

(Special original jurisdiction)

OF 2022

Arun Raj P. N, Aged 26, S/O Pushparaj,
ArunBhavan, Nedumbram Lane,
NRA G-43, Peroorkada P O ,
Thiruvananthapuram
Pin- 695005

1. The State of Kerala, Rep.by its Secretary ,
Department of Health and Family Welfare
Government of Kerala Room No. 603 ,
6th Floor , Annexe II Secretariate ,
Thiruvananthapuram, Pin - 695001

2. The Additional Chief Secretary ,
Home Department , Room No 357(A) & 358
Main Block , Secretariat ,
Thiruvananthapuram- Pin - 695001

3. The Chairperson ,
Kerala State Executive Committee,
Kerala State Disaster Management Authority,
Observatory Hills, VikasBhavan , P.O.
Thiruvananthapuram.

4. The Kerala State Police Chief
(Director General Of Police)
GX 46+8OP, Vazhuthacaud,
Thiruvananthapuram, Kerala-695 010

- A. The Address for service of notices and processes on the Petitioner is that of his Counsel, **M/S.V.AYYAPPADAS, VYKHARI.K.U,JAYAPRAKASH NARAYANAN**, Advocates, 67/713 , Kollappillil lane, Power House Extension Road, Ernakulam North, Kochi- 682018,
- B. The Addresses for service of notices and processes on the respondents is as given above in the cause title or on any of the Government Pleaders attached to the office of the Advocate General of Kerala.

MEMORANDUM OF WRIT PETITION FILED UNDER
ARTICLE 226 OF THE CONSTITUTION OF INDIA

STATEMENT OF FACTS

1. The Petitioner is a Citizen of India and a public spirited person and also a social worker, working as an Advocate Clerk in the High Court of Kerala. He is very much concerned about the health conditions of the citizen of India during the current pandemic situation and also about fast spread of COVID 19 and OMICRON cases and also about the current resurgence of the COVID 19 in the state of Kerala. The Petitioner earlier filed Writ Petition (C).2351/2022 before this Hon'ble Court, relating to the strict implementation of an order of the Chairperson of the District Disaster Management Committee. This Hon'ble Court in Writ Petition (C).2351/2022 granted an interim order in favour of the Petitioner on 21-01-2022. Later this Hon'ble Court made that

interim order absolute. But that order is only applicable to the Kasaragod District.

2. It is submitted that this Hon'ble Court while considering the Writ Petition (C).2351/2022, passed an interim order in favour of the Petitioner and passed the following directions:-

7. *"Going by the statistics put forth by the learned State Attorney and by reading the order dated 20.01.2022 and the classifications made therein, we cannot understand that there are relaxations made to the restriction. Admittedly there are hospital admissions in the Kasaragod District and we are not apprised of the number of tests conducted which lone would enable a consideration of whether the TPR is a reliable index to project the rate of infections. The general purport order of 20th provides for stringent restrictions in category B and C relaxation with respect to conduct meetings; with very limited participation of 50 persons In fact the order of 20th specifically makes 23rd and 30th, the coming two Sundays as restricted to essential services only. Though the learned State Attorney insists that Kasargod will not fall under any G.O of 20th, unfortunately fortunately or fortunately; which will depend upon the perspective from which it is viewed, the Government Order does not speak of any such other categories which is treated separately, for the purpose of lifting the restrictions in the earlier orders and reviving that of 04.01.2022. We reiterate that the G.O of 20th, is not in supersession of the earlier orders and is in continuance of the earlier orders. In such circumstances, we issue an interim*

*order directing the District Collector, the 4th respondent who is also the Chairperson of the District Disaster Management Authority to ensure that no meetings are conducted within the district allowing participation of more than 50 persons. This interim order shall remain in force for a period of one week, with any more stringent conditions being at the discretion of the District Collector. True copy of the interim order in Writ Petition (C).2351/2022 dated 21/02/2022 is produced herewith and marked as **EXHIBIT.P1.***

3. It is submitted that, the Government order of 20-01-2022 i.e., GO (Rt)No.68/2022/DMD is still in force in the State of Kerala. And it categorizing the Districts of Kerala as A, B, C, categories. True copy of the GO (Rt) No.68 /2022/DMD dated 20-01-2022 is produced herewith and marked as **EXHIBIT.P2.** All political and public meetings is to follow the guidelines that stated in this Ext.P2. The last Government order relate to COVID-19 in the state is issued on 16-02-2022 by the Disaster Management Department relating to work from home regulations of employees of Government/Private sectors. And also on 11-02-2022 Government of Kerala issued another order relating to regulations in religious functions and allowed 1500 people in the religious ceremonies. But for conducting the political and other public meetings Ext.P2 is to be strictly complied with and it still in force. Ext.P2 is issued by the 3rd Respondent.
4. It is submitted that, it is reliably learnt from the media sources that most of the political parties and other

Organizations functions in State of Kerala is conducting public meetings with huge number of people. Recently Kerala witnessed several political murders and protests conducted by major political parties aggrieved by murders. Many people in that political party were protesting against that murder on the public roads without following the guidelines in Ext.P2. It is evident from print and visual media. The Ext.P2 is still in force. Conduct of the political parties and other public Organizations at the time of resurgence of COVID-19 infections is very much potential of spreading the COVID-19 infections among the people of Kerala.

5. The 3rd Respondent is the Chairperson of the State of Kerala Disaster Management Executive Committee. He issued the Ext.P2 for the strict compliance of the same, for mitigating the COVID-19 cases. The Chairperson of District Disaster Management Authority have to ensure the strict compliance of Ext.P2 in their respective District. But unfortunately most of the major political parties and other public gatherings is not complying the Ext.P2. The concerned authorities has to ensure that every political and public gatherings is strictly complying Ext.P2. If they not follow the guidelines stated in Ext.P2, it will potentially affect the health conditions of the people in Kerala by contacting with the COVID-19 infections. The Petitioner as a public spirited social worker very much concerned about the health conditions of the people of Kerala.

Hence the petitioner being left with no other alternative and efficacious remedy to redress his grievance approaches this Hon'ble court under Article 226 of the constitution of India on the following amongst other grounds.

GROUND

- A.** As per the Ext .P2 the 3rd respondent can only allow lesser number of people for political and other public gatherings, excluding religious functions. As per another Government order 1500 people can allow for religious functions.
- B.** As per Ext.P2, the 3rd Respondent have Authority to monitor the implementation of the guidelines laid down in Ext.P2 by the Departments at State and District level.
- C.** Ext.P2 is still in force in State of Kerala and is to be strictly followed by all political parties in their political functions including other Organizations also

On these and other grounds to be urged at the time of hearing, it is most humbly prayed that this Hon'ble court may be pleased to;

- i. Issue a writ of mandamus or any other appropriate writ , order or direction , directing respondents 1 to 4 to ensure the strict compliance of Ext.P2 order in all political and other Organizational gatherings in the State of Kerala;
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents 1 to 4 to forbid the political, cultural and other Organizational

- events and protests if it conducting in utter violation of the COVID 19 protocol prevailing in the State of Kerala;
- iii. Issue such other writ, order or directions deem fit and proper by the Hon'ble court according to the facts and peculiar circumstances of the case for the interest of justice.

INTERIM RELIEF PRAYED FOR

For the reasons stated in the writ petition and also in the accompanying affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to direct the Respondents No: 1 to 4 to forbid the political, cultural and other public gatherings, if they found that, that gatherings/events violate the COVID 19 protocol prevailing in the State of Kerala, during the pendency of this Writ Petition.

Dated this the 25th day of February, 2022

V. Ayyappadas
Counsel for the Petitioner

(Special original jurisdiction)
WP (C) OF 2022

SYNOPSIS

Important Dates And Events:

20-01-2022 : 3rd Respondent issued an order under section 20(3) of Disaster Management Act, 2005 for mitigating the spread of COVID-19 pandemic in the State of Kerala, which allows only

maximum of 50 persons for political, social and cultural events (Ext.P2).

21-01-2022 This Hon'ble Court granted an interim order in Writ Petition (C).No.2351/2022 in favour of the Petitioner, that directed the strict compliance of Ext.P2, but that only applicable to Kasargod District

11-02-2022 3rd Respondent issued GO (Rt)N.138/2022/DMD and allowed 1500 persons for participating in the religious functions.

Points Among other to be urged

- 1) Is Respondents is in statutory obligation or duty bound to ensure the strict compliance of Ext.P2 in all over Kerala?
- 2) Is Ext.P2 is the only Government order currently in force in the State of Kerala for conducting political, social, cultural and other Organizational gatherings as per following COVID 19 protocol?

Statutes/Authorities relied on

1. Constitution of India.

Dated this the 25th day of February, 2022

V.Ayyappadas
Counsel for the Petitioner

(Special original jurisdiction)
WP (C) OF 2022

INDEX

Dated this the 25th day of February, 2022

V.Ayyappadas
Counsel for the Petitioner

Sub : Public Interest Litigation – Aggrieved by the inaction of Respondents 1 to 4 for not ensuring the strict compliance of Ext.P2, through out State of Kerala

BEFORE THE HON' BLE HIGH COURT OF KERALA
AT ERNAKULAM

(Special original jurisdiction)

WP (C) OF 2022

Petitioner : ArunRaj P.N.

Respondents : State of Kerala & Ors

MEMORANDUM OF WRIT PETITION (CIVIL) FILED UNDER
ARTICLE 226 OF THE CONSTITUTION OF INDIA

M/S .V.AYYAPPADAS (K/1500/2018)
VYKHARI.K.U (K/712/2020)
JAYAPRAKASH NARAYANAN (K/197/2015)
Counsel for the Petitioner

