traders' and the High Sea Sale agreements executed between the first respondent and M/s JMJ Traders (who in turn had approached another dealer to facilitate the High Sea Sale); reduction of the quality and escalation of the cost price, resulting in huge loss etc. are discussed in detail in the said report. With regard to the raw cashew nuts purchases made from 'JMJ traders' in respect of various years, the figures given are extracted below:*

*Purchases from M/s JMJ Traders:-*

<i>Year</i>	<i>Quantity</i>	<i>Extent</i>
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2008-'09	15046 M.T.	94%
2009-'10	17733 M.T.	82.55%
2010-'11	23736 M.T.	91.6%
2011-'12	24470 M.T.	92.04%

*With reference to the said figures, it has been stated by the Secretary - RIAB, that there was a 'near monopoly situation' in supply of cashew nuts to the first respondent Corporation, through the identified supplier 'M/s JMJ traders', having their office at Kottayam. After discussing the various incriminating circumstances point by point, the 10th respondent - RIAB states in paragraph 15 as follows :*

*“15. .... It is surprising to note that KSCDC is unaware of the quality certificate at the Port of Discharge which clearly figures in the Bill of M/s Sai Commodities in the above illustration. The Commercial Manager of KSCDC states that the documents are with M/s JMJ Traders. There are ample opportunities of mixing Raw Cashew Nuts with varying quality. KSCDC Management could be fully aware of this . KSCDC Management had deleted the earlier clause of inspection at the Port of discharge. This was later changed to inspection at factory presumably after clearance of goods by the supplier. The methodology adopted and the procedures are not at all prudent as the final buyer is KSCDC. This was not noted by the KSCDC Board. A tenure of not more than five years is to be fixed for a Director and professionals will have to be nominated.”*

*In Paragraph 18, the 10th respondent - RIAB has pointed out the necessity to remove the present Managing Director/second respondent from the present position, to ensure that all records are made available to the Investigating Agency to bring out the facts in greater detail. The recommendation in paragraph 18 is reproduced below, for convenience of reference :*

*“18. The Government may keep the present Managing Director out from the present position to ensure that all records are made available to the investigating agency to bring out the facts in greater detail and to estimate the losses incurred on account of multiple paper purchases, poor quality of nuts and low material productivity. The services of all retired officers may be terminated urgently. Batch wise analysis of output in various factories and the selling prices prevailing for each variety of cashew nuts at the respective period has to be analysed. Transactions in sales side will also have to be analysed in detail by an investigating agency within a given time frame.*

*29. With regard to the course and events pointed out, the Department of Vigilance and Anti Corruption Bureau (DVACB) had already recommended a detailed 'Vigilance Enquiry' to unearth the illegal practices existing within the first respondent Corporation. This is recorded in Ext. P11(d) 'file note' produced by the petitioner, which contains the subsequent endorsements as well. The request made by the DVACB to conduct a 'Vigilance Enquiry' was noted on 15.04.2013. In this file, the Under Secretary (by name Madhu) has written as 'paragraph 7', doubting whether the 'vigilance enquiry' as recommended by DVACB was necessary and he suggested [at the portion marked as 'X'] that a copy of the letter of the DVACB and its enclosures may be forwarded to the Industries Department and “that Department” may be*

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directed to consider the matter and take appropriate action. This endorsement on 17.10.2014 has been dissented by the Additional Secretary to the Government, Vigilance Department (by name Somarajan) on 20.04.2013 and put up a note at 'paragraph 8', that 'Vigilance Enquiry' as requested by the DVACB may be ordered. This was affirmed by the Principal Secretary (Home and Vigilance Department) as per the endorsement made on 22/04/2013 at 'paragraph 10'. It is seen from the proceedings [Annexure 11(d) proceedings, the correctness or authenticity of which is not disputed by any of the respondents) that the Honourable Minister, however ordered to pursue the action as suggested by the Under Secretary at the portion marked 'X' i.e. to forward the proceedings to the Industries Department for action at their side. After considering the contents of the reports as mentioned above, this Court is of the view that, if the insinuating circumstances are established, it may involve various offences and the matter may have to be proceeded further in accordance with law.

30. Now, let us come to the report dt. 23.05.2013 submitted by Expert/Special Committee appointed, pursuant to the Government Order dated 25.04.2014, vide Ext. R8(a). It has to be immediately pointed out, that the propriety in having submitted two separate reports by the 7th respondent before this Court, marking the same as 'strictly confidential' was questioned and disputed by the concerned party respondents. The first cover was opened and copies were served to all the parties, as per the interim order dated 09.04.2015. The second cover was not opened and it is kept in tact in the Registry. In view of the contents of the other materials on record, particularly; Exts. P2 to P4 reports of the C & AG; Ext.P5 to P7 reports of the Finance Secretary; Ext. P8 report of the RIAB and also the present report of the Expert/Special Committee appointed by the Government, pursuant to Ext. R8(a) Government Order, we do not find it necessary to go through the contents of the confidential reports submitted by the 7th respondent directly to this Court or to rely upon any of its contents. Had they been filed by the 7th respondent through proper channel, along with an affidavit, this Court would have looked into it and since such course was not pursued, we decline to refer to the same. It is in the said circumstances that the discussion is confined only

*to the other reports as mentioned above and as it stands so, no prejudice has been caused to any of the contesting respondents.*

*31. The Special/Expert Committee appointed by the Government as per Ext.R8(a) G.O. Dated 25.07.2014 considered the various aspects as to the procurement of raw cashew nuts, sales of cashew kernel and various other incidental aspects. The terms of reference as per Ext.R8(a) G.O. are as given below:*

*" Terms of reference for the Expert Committee:*

*1. All aspects regarding the purchase of raw cashew nuts including allegations regarding purchase from single tenderer, purchase at a higher rate etc. for the last 5 years in respect of KSCDC.*

*2. All aspects regarding the sale of cashew products including allegations regarding sale of products at lower price for the last 5 years in respect of KSCDC.*

*3. All aspects regarding the purchase and sale of cashew nuts by CAPEX for the last 5 years.*

*4. Suggestions for enhancing efficiency through mechanization and reducing labour cost in KSCDC and CAPEX.*

*5. To examine whether option of purchase of raw cashew nuts through State Trading Corporation is viable for KSCDC and CAPEX.*

*6. Suggestion to run KSCDC and CAPEX profitably.*

*7. Ways to raise funds other than Government funds for KSCDC and CAPEX.*

*8. Suggestion to improve the working conditions of labourers of KSCDC and CAPEX."*

32. *After analysis of the facts and figures, the Special Committee arrived at the findings and recommendations as given in Chapter 9. The findings of the said Committee are extracted below for easy consideration and appreciation:*

**FINDINGS:**

*“9.1. Both KSDC and CAPEX are not at all concerned with the commercial objectives of running the business but are over concerned with providing maximum number of working days . It is a fact that increase in production invariably leads to increased losses as the cost of production always far exceeds the sales. Cash losses are being funded by Government, in the form of working capital loan. There has not been any effort by KSCDC and CAPEX to reduce the loss by way of mechanization, multi- tasking and optimum utilization of labour. The committee strongly feels that unless stringent measures are adopted by the Government to set right the present situation there is no scope for these organizations to continue.*

*9.2 There is no consistency between number of days worked and production. The losses increase with increase in production, number of working days and turnover.*

*9.3 Committee has perused the minutes of quite a large number of BOD meetings and found that the BOD has not discussed about the losses, low productivity, competitive purchase or competitive sales. Generally the matters discussed are negotiation with RCN bidders and employee matters.*

*9.4 The committee has not found any records from the Government directing the Corporation to increase the number of working days. ' Freedom with responsibility' granted by Government through a G.O. have been construed by the organizations in the following manner*

*'FREEDOM' as freedom to purchase and sell without following any commercially prudent norms. 'RESPONSIBILITY' as providing maximum number of working days without considering of efficiency, productivity, or any financial prudence. There is a feeling that the ' Akshayapathra' of Government will come to their rescue.*

*9.5 Both KSCDC and CAPEX continue to incur substantial losses even though Government gives financial support to the extent of 50 to 60% of the employee costs.*

*9.6 There is no planned procurement of RCN and sale of products. The adhoc way of purchase and sale has a very adverse impact on the financials of the organizations.*

*9.7 There is no system of internal control, concurrent audit, cost estimation and accounting manual in the organizations.*

*9.8 The budgetary support from Government earmarked for mechanization and rejuvenation had been diverted and utilized for working capital purposes, with or without Government permission.*

*9.9 All available funds were utilized to provide maximum number of working days without settling the dues to suppliers or giving the statutory benefits of workers. It appears that the company is bothered only about the workers on the roll, behaving almost in an inhuman manner to the retired workers. The committee observed that gratuity dues alone are over Rs.55 crore now. Besides there are dues to the tune of Rs. 10 crore towards P.F. and ESI*

*9.10 The contract terms of delivery and payment are not adhered to and fresh purchase contracts are entered into with the same party before concluding the previous contract. As payments are not settled against each purchase contract*

*promptly, the corporation is not in a position to negotiate for competitive prices*

9.11 *KSCDC had given extension in the period of supply of RCN and entered into additional contract at the same price of RCN of a particular origin. In a highly volatile and fluctuating market, this practice is not at all advisable as the price might be much lesser for the particular origin as the season progresses.*

9.12 *There are many instances of short supply. The corporation has not taken any legal action against the defaulting suppliers.*

9.13 *The business with M/s JMJ Traders has not been on commercially prudent terms. The committee found that, in many tenders though M/s JMJ Traders were not the lowest bidder, they came lowest after negotiations. As about 80% of total quantity purchased during the five year period under study has gone to M/s JMJ Traders, the committee cannot rule out the existence of a cartel.*

9.14 *It was also found that M/s JMJ Traders was given undue extension in supply period on several occasions. In many cases, M/s JMJ Traders have supplied much higher quantities than contracted, at the same rate, even though the terms of contract permit a variation of only +/-10%. This was done by entering into another contract based on the same tender, instead of going for a fresh tender. Such an action denies the right of other suppliers to take part in a fresh tender.*

9.15 *There are instances where KSCDC had purchased from a single bidder*

9.16 *There are instances where instead of calling off the original tender and inviting a tender afresh, the Corporation has finalized the tender after one month of the tender.*

9.17 *Even though the contracts in purchase of RCN mention 90% payment at the time of delivery, in almost all cases, this has not been followed, obviously due to fund shortage. In the case of KSCDC, as the supply is almost from the single party, such continuous outstanding towards him have made the Corporation more vulnerable, both in terms of procurement price and enforcement of contract terms.*

9.18 *Both KSDC and CAPEX follow the practice of collecting advances from buyers at the time of entering into the contract for sale. No formal sales contract with delivery schedule is entered in to by both the organizations. As delivery is erratic and too much delayed, the organizations might be selling products at prices which have no relation with prevailing market. There is also a possibility that sales orders with prior dates are being entered in to at a later date with obvious price advantage to the buyer.*

9.19 *There are many instances where the contracted quantity was not fully delivered prior to entering into next contact.*

9.20 *The Committee finds that in the local market, KSCDC and CAPEX have very high brand value and their products are of high quality probably because of the skill of workers. However, the products are sold loose giving a chance to the buyers to mix with their products. This is done irrespective of the availability of packaging facility with dedicated monthly paid staff. Sale of packaged kernels would have fetched much higher prices due to high quality and brand.*

9.21 In certain cases different contracts have been clubbed together. Part of the contracted products to one party was seen supplied to another party on the same terms and conditions of the original contract. The period of supply is never seen mentioned in anyn contracts. Also, excess quantities were seen supplied over and above the contracted quantity , and the Corporation took more than 6 months to complete the contracted supply.

9.22 Even though, investments have been made to produce value added products with sufficient number of dedicated employees, quantity produced and sold is very meagre. It may also be noted that the Government has given grant for brand promotion.

33. However, the recommendations deal only with the financial, purchase, sales, labour and productivity aspects. The opening paragraph, under the head 'Recommendations' is extracted below:

”9.2. Recommendations

As explained in the foregoing chapters, both KSCDC and CAPEX have been making huge losses continuously; there is a need to relook the working model urgently. The casehw public sector is being politically construed as a labour welfare measure and not as a commercial entity. Such a thinking was probably apt in the 1970s, 80s and 90s as the number of workers involved was very high. The numbers in public sector has now come down to around 16000 from a high of over 50000 in the 1980s. The new generation work force have no attraction to the sector and due to short supply, the private companies are mechanizing heavily and engaging migrant workers. In such a scenario long term prospects of both KSCDC and CAPEX are extremely grim. Hence the Committee intends to make only short and medium

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*term recommendations regarding financial, purchase, sales and labour and productivity aspects.”*

*From the above, it is seen that even though clear findings were rendered with regard to various deeds and misdeeds done by the concerned persons, who were at the helm of the affairs of the first respondent Corporation, in violation of the relevant norms/ guidelines/instructions causing huge loss, the Committee made 'recommendations' only with reference to the fields of finance, purchase, sales and labour and productivity and that alone. In other words, nothing was said with regard to the course of action to be pursued with reference to the mischief /malpractices already committed. The recommendation of the Committee virtually amounts to “remedial measures” to be taken, to bring back normalcy and to scale down the mounting loss. But there is no solution with regard to the undesirable activities already pursued in violation of the norms/guidelines/instructions with regard to procurement of raw cashew nuts and sale of cashew kernels and such other incidental aspects. Since a 'finding' has been reached by the Special/Expert Committee as to the course pursued by the concerned respondents, that too, identifying a particular organisation by name 'JM J Traders' for perpetuating the mischief and although the lapses on the part of the parties concerned were asserted holding that the Committee cannot rule out the existence of cartel with the “JM J Traders”, from whom 80% of the total purchase was effected during the past five years (paragraph 9.13), the Committee chose to maintain silence when it came to the 'recommendations' in this regard. There is also a mention in paragraph 9.18 of the report that, there is a possibility that sales orders with 'prior dates' were being entered into, on a later date, with obvious price advantage to the buyer and there were many instances where the contracted quantity was not fully delivered prior to entering into next contract. The Committee has however found it extremely essential to have the Board reconstituted, removing the second respondent /Managing Director as a prerequisite for effective implementation of the recommendations. The concluding paragraph of the said report, signed by the Chairman, Members and the Convenor of the Committee, is in the following terms:*

*"The Committee is of the firm opinion that reconstitution of the Board and removal of the Managing Director is a prerequisite for the effective implementation of the above recommendations, and it recommends so."*

*Considering the entire facts and circumstances, this Court finds that the incriminating circumstances pointed out require to be investigated effectively, as the same would involve offences under different provisions of law, if it comes to substantiated.*

34. *Though the report of the Special/Expert Committee does not mention the necessity to have a 'Vigilance Enquiry', it was submitted by the learned Advocate General before the Court at the time of hearing, that the Government had already accepted the report and that the Government has ordered a 'Vigilance Enquiry' into the matter. No respondent has filed any objection to the Special/Expert Committee's report. If the Committee report has already been accepted by the Government, the re-constitution of the Board and removal of the Managing Director (2nd respondent), stated as a prerequisite for effective implementation of the recommendation forming part of the report, is a matter for the Government, to have it implemented, if the sense of commitment is proper, transparent and above board. We leave it there.*

35. *Coming to the question of proper investigating agency, the point to be considered is whether it will lie in the mouth of the Vigilance Department of the State, by virtue of the complex nature of the transactions involving procurement of raw cashew nuts from different parts of the world, also involving 'High Sea Sales'. It is also seen that the Department of Vigilance and Anti Corruption Beaureau had earlier requested for a detailed vigilance investigation with reference to the facts and figures. As evident from the 'Note' file at Ext.P11(d), it was not sanctioned, based on the doubt expressed by the "Under Secretary to the Government" on 17.04.2013. Even though the file notings of the Under Secretary were dissented and disagreed by the Additional Secretary to the Vigilance Department on 20.04.2013 insisting for*

*Vigilance Investigation, which in turn was affirmed by the Principal Secretary, Home and Vigilance Department on 22.04.2013; the doors of the truth were caused to be shut by observing that matter did not require any vigilance enquiry and that the file could be forwarded to the Industries Department where appropriate action could be pursued. It was only after filing the writ petition, referring to the callous inaction on the part of the Government in dealing with the matter, despite the report of the C&AG and the direction given by this Court as per Ext.P10 judgment, that the Government chose to appoint a Special/Expert Committee who submitted the report on 23.05.2015. The report submitted by the Special/Expert Committee itself is adequate enough to hold that a threadbare investigation is extremely essential to bring out the hidden facts and to book the culprits. The nature of investigation has to be on a wider circle, and collection of materias from parties/establishments/witnesses beyond the State and even from abroad may be necessary, which task cannot be effectively satisfied by the Vigilance Department of the State. We find this as a 'fit case' to be entrusted with the Central Investigating agency/CBI; more so, when the circumstances pointed out by the Apex Court in this regard stand satisfied.*

36. *In the above facts and circumstances, we direct the 4th respondent/State of Kerala to entrust the investigation into the affairs forming the subject matter of Exts.P2 to P4 reports of the C&AG, Exts.P5 to P7 reports of the Finance Wing of the Government of Kerala, Ext.P8 report of the RIAB and the report dated 23.05.2015 of the Special/Expert Committee constituted by the Government pursuant to Ext.R8(a) G.O. dated 25.07.2014 at the earliest at any rate within 'two weeks' from the date of receipt of a copy of the judgment. The CBI shall take over the investigation in respect of the instances specified above and other incidental matters, if any, complete the investigation most effectively and pursue further steps to bring the guilty to the dock, so as to uphold the rule of law."*

16. In fact, this judgment led to investigation of the matter by the CBI. While considering the said Writ Petition by the Division

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Bench of this Court, in paragraph 23 it was observed by this Court that **“the necessity to conduct a detailed investigation has been felt by the Government itself; who in turn, has ordered a vigilance enquiry, as submitted by the learned Advocate General during the course of arguments”**. Thus at the time when the Writ Petition(C) No.16144/2014 filed by the petitioner was considered by the Division Bench, the stand taken by the Government was that the then Government also found necessity of investigation in this matter.

17. It is relevant to note further that in the judgment in W.P©.No.16144/2014, the report of enquiry/investigation conducted by the Comptroller and Auditor General of India, the Finance Inspection Wing (NTG) of the Government regarding the malpractices in the purchase and sale of cashew nuts which is the subject matter of the dispute and the recommendations made by them and also the enquiry report at the option of Public Sector Reconstructing and Internal Audit Board of the Department of

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Industries and Commerce, Government of Kerala, (RIAB) were considered, then the Division Bench also taken note of the vigilance enquiry already started by the Department of Vigilance of the State and it was thereafter an investigation by the CBI was ordered. So, the Government itself found that an investigation in this scam was necessary and opted for vigilance enquiry on satisfying that same offences are, *prima facie*, found warranting investigation. But the investigation was entrusted by the Division Bench of this Court to the CBI as per the judgment dated 23.09.2015, taking into consideration of seriousness of the allegation and finding, *prima facie*, materials necessary for investigation by an independent agency. Nobody challenged the said judgment and the same has become final.

18. Reading the interim order passed by this Court, referred as Annexure-A7 in juxtaposition with the direction issued by this Court in Annexure-A1 judgment and the reason stated in Annexure-

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A8 order, it could be seen that the Government, in deviation from the stand taken before the Division Bench, considered the case regarding the investigation in the matter by the CBI relying on two Government orders issued by the Government, viz. G.O(Rt) No.1162/91/ID dated 13.12.1991 and G.O(Rt) No.378/93/ID dated 29.03.1993 and these are the Government orders issued prior to the rendering of the Division Bench judgment directing CBI investigation as on 23.09.2015. Another Government Order G.O(Ms)No.149/2007/ID dated 26.12.2007 also was referred. In paragraph No.17 it was observed as per Annexure-A8 order that Government have further carefully assessed whether the facts and evidences presented disclose a clear and sustainable prima facie case warranting prosecution under the provisions of the Prevention of Corruption Act. It is observed that the materials relied upon by CBI largely pertain to procedural deviations and administrative lapses in the course of procurement, which by themselves do not conclusively

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establish elements of criminal misconduct such as dishonest intention, abuse of official position, or obtaining of undue advantage. The decisions in question appear to have been taken in the discharge of official duties within an institutional framework, without sufficient proof of personal gain attributable to the accused persons. In the absence of such essential ingredients constituting an offence under the Act, Government, after due application of mind and in compliance with the order of Hon'ble High Court dated 21/08/2025, has arrived at the considered decision that this is not a fit case for granting sanction for prosecution against Shri K A Ratheesh, former MD, KSCDC and Shri R. Chandrasekharan, former Chairman, KSCDC.

19. Now the question is whether Annexure-A8 order was passed after considering the direction issued by this Court in Annexure-A1 judgment. In paragraph Nos.19 to 23, the learned Single Judge of this Court illustrated the reason for setting aside the

earlier order denying sanction and the matters to be considered while considering grant of sanction afresh. Paragraph Nos.21 and 22 are very relevant and the same are extracted as under:

*“21. The Director Board of KSCDC consists of 11 members, 2 members as Additional Secretaries, one from the Industries Department and the other from the Finance Department; others are representatives of trade unions from ruling and opposition parties. The Managing Director is the Chief Executive of the company who is responsible for the regular conduct of the business and operations. The day-to-day functioning of the company is controlled and managed by him. The Chairman shall preside over all the meetings of the Board of Directors and shall exercise all such powers delegated to him from time to time by the Board of Directors. The findings in the final report show that the Chairman and Managing Director had to attend the entire Board Meetings for the finalization of tenders, whereas the attendance of other Board members may vary on each occasion and that the finalization of the tender and award of the contract for the procurement of raw cashew nut has been done on behalf of the Board of Directors, which was presided over by the Chairman. The findings further show that the accused, Nos 1 to 3, were taking all the decisions regarding the procurement*

*of cashew nuts during their respective tenures. The investigation revealed that during the period from 2006 to 2015, accused Nos.1 and 3, abusing their official capacity as Managing Director and Chairman, respectively of KSCDC, entered into conspiracy with accused No.4 and awarded several contracts to his proprietorship concern for import and supply of raw cashew nuts violating the Rules. It was further found that grants aggregating to the tune of `80 crores were released by the Government of Kerala during the period 2008-2013 for procurement of raw cashew nuts from local sources in Kerala. But instead of procuring raw cashew nuts of Kerala origin, the accused Nos. 1 to 3 with dishonest intention utilized the major portion of the fund for procuring imported nuts through private contractors like accused No.4. It was also found that the grants given by the Government of Kerala from 2007-2008 to 2012-13 for procurement of raw cashew nuts were diverted and false certificate of utilization in Form K.F.R. 44 was submitted by accused No.1 to the Government. These materials and facts collected by the investigating agency and placed before the sanctioning authority were not all considered by the sanctioning authority before arriving at the finding Nos. (ii) and (iii).*

*22. So far as finding No (iv) in Ext. P3 is concerned, it is not the case of the prosecution that the Government Order of*

*2007, based on which contracts were made by KSCDC in favour of accused No. 4, was not issued with due application of mind. On the other hand, the finding in the final report is that pursuant to the conspiracy hatched by accused Nos. 1 to 3 with accused No. 4, accused No.1 succeeded in getting the said Order from the Government allowing KSCDC to continue prevailing of using “Freedom with Responsibility” in the matter of purchase and import of raw cashew nuts and contrary to the spirit of the said Order and the earlier guidelines, accused Nos. 1 to 3 did not protect the legitimate interest of KSCDC and misutilised the freedom granted by the Government of Kerala in conspiracy with accused No.4. “*

20. Going by Annexure-A8 judgment, G.O(Ms).No.74/96/ID dated 26.03.1996 and G.O(Ms).No.149/2007/ID dated 26.12.2007 are the Government Orders produced and considered by this Court as Annexures-R1(a) and R1(b) while passing Annexure-A1 judgment. In Annexure-A8 order, the observation of the sanctioning authority that the materials relied upon by the CBI largely pertained to procedural deviation and administrative lapses in the course of procurement, which by themselves do not conclusively establish

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elements of criminal misconduct such as dishonest intention, abuse of official position, or obtaining of undue advantage. The stand taken by the Government ignoring the report of the CBI and the finding of the court found to be not justifiable and the same would show that the Government is hesitant to grant sanction to prosecute the accused person in this case for the reasons known to it and the stand taken is quite arbitrary and against the public interest, that too, in gross violation of the finding of this Court in Annexure-A1 judgment. In paragraph No.23 of Annexure-A1 it has been stated as under:

*“23. It is evident from the above discussion that the sanctioning authority passed Ext.P3 without considering the materials furnished and report submitted by the CBI in the correct legal perspective. It does not reflect the application of mind to the existence or otherwise of a prima facie case regarding the commission of an offence under Section 13(1) (d) of the PC Act by the accused Nos. 1 and 3. The sanctioning authority must exercise the discretion to refuse or grant sanction judiciously. The sanctioning authority is*

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*required to assign valid reasons why it did not consider it necessary to grant sanction for prosecution. Ext. P3 is bereft of reasons. Hence, it cannot be sustained. “*

21. It is relevant to note that challenging Annexure-A1 judgment the accused persons filed Special Leave Petition before the Supreme Court of India and by common order dated 10.12.2024, the Honourable Supreme Court dismissed the Special Leave Petition as per Annexure A2 produced herein and therefore, the finding of this Court in Annexure-A1 judgment, particularly paragraph 23, has become final since the Government did not challenge the said observation.

22. Overall evaluation of the materials would show that the Government is very reluctant to grant sanction even though the prosecution materials would substantiate, *prima facie*, commission of offences under Sections 13(1)(d) r/w 13(2) of the PC Act, 1988, by the accused **involving a huge scam of Rs.80 Crores during 2011**. Thus the inevitable conclusion of this Court is that the

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respondent herein, representing the Government, not adhered to the directions issued by this Court in Annexure A1 judgment while issuing Annexure A6 order and wilfully disobeyed the direction issued by this Court in Annexure-A1 judgment; and thereby, *prima facie*, committed the offence of 'civil contempt', as defined under Section 2(b) of the Contempt of Courts Act, 1971, i.e, willful disobedience to comply the directions of this Court in Annexure-A1 judgment. Similar is the position as regards to Annexure A8 order. In view of the above, this Court is inclined to proceed further as provided under Rule 14 of the Kerala Rules, 1971, in tune with the decision of this Court reported in [2021 (1) KLT 705], *Varghese v. Devassia* (Contempt Case(C) No.1073/2014 and connected cases), (where this Court found in paragraph 46 that a Single Judge is vested with ample powers to proceed absolutely to its culmination in a contempt proceedings initiated under the Kerala Rules, 1971) for which the respondent is directed to appear in person on 18.05.2026.)

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23. Since this Court already found that while issuing Annexure A8 order also the direction in Annexure A1 judgment was failed to be complied, Annexure A8 order also is set aside with direction to the respondent to reconsider the same, considering the findings and observations in Annexure A1 judgment in *stricto sensu* and to issue fresh order on or before 18.05.2026.

The respondent is directed to appear in person to proceed further under Rule 14 of Kerala Rules, 1971 at 10.15 a.m on 18.05.2026.



*Sd/-*

**A. BADHARUDEEN, JUDGE**

*rtr/*

**APPENDIX OF CON.CASE(C) 908/2025**

- Annexure A1** CERTIFIED COPY OF THE JUDGMENT DATED 24.7.2024 IN W.P.(C) NO.25863/2020 OF THE HON'BLE HIGH COURT OF KERALA
- Annexure A2** TRUE COPY OF THE ORDER OF THE HON'BLE SUPREME COURT OF INDIA DATED 10.12.2024 IN SLP (CRL.) 15049/2024 AND 15060/2024
- Annexure A6** TRUE COPY OF THE G.O. (RT) NO.324/2025/ID DATED 21.3.2025
- Annexure A7** True copy of the Order dated 21.8.2025 in Con.Case (C) No. 908 of 2025 of the Hon'ble High Court of Kerala
- Annexure A8** True copy of the G.O. (Rt) No.1363/2025/ID dated 28.10.2025 passed by the respondent
- Annexure R1 (a)** A True copy of the G.O.(MS)NO.149/2007/ID Dated 26.12.2007
- Annexure R1(b)** A True copy of the G.O.(MS)NO.74/96/ID dated 26.03.1996

