

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 12TH DAY OF JULY 2021 / 21ST ASHADHA, 1943

WP(C) NO. 13818 OF 2021

PETITIONER/S:

DR.GEORGE JOSEPH THEMPLANGAD,
AGED 67 YEARS, S/O. LATE DR. T.V. JOSE,
RESIDING AT THEMPLANGAD HOUSE,
ALPHONSA HOSPITAL ROAD, CHANGANASSERY,
KOTTAYAM DISTRICT, KERALA, INDIA, PIN-686101.

BY ADVS. SRI. JOHNSON GOMEZ
SRI. C.UNNIKRISHNAN (KOLLAM)
SRI. S.BIJU (KIZHAKKANELA)
SRI. SANJAY JOHNSON
SRI. JOHN GOMEZ

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HOME AFFAIRS NORTH BLOCK,
NEW DELHI, INDIA-110001.
- 2 THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF GENERAL ADMINISTRATION, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 3 ELECTION COMMISSION OF INDIA,
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER,
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI, INDIA-110001.
- 4 COMMUNIST PARTY OF INDIA (MARXIST),
HAVING ITS OFFICE AT A.K. GOPALAN BHAWAN, 27-29,
BHAI VIR SINGH MARG, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.

- 5 COMMUNIST PARTY OF INDIA,
HAVING ITS OFFICE AT AJOY BHAVAN, 15,
INDRAJIT GUPTA MARG, NEW DELHI, INDIA-110002,
REPRESENTED BY ITS SECRETARY.
- 6 JANATA DAL (SECULAR),
HAVING ITS OFFICE AT 5, SAFDARJUNG LANE,
NEW DELHI-110003, REPRESENTED BY ITS SECRETARY.
- 7 NATIONALIST CONGRESS PARTY,
HAVING ITS OFFICE AT BUNGLOW NO. 1
CANNING LANE (RAVI SHANKAR PRASAD SHUKLA LANE),
NEAR FERAZ SHAH ROAD, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
- 8 THE LOKTANTRIK JANATA DAL,
HAVING ITS OFFICE AT H. NO.861, SECTOR 15, PART II,
GURUGRAM, GURUGAON DISTRICT, HARYANA-122001,
REPRESENTED BY ITS SECRETARY.
- 9 KERALA CONGRESS (B),
HAVING ITS OFFICE AT P.T. CHACKO SMARAKA MANDIRAM,
S.S. KOVIL ROAD, THAMPANOR, THIRUVANANTHAPURAM-695001,
REPRESENTED BY ITS SECRETARY.
- 10 INDIAN NATIONAL LEAGUE,
HAVING ITS OFFICE AT NO. 7, BAKWANT RAI MEHTA LANE,
KASTURBA GANDHI MARG CROSS, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
- 11 CONGRESS (SECULAR) ,
HAVING ITS OFFICE AT RAM RAJ BHAVAN,
MANIKATH ROAD, KOCHI, KERALA-16,
REPRESENTED BY ITS SECRETARY.
- 12 JANATHIPATHYA KERALA CONGRESS,
HAVING ITS OFFICE NEAR JAWAHAR BALBHAVAN,
BUILDING NO.641, WARD NO.21, KOTTAYAM, KERALA-686001,
REPRESENTED BY ITS SECRETARY.
- 13 KERALA CONGRESS PARTY (SKARIA THOMAS),
HAVING ITS OFFICE AT CHINGAVANAM IN BUILDING NO.711,
WARD NO.6, KOTTAYAM MUNICIPALITY, KOTTAYAM DISTRICT,
KOTTAYAM, KERALA, REPRESENTED BY ITS SECRETARY.

- 14 KERALA CONGRESS (JOSE K. MANI),
HAVING ITS OFFICE AT THE STATE COMMITTEE OFFICE,
NEAR FIRE STATION, KOTTAYAM, KERALA-686001,
REPRESENTED BY ITS SECRETARY.
- 15 INDIAN NATIONAL CONGRESS,
HAVING ITS OFFICE AT 24 AKBAR ROAD, NEW DELHI-110001,
REPRESENTED BY ITS SECRETARY.
- 16 INDIAN UNION MUSLIM LEAGUE,
HAVING ITS OFFICE AT QUAID-E-MILLATH MANZIL, NO.36,
MARAİKAYAR LEBBAI STREET, CHENNAI, TAMILNADU, INDIA-600001,
REPRESENTED BY ITS SECRETARY.
- 17 KERALA CONGRESS, HAVING ITS OFFICE 67,
KUMARANASAN NAGAR, KADAVANTHARA P.O., ERNAKULAM,
KERALA-682020, REPRESENTED BY ITS SECRETARY.
- 18 KERALA CONGRESS (JACOB),
HAVING ITS OFFICE WARD XIII, BUILDING 346, T.B. ROAD,
KOTTAYAM (KERALA) -686001,
REPRESENTED BY ITS SECRETARY.
- 19 REVOLUTIONARY SOCIALIST PARTY,
HAVING ITS OFFICE AT 37 RIPON STREET
(MUZAFFAR AHMED SARANI), KOLKATA-700016 (WEST BENGAL),
REPRESENTED BY ITS SECRETARY.
- 20 COMMUNIST MARXIST PARTY (C.P. JOHN),
HAVING ITS OFFICE AT MVR BHAVAN, KUNNUKUZHY,
THIRUVANANTHAPURAM, KERALA, INDIA-695037,
REPRESENTED BY ITS SECRETARY.
- 21 ALL INDIA FORWARD BLOCK,
HAVING ITS OFFICE AT NETAJI BHAVAN, T-2235/2,
ASHOK NAGAR, FAIZ ROAD, KAROL BAGH, NEW DELHI,
INDIA-110005, REPRESENTED BY ITS SECRETARY.
- 22 BHARATIYA NATIONAL JANATA DAL,
HAVING ITS OFFICE AT 701/A, 7TH FLOOR,
MEGHMALHAR-COMPLEX, SECTOR NO.11,
GANDHINAGAR-382011, GUJARAT, INDIA,
REPRESENTED BY ITS SECRETARY.

- 23 BHARATIYA JANATA PARTY,
HAVING ITS OFFICE AT 6-A, DEEN DAYAL UPADHYAYAMARG,
NEW DELHI, INDIA-110005, REPRESENTED BY ITS SECRETARY.
- 24 BHARATH DHARMA JANASENA,
HAVING ITS OFFICE AT BUILDING NO. V/489,
MARARIKULAM NORTH PANCHAYAT,
EAST OF KANICHUKULANGARA TEMPLE,
MARARIKULAM NORTH VILLAGE, CHERTHALA TLAUK,
ALAPPUZHA DISTRICT, KERALA-688544,
REPRESENTED BY ITS SECRETARY.
- 25 ALL INDIA DRAVIDA MUNNETRA KAZHAGAM,
HAVING IT OFFICE ITS OFFICE AT 275, AVVAI SHANMUGAM SALAI,
ROYAPETTAH, CHENNAI-600014, TAMIL NADU,
REPRESENTED BY ITS SECRETARY.
- 26 KERALA KAMARAJ CONGRESS,
HAVING ITS OFFICE AT BUILDING NO.NMC, XII-342D,
NEYATTINKARA, THIRUVANANTHAPURAM, KERALA-695121,
REPRESENTED BY ITS SECRETARY.
- 27 JOB MICHAEL (MLA),
NEAR REVENUE TOWER, CHANGANACHERRY,
KOTTAYAM DISTRICT, KERALA-686102.

R1 BY ADV. SRI. P.VIJAYAKUMAR, ASG
R2 BY SENIOR GOVERNMENT PLEADER
SRI. T.K. ARAVINDAKUMAR BABU,
R3 BY ADV. SRI. DEEPU LAL MOHAN SC FOR ELECTION COMMISSION
OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.07.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“C.R”

JUDGMENT**S. Manikumar, CJ**

Petitioner, claiming to be a Public Health Activist, and a strong proponent for transparency and truth in India's electoral process, has filed the instant Public Interest Litigation, for the following reliefs:

- (i) To declare that unregistered Political Fronts in the nature of Left Democratic Front (LDF), United Democratic Front (UDF), and the National Democratic Alliance (NDA) do not have any manner of right to set up candidates or to engage in any kind of election campaign, by printing and publishing posters or advertisements in the print or electronic media during elections conducted in accordance with the provisions contained the Representation of the People Act, 1951.
- (ii) To issue a writ of mandamus or any other appropriate writ, order or direction, compelling and commanding the 3rd respondent viz., Election Commission of India, represented by the Chief Election Commissioner, New Delhi, to ensure that unregistered Political Fronts in the nature of Left Democratic Front (LDF), United Democratic Front (UDF), and the National Democratic Alliance (NDA) engage in any kind of election campaign, by printing and publishing posters or advertisements in the print or electronic media,

during elections conducted in accordance with the provisions contained in the Representation of the People Act, 1951, as if, candidates are set up by such unregistered political fronts.

- (iii) To issue a writ of mandamus or any other appropriate writ, order or direction, compelling and commanding the 3rd respondent, to regulate the functioning of the pre-poll alliances of registered political parties during election campaigns conducted under the Representation of the People Act, 1951.
- (iv) To issue a writ of mandamus or any other appropriate writ, order or direction, compelling and commanding the 3rd respondent, to consider and pass orders on Exhibit-P6 representation submitted by the petitioner, within a time frame that this Court may consider reasonable.

2. Short facts leading to the filing of the instant writ petition are that petitioner is a qualified Doctor from Kasturba Medical College, Manipal, and an MBA holder in International Business from Pace University, New York. He submitted Exhibit-P1 representation dated 31.03.2014, to the Election Commission of India, respondent No.3, requesting to remove flex boards from all the States of India, including Kerala, which were instituted on behalf of various candidates, and also to disqualify the candidates

campaigning themselves, as sponsored by Political Front candidates. However, no action was taken.

3. Petitioner has further stated that as per Notification No.464/KL-LA/2021 dated 12th March, 2021 (Exhibit P2), the Hon'ble Governor of Kerala, has notified Kerala Assembly Election, 2021, calling upon the Assembly Constituencies in the State, to elect members for the Kerala Legislative Assembly. In furtherance of Exhibit-P2 notification, Election Commission of India have notified the poll scheduled in accordance with Section 30 the Act. Thereafter, the election process was completed on 4.5.2021 and this writ petition is not intended to call in question the said election or to challenge the election of any returned candidate.

4. Petitioner has further stated that during the election campaign of 27th respondent, an MLA of Changanacherry, Kottayam District, the petitioner had occasion to view a poster, published by LDF, soliciting votes, and that similar posters were published by other Political Fronts. According to the petitioner, the Political Fronts are not registered under the Representation of the People Act, 1951; they do not have a constitution or membership; and that, there is no organisational set up recognised by

law, nor is there any regulatory mechanism, to regulate the functioning of a front.

5. It is the case of the petitioner that respondent No.27 was set up by respondent No.14, a political party, which is presently a part of LDF and had previously been in UDF fold. The Opposition Leader (CPIM), during the Oomen Chandy cabinet (2011-2016), had filed a petition before the Director of Vigilance, regarding criminal misconduct, by the former Chairman of the 14th respondent, consequent to which, a Vigilance case was registered before the Vigilance Court and that the Vigilance Judge has directed to conduct a further investigation under Section 173(8) of the Cr.P.C. In appeal, this Court by judgment dated 9.11.2015 in O.P.(Crl.) No.376 of 2015 (Exhibit-P3), upheld the judgment of the Vigilance Court. Resultantly, the Finance Minister and former Chairman of the 14th respondent, has to resign from the Cabinet on 10.11.2015. Thereafter, the proceedings were dropped and the 14th respondent joined LDF and contested in the Legislative Assembly Elections, 2021.

6. Petitioner has contended that the leaders of political parties were lured to join the Political Front, by offering illegal gratification. These

political parties, after accepting the gratification, either set up candidates in the Constituency or restrain candidates from contesting elections. Being aggrieved by the stand of the Election Commission of India, represented by the Chief Election Commissioner, New Delhi, respondent No.3, permitting Political Fronts, to interfere in the election campaign, by sponsoring candidates for the elections and by publishing misleading advertisements, petitioner has submitted Exhibit-P5 representation dated 9.3.2021 before the 3rd respondent requesting action against the Political Fronts, interfering in the election campaign as per Exhibit-P4. But, as per Exhibit-P6 letter dated 25.04.2014, the same was rejected by the 3rd respondent. In such circumstances, this writ petition has been filed for the reliefs stated supra.

7. Referring to the X Schedule of the Constitution of India, in general, and Articles 102(2) and 191(2), in particular, petitioner has contended that the registration of a political party has relevance. The X Schedule specifically refers to the provisions regarding disqualification of the term “Original Political Party” in paragraph (1)(C). 'An Original Political Party' in relation a member of a House means 'the Political Party to which he belongs for the purpose of sub-paragraph (1) of paragraph (2). Sub-

paragraph (1) of paragraph (2) deals with the disqualification of a member on the ground of defection. Paragraph 2(1)(a) provides that if a member voluntarily gives up his membership of such a Political Party, such a member is liable to be disqualified. According to the petitioner, in view of the fact that the Political Fronts does not register themselves as above, they do not have any such rights that a political party enjoys.

8. Petitioner has further contended that at the end of the day, candidates are nominated, as sponsored by Political Fronts, and the electors cast their votes on the promise and representations made by Political Fronts. After the elections, there is no requirement that candidates should continue with the respective Political Front, until the next election. In such circumstances, the representations made by Political Fronts are potentially intended to deceive the voters, who cast their votes on the deceptive representations of the Political Fronts.

9. In support of the reliefs sought for, petitioner has raised the following grounds:

- A. It is contended that respondent No.3 has ample powers to interfere with the illegal practice of Political Fronts,

interfering with the election campaign of candidates standing for elections under the Representation of the People Act, 1951.

- B. Referring to Section 123 of the Representation of the People Act, 1951, petitioner has contended that the understanding between registered political parties in forming the political front is vitiated by corrupt practices, as defined under the Act and the arrangement between political parties and candidates would amount to violation of Section 123(1). It would induce persons from standing for election or not standing for election on offer or promise of gratification. Such interactions would fall within the menace of illegality described in the Act as “Bribery”.
- C. It is further contended that the Political Fronts are not registered under Section 29A of the Representation of the People Act, 1951. The procedure for registration of political parties would include furnishing particulars as required under Section 29A(4) and furnishing copies of memorandum of rules and regulations of associations or bodies by which the political party is constituted and also that the memorandum of rules

and regulations shall contain a specific provision that the association or body bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism, and democracy and would uphold the sovereignty, unity and integrity of India. Since the Political Fronts do not undergo any such registration process, they do not have the right to sponsor candidates during election and to release commercials in the electronic and print medias. The actions of the unregistered Political Front, is, therefore, *per se* illegal.

- D. It is also contended that the electors are misguided by the election materials published by the Political Fronts. They are made to believe that a Political Front is equivalent to a Political Party and the electors cast their votes on the promise and representations by the Political Front. After the elections, there is no requirement that candidates should continue with the Front, until the next election. In such circumstances, the representations made by the Political Front are potentially intended to deceive the voters, who cast their votes on the deceptive representations of the Political Fronts.

10. Based on the above, learned counsel for the petitioner made submissions.

11. Heard learned counsel for the parties and perused the material available on record.

12. Letter No.437/6/SLGG/2016-CCS/626 dated 25th April, 2016 (Exhibit-P6), issued by the Election Commission of India, represented by the Chief Election Commissioner, New Delhi, 3rd respondent, to the petitioner is extracted hereunder:

“SECRETARIAT OF THE ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.437/6/SUGG/2016-CCS/626 Dated: 25th April, 2016

To

Dr. George Joseph Themplangad,
(Ottaplackal), Alphonsa Hospital Road,
Changanassery, Kottayam District,
Kerala State, India,
Pin: 686101.

Sub: Request for issuance of notification by Election Commission of India on violation of the Model Code of Conduct-Politics in Kerala State-Regarding

Sir,

I am directed to refer to your letter dated 31st March, 2016 on the subject cited and to state that forming of political alliance by the political parties before or after the

elections is a legitimate political activity recognized all over the democratic world. There is nothing objectionable in making such alliances either under the law or under any political convention. As such no action is considered in the matter from the part of the Election Commission of India.

Yours faithfully,

(RAKESH KUMAR)
UNDER SECRETARY”

13. Representation of the People Act, 1951 is an Act to provide for the conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections. Section 2(f) of the Act, 1951 interprets 'political party' to mean an association or a body of individual citizens of India registered with the Election Commission as a political party under Section 29A.

14. In this context, Section 29A of Act, 1951 reads as under:

“29A. Registration with the Election Commission of associations and bodies as political parties.— (1) Any

association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the

association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.”

15. Section 39 of the Act, 1951 speaks about nomination of candidates at other elections and the same reads thus:

“39. Nomination of candidates at other elections.—(1)

As soon as the notification calling upon the elected members or the members of the Legislative Assembly of a State or the members of the electoral college of a [Union territory] to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint—

(a) the last date of making nominations, which shall

be the [seventh day] after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be [the day immediately following] the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidatures, which shall be [the second day] after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures; and (e) the date before which the election shall be completed.

(2) The provisions of sections 31 to 38, excluding sub-sections (2) and (5) of section 33 and [clause (a) of subsection (1) of section 34], shall apply in relation to any such election as they apply in relation to an election in any constituency :

Provided that—

(a) any references in the said provisions to the electoral roll of the constituency shall, unless the context

otherwise requires, be construed, in the case of an election by the members or the elected members of the Legislative Assembly of the State, as references to the list of members or elected members, as the case may be, of that Assembly maintained under sub-section (1) of section 152, and in the case of an election by the members of the electoral college of a [Union territory], as references to the list of members of such electoral college maintained under sub-section (2) of that section;

[(aa) the reference in the opening paragraph of sub-section (1) of section 33 to "an elector of the constituency as proposer" shall be construed as a reference to "ten per cent. of the elected members or of the members of the Legislative Assembly of a State or of the members of the electoral college of a Union territory, as the case may be, or ten members concerned, whichever is less, as proposers":

Provided that where as a result of the calculation of the percentage referred to in this clause, the number of members arrived at is a fraction and if the fraction so arrived at is more than one-half it shall be counted as one, and if the fraction so arrived at is less than one-half it shall be ignored;]

[(ab)] in the case of an election to the Legislative Council of a State by the members of the Legislative Assembly of that State, clause (a) of sub-section (2) of

section 36 shall be construed as including a reference to sub-clause (d) of clause (3) of article 171;]

(b) any reference in the said provisions to section 30 shall be construed as references to sub-section (1) of this section; and

(c) at the time of presenting the nomination paper, the returning officer may require the person presenting the same to produce either a copy of the electoral roll, or part of the electoral roll, in which the name of the candidate is included or a certified copy of the relevant entries in such roll.]

16. Section 123 under Part VII of Act, 1951, relied on by the petitioner deals with Corrupt Practices and the same reads as under:

“123. Corrupt practices.— The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) “Bribery”, that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or [to withdraw or not to withdraw] from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for [withdrawing or not withdrawing] from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate [to withdraw or not to withdraw] his candidature.

Explanation.— For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person 5[with

the consent of the candidate or his election agent], with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his

election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

[Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(3-A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

[(3-B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.— For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).]

(4) The publication by a candidate or his agent or by any other person [with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal, 10[***] of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate’s election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person [with the consent of a candidate or his election agent] [or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be

deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.— In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorizing of expenditure in contravention of section 77.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person [with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate’s election, from any person in the service of the Government and belonging to any of the following classes, namely:—

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed forces of the Union;
- (d) members of the police forces;

(e) excise officers;

[(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, desh mukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and]

(g) such other class of persons in the service of the Government as may be prescribed:

[Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.]

[(8) Booth capturing by a candidate or his agent or other person.]

Explanation.— (1) In this section the expression “agent” includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent 16[***] of that candidate.]

[(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service such person ceased to be in such service with effect from the said date.]

[(4) For the purposes of clause (8), “booth capturing” shall have the same meaning as in section 135-A.]”

17. Perusal of the statutory provisions, makes it clear that any association or body of individual citizens of India calling itself a political party and intending to avail itself all the provisions of Part IV-A of the Representation of the People Act, 1951 require registration. Political front is nothing, but an alliance of political parties. It is not a legal entity, in terms of the Representation of the People Act, 1951.

18. Political system in India, does not prohibit alliance of political parties to contest in elections. It could be for a common purpose for opposing a political party or parties, or for propagating the principles and the purpose under which the alliance of political parties propose to administer, if elected. Such political parties may have even common ideology. The collective name assigned to such group of political parties for contesting in an election, may be called as a Front or any other name, they chose. Alliance of political parties is entitled to have its name, indicating that they have aligned together, to seek votes from the voters. A Political Front is entitled to set up candidates or to engage in any kind of election campaign, by printing and publishing posters or advertisements, in the print or electronic media during elections. In as much as, a Political Front

is not an entity, in terms of the Representation of the People Act, 1951, there is no compulsion that a political alliance or Political Front to be registered under any law much less the provisions of Representation of the People Act, 1951.

19. Instant writ petition is filed as a Public Interest Litigation. Therefore, we deem it fit to consider as to what 'Public Interest' and 'Public Interest Litigation' mean, as hereunder:

(i) In Strouds Judicial Dictionary, Volume 4 (IV Edition), 'Public Interest' is defined as under:

"Public Interest a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

(ii) In Black's Law Dictionary (Sixth Edition), "public interest" is defined as under:

"Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government...."

(iii) In **Forward Construction Co. v. Prabhat Mandal (Regd.)**, reported in (1986) 1 SCC 100, the Hon'ble Supreme Court held as under:

“2. Public interest litigation is a comparatively recent concept of litigation but it occupies an important status in the new regime of public law in different legal systems. By its very nature the concept of public interest litigation is radically different from that of traditional private litigation. Ordinary traditional litigation is essentially of an adversary character where there is a dispute between the two litigating parties, one making the claim or seeking relief against the other and the other opposing such claim or resisting such relief. While public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another, as happens in the case of ordinary litigation, it is intended to prosecute and vindicate public interest which demands that violation of constitutional or legal rights of a large number of people, who are poor, ignorant or socially and economically in disadvantaged position, should not go unnoticed, unredressed for that would be destructive of the rule of law. Rule of law does not mean protection to a fortunate few or that it should be allowed to be prosecuted by vested interests for protecting and upholding the status quo. The poor too have a civil and political right. Rule of standing evolved by Anglo-Saxon jurisprudence that only a person wronged can sue for judicial redress may not hold good in the present setting. Therefore, new strategy has to be evolved so that justice becomes easily available to the lowly and the lost. Law is not a closed shop. Even under the old system it was permissible for the next friend to move the court on behalf of a minor or a person under disability or a person under detention or in restraint. Public interest litigation seeks to further relax the rule of locus standi.

(iv) In **Janata Dal v. H.S. Chowdhary** [(1992) 4 SCC 305], the Hon'ble Supreme Court has considered the scope of Public Interest Litigation, and, in para 52, after considering what is public interest, held as under:

"The expression 'litigation' means a legal action including all proceedings therein initiated in a Court of law for the enforcement of right or seeking a remedy. Therefore, lexically the expression "PIL" means the legal action initiated in a Court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

In paras 60, 61 and 62 of the said judgment, it was pointed out as follows:

"Be that as it may, it is needless to emphasis that the requirement of locus standi of a party to a litigation is mandatory, because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold."

In para 96 of the said judgment, it has further been pointed out as follows:

"While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that Courts should not allow its process to be abused by a mere busy body or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."

In subsequent paras of the said judgment, it was observed as follows:

"It is thus clear that only a person acting *bona fide* and having sufficient interest in the proceeding of PIL will alone have a *locus standi* and can approach the Court to wipe out

the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly a vexatious petition under the colour of PIL, brought before the Court for vindicating any personal grievance, deserves rejection at the threshold".

It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievance go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters - government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenu expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of

which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly, they loose faith in the administration of our judicial system.

Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting *bona fide* and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

(v) While observing that Public Interest Litigation is a weapon to be used with great care and circumspection, in **Holicow Pictures Pvt. Ltd. v. Prem Chandra Mishra and Ors.** [(2007) 14 SCC 281], the Hon'ble Apex Court held as under:

"20. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved.

.... It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature."

(vi) In **P. Seshadri v. S. Mangati Gopal Reddy and others**, [(2011) 5 SCC 484], the Hon'ble Apex Court held as under:

"Public interest litigation can only be entertained at the instance of *bona fide* litigants. It cannot be permitted to be used by unscrupulous litigants to disguise personal or individual grievances as public interest litigations. The Hon'ble Supreme Court does not approve an approach that would encourage petitions filed for achieving oblique motives on the basis of wild and reckless allegations made by individuals i.e. busybodies, having little or no interest in the proceedings. The credentials, the motive and the objective of the petitioner have to be apparently and patently aboveboard. Otherwise the petition is liable to be dismissed at the threshold."

(vii) In **Ayaubkhan Noorkhan Pathan v. State Of Maharashtra & Ors** [(2013) 4 SCC 465], the Hon'ble Apex Court held as under:

"This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa". Many societal pollutants create new problems of non-redressed

grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. [Vide: P.S.R. Sadhanantham v. Arunachalam & Anr., (AIR 1980 SC 856); Dalip Singh v. State of U.P. & Ors., (2010) 2 SCC 114; State of Uttaranchal v. Balwant Singh Chaufal & Ors., (2010) 3 SCC 402; and Amar Singh v. Union of India & Ors., (2011) 7 SCC 69].”

20. As regards prayer No.(i) sought for by the petitioner, true that the power of the High Court in issuing writs under Article 226 of the Constitution of India is wider, as the High Court is empowered to issue a writ not only for the enforcement of fundamental rights, but also for other purposes, however, on the facts and circumstances of this case, the petitioner has not made out a case of public interest and we also find that no fundamental right of a citizen, guaranteed under the Constitution of India, is affected by formation of a political alliance. Article 226 of the Constitution of India should not be used and not intended to be used as a means for issuance of any declaratory relief, as prayed for by the petitioner. The foundation on the basis of which the instant writ petition is filed, is wholly untenable.

21. Petitioner has sought for a writ of mandamus, compelling/ commanding the Election Commission of India, represented by the Chief

Election Commissioner, New Delhi, respondent No.3, to ensure that unregistered Political Fronts in the nature of Left Democratic Front (LDF), United Democratic Front (UDF), and National Democratic Alliance (NDA), engage in any kind of election campaign, by printing and publishing posters or advertisements, in the print or electronic media, during elections conducted, in accordance with the provisions contained in the Representation of the People Act, 1951, as if, candidates are set up by such unregistered Political Fronts.

22. Petitioner has also sought for a writ of mandamus, compelling the Election Commission of India, represented by the Chief Election Commissioner, New Delhi, respondent No.3, to regulate the functioning of pre-poll alliances of registered political parties during election campaigns conducted under the provisions of Representation of the Peoples Act, 1951.

23. Writ of mandamus cannot be granted for mere asking. On the aspect as to when mandamus can be issued, we deem it fit to consider the following decisions:

- (i) In **State of Kerala v. A. Lakshmi Kutty** reported in (1986) 4 SCC 632, the Hon'ble Supreme Court held as under:

"A Writ of Mandamus is not a writ of course or a writ of right but is, as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, therefore, the Court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance. The existence of a right is the foundation of the jurisdiction of a Court to issue a writ of Mandamus."

(ii) In **Comptroller and Auditor General of India v. K .S. Jegannathan**, reported in AIR 1987 SC 537, a Three-Judge Bench of the Hon'ble Apex Court referred to Halsbury's Laws of England 4th Edition, Vol. I, Paragraph 89, about the efficacy of mandamus:

"89. Nature of Mandamus.-- is to remedy defects of justice; and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy, for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual."

(iii) In **Raisa Begum v. State of U.P.**, reported in 1995 All.L.J. 534, the Allahabad High Court has held that certain conditions have to be satisfied before a writ of mandamus is issued. The petitioner for a writ of mandamus must show that he has a legal right to compel the respondent to do or abstain from doing something. There must be in the petitioner a right to compel the performance of some duty cast on the respondents. The duty sought to be enforced must have three qualities. It must be a duty of public nature created by the provisions of the Constitution or of a statute

or some rule of common law.

(iv) Writ of mandamus cannot be issued merely because, a person is praying for. One must establish the right first and then he must seek for the prayer to enforce the said right. If there is failure of duty by the authorities or inaction, one can approach the Court for a mandamus. The said position is well settled in a series of decisions.

(a) In **State of U.P. and Ors. v. Harish Chandra and Ors.**, reported in (1996) 9 SCC 309, at paragraph 10, the Hon'ble Apex Court held as under:

“10. ...Under the Constitution a mandamus can be issued by the court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and the said right was subsisting on the date of the petition....”

(b) In **Union of India v. S.B. Vohra** [(2004) 2 SCC 150], the Hon'ble Apex Court considered the said issue and held that for issuing a writ of mandamus in favour of a person, the person claiming, must establish his legal right in himself. Then only a writ of mandamus could be issued against a person, who has a legal duty to perform, but has failed and/or neglected to do so.

(c) In **Oriental Bank of Commerce v. Sunder Lal Jain** reported in (2008) 2 SCC 280, at paragraphs 11 and 12, the Hon'ble Apex Court held as under:-

“11. The principles on which a writ of mandamus can be issued have been stated as under in The Law of

Extraordinary Legal Remedies by F.G. Ferris and F.G. Ferris, Jr.:

"Note 187.- Mandamus, at common law, is a highly prerogative writ, usually issuing out of the highest court of general jurisdiction, in the name of the sovereignty, directed to any natural person, corporation or inferior court within the jurisdiction, requiring them to do some particular thing therein specified, and which appertains to their office or duty. Generally speaking, it may be said that mandamus is a summary writ, issuing from the proper court, commanding the official or board to which it is addressed to perform some specific legal duty to which the party applying for the writ is entitled of legal right to have performed.

Note 192.- Mandamus is, subject to the exercise of a sound judicial discretion, the appropriate remedy to enforce a plain, positive, specific and ministerial duty presently existing and imposed by law upon officers and others who refuse or neglect to perform such duty, when there is no other adequate and specific legal remedy and without which there would be a failure of justice. The chief function of the writ is to compel the performance of public duties prescribed by statute, and to keep subordinate and inferior bodies and tribunals exercising public functions within their jurisdictions. It is not necessary, however, that the duty be imposed by statute; mandamus lies as well for the enforcement of a common law duty.

Note 196.- Mandamus is not a writ of right. Its issuance unquestionably lies in the sound judicial discretion of the court, subject always to the well-settled principles which have been established by the courts. An action in mandamus is not governed by the principles of ordinary litigation where the matters alleged on one side and not denied on the other are taken as true, and judgment pronounced thereon as of course. While mandamus is classed as a legal remedy, its issuance is largely controlled by equitable principles. Before granting

the writ the court may, and should, look to the larger public interest which may be concerned-an interest which private litigants are apt to overlook when striving for private ends. The court should act in view of all the existing facts, and with due regard to the consequences which will result. It is in every case a discretion dependent upon all the surrounding facts and circumstances.

Note 206.--.....The correct rule is that mandamus will not lie where the duty is clearly discretionary and the party upon whom the duty rests has exercised his discretion reasonably and within his jurisdiction, that is, upon facts sufficient to support his action."

12. These very principles have been adopted in our country. In **Bihar Eastern Gangetic Fishermen Cooperative Society Ltd. v. Sipahi Singh and others**, AIR 1977 SC 2149, after referring to the earlier decisions in *Lekhraj Satramdas Lalvani v. Deputy Custodian-cum-Managing Officer*, AIR 1966 SC 334; *Dr. Rai Shivendra Bahadur v. The Governing Body of the Nalanda College*, AIR 1962 SC 1210 and *Dr. Umakant Saran v. State of Bihar*, AIR 1973 SC 964, this Court observed as follows in paragraph 15 of the reports :

"15. There is abundant authority in favour of the proposition that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of the officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate Tribunals and officers exercising public functions within the limit of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities

to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. In the instant case, it has not been shown by respondent No. 1 that there is any statute or rule having the force of law which casts a duty on respondents 2 to 4 which they failed to perform. All that is sought to be enforced is an obligation flowing from a contract which, as already indicated, is also not binding and enforceable. Accordingly, we are clearly of the opinion that respondent No. 1 was not entitled to apply for grant of a writ of mandamus under Article 226 of the Constitution and the High Court was not competent to issue the same."

(v) When a Writ of Mandamus can be issued, has been summarised in *Corpus Juris Secundum*, as under:

"Mandamus may issue to compel the person or official in whom a discretionary duty is lodged to proceed to exercise such discretion, but unless there is peremptory statutory direction that the duty shall be performed mandamus will not lie to control or review the exercise of the discretion of any board, tribunal or officer, when the act complained of is either judicial or quasi-judicial unless it clearly appears that there has been an abuse of discretion on the part of such Court, board, tribunal or officer, and in accordance with this rule mandamus may not be invoked to compel the matter of discretion to be exercised in any particular way. This principle applies with full force and effect, however, clearly it may be made to

appear what the decision ought to be, or even though its conclusion be disputable or, however, erroneous the conclusion reached may be, and although there may be no other method of review or correction provided by law. The discretion must be exercised according to the established rule where the action complained has been arbitrary or capricious, or based on personal, selfish or fraudulent motives, or on false information, or on total lack of authority to act, or where it amounts to an evasion of positive duty, or there has been a refusal to consider pertinent evidence, hear the parties where so required, or to entertain any proper question concerning the exercise of the discretion, or where the exercise of the discretion is in a manner entirely futile and known by the officer to be so and there are other methods which it adopted, would be effective."

(emphasis supplied)

24. In the absence of any statutory provision mandating the 3rd respondent/Election Commission of India, represented by the Chief Election Commissioner, New Delhi, to regulate the functioning of political alliances, named as LDF, UDF and National Democratic Alliance (NDA), and in the light of the decisions extracted above, no mandamus can be issued, as prayed for by the petitioner.

25. That apart, petitioner has sought for a mandamus directing the 3rd respondent to consider and pass orders on Exhibit-P6 representation, submitted by him, within a time frame. After considering the request of the petitioner, for issuance of a notification by the Election Commission of India, on the alleged violation of Model Code of Conduct, Secretariat of the Election Commission of India, New Delhi, has sent a letter dated 25.04.2016 (Exhibit-P6) to the petitioner informing that no action is called for in the matter of political alliance by the political parties. At the risk of repetition, Exhibit-P6 letter is extracted below:

“Sir,

I am directed to refer to your letter dated 31st March, 2016 on the subject cited and to state that forming of political alliance by the political parties before or after the elections is a legitimate political activity recognized all over the democratic world. There is nothing objectionable in making such alliances either under the law or under any political convention. As such no action is considered in the matter from the part of the Election Commission of India.

Yours faithfully,

Sd/-
(RAKESH KUMAR),
UNDER SECRETARY”

26. Thus, going by the statutory provisions governing the registration of political parties, the purpose for which registration of such parties is required under law, and the decisions considered, we are of the view that the prayers sought for by the petitioner are untenable and liable to be rejected. Accordingly, we do so.

In the result, this writ petition is dismissed.

Sd/-

S. MANIKUMAR
CHIEF JUSTICE

Sd/-

SHAJI P. CHALY
JUDGE

krj

APPENDIX

PETITIONER EXHIBITS:-

- P1:- COPY OF THE REPRESENTATION MADE BEFORE THE ELECTION COMMISSION OF INDIA ON 31ST MARCH 2014.
- P2:- COPY OF THE NOTIFICATION NO. 464/KL-LA/2021 DATED 12TH MARCH 2021 ISSUED BY THE RESPONDENT NO.2.
- P3:- COPY OF THE JUDGMENT IN THE VIGILANCE AND ANTI CORRUPTION BUREAU, DIRECTORATE, THIRUVANANTHAPURAM VS. NEYYATTINKARA P. NAGARAJ AND ORS. (09/11/2015-KERHC)-MANU/KE/2019/2015.
- P4:- COPY OF THE NEWS ARTICLE DATED 10 FEBRUARY 2020 PUBLISHED IN THE DECCAN HERALD TITLED FIVE CRORE ALLOCATED TO THE KERALA POLITICAL SALWART K.M. MANI RAISES EYEBROWS.
- P5:- COPY OF THE REPRESENTATION BEFORE THE RESPONDENT NO.3 DATED 9TH MARCH 2021.
- P6:- COPY OF THE LETTER NO.437/6/SLGG/2016-CCS/626 DATED 25TH APRIL 2016 ISSUED BY THE RESPONDENT NO.3 TO THE PETITIONER.

RESPONDENTS' EXHIBITS:- 'NIL'

//TRUE COPY//

P.A. TO C.J.