

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR  
&  
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 4<sup>th</sup> day of January 2022 / 14th Pousha, 1943  
WA NO. 1530 OF 2021

AGAINST JUDGMENT DATED 09.09.2021 IN WP(C) 18406/2021 OF THIS COURT.

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APPELLANTS/PETITIONERS:

1.VIJAYAKUMAR V.,S/O. KRISHNAN V.,AGED 41 YEARS,MEMBER SENATE,  
KANNUR UNIVERSITY,THAVAKKARA,CIVIL STATION P.O.,KANNUR-670 002,  
RESIDING AT NAYIKUTTIPARA HOUSE,PULLUR P.O.,  
ANANDHSHRAM VIA, KASARGOD DISTRICT.

2.DR.SHINO P.JOSE,S/O.JOSE,AGED 40 YEARS,MEMBER,  
ACADEMIC COUNCIL (MANAGEMENT STUDIES),  
KANNUR UNIVERSITY,THAVAKKARA,CIVIL STATION P.O.,  
KANNUR-670002.RESIDING AT PALAKKAL HOUSE,  
RAJAPURAM P.O.,KASARGOD DISTRICT.

BY SENIOR ADVOCATE SRI.GEORGE POONTHOTTAM AND  
ADV.SMT.NISHA GEORGE

RESPONDENTS/RESPONDENTS:

1.THE KANNUR UNIVERSITY,REPRESENTED BY THE REGISTRAR,  
THAVAKKARA,CIVIL STATION P.O.,KANNUR-670 002.

2.THE VICE CHANCELLOR,KANNUR UNIVERSITY,  
THAVAKKARA,CIVIL STATION P.O.,KANNUR-670002.

3.THE CHANCELLOR,KANNUR UNIVERSITY,KERALA RAJ BHAVAN,  
KERALA GOVERNOR'S CAMP P.O.,THIRUVANANTHAPURAM-695009.  
E-MAIL:keralarajbhavan@gmail.com.

4.THE SYNDICATE,KANNUR UNIVERSITY,THAVAKKARA,  
CIVIL STATION P.O.,KANNUR-670002.  
REPRESENTED BY THE REGISTRAR.

P.T.O.

5. MAJEESH T. (CHAIRPERSON), ASSOCIATE PROFESSOR,  
DEPARTMENT OF COMMERCE, NAM COLLEGE, KALLIKKANDY,  
KANNUR DISTRICT-670693.
6. SANTHOSH C., ASSOCIATE PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT BRENNEN COLLEGE, THALASSERY, KANNUR DISTRICT-670101.
7. HARIDAS K.V., DEPUTY MANAGING DIRECTOR, SBI, (RTD.),  
ELAMBACHI P.O., THRIKKARIPUR, KASARGOD DISTRICT-671310.
8. SOJI M. SEBASTIAN, ASSISTANT PROFESSOR,  
DEPARTMENT OF COMMERCE, E.K. NAYANAR MEMORIAL GOVERNMENT COLLEGE,  
ELERITHATTU, KASARGOD DISTRICT-671314.
9. SEENA P.C., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT COLLEGE, MANANTHAWADY, WAYANAD DISTRICT-670645.
10. JINCE JOSEPH, ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
E.K. NAYANAR MEMORIAL GOVERNMENT COLLEGE, ELERITHATTU,  
KASARGOD DISTRICT-671314.
11. AMUTHA R., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
SREE NARAYANA COLLEGE, THOTTADA P.O., KANNUR DISTRICT-670007.
12. ANIL CHANDRAN S., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
P.R.N.S.S. COLLEGE, MATTANUR, KANNUR DISTRICT-670702.
13. GEETHA C., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
MAHATMA GANDHI COLLEGE, IRITTY, KANNUR DISTRICT-670703.
14. MIDHUN KRISHNAN P.B., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
P.R.N.S.S. COLLEGE, MATTANUR, KANNUR DISTRICT-670702.
15. BABU P.V., (CHAIRPERSON, P.G. BOARD), ASSISTANT PROFESSOR,  
DEPARTMENT OF COMMERCE, GOVERNMENT BRENNEN COLLEGE,  
THALASSERY, KANNUR DISTRICT-670101.
16. SAJITHKUMAR P., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVINDA PAI MEMORIAL GOVERNMENT COLLEGE,  
MANJESHWAR, KASARGOD DISTRICT-671323.

P.T.O.

17. RAVINDRAN K.V., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT BRENNEN COLLEGE, THALASSERY, KANNUR DISTRICT-670101.
18. DR. K. ABDUL SALAM, ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT COLLEGE, MANANTHAWADY, WAYANAD DISTRICT-670645.
19. DR. SAJITH M., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT COLLEGE, MANANTHAWADY, WAYANAD DISTRICT-670645.
20. JAYANTHY K.C., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
P. R. N. S. S. COLLEGE, MATTANNUR, KANNUR DISTRICT-670702.
21. BHUPESH T.K., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
SREE NARAYANA COLLEGE, THOTTADA P.O., KANNUR DISTRICT-670007.
22. REJITHA P.R., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
SREE NARAYANA COLLEGE, THOTTADA P.O., KANNUR DISTRICT-670007.
23. DR. SREEJESH S., ASSISTANT PROFESSOR,  
DEPARTMENT OF MARKETING MANAGEMENT,  
INDIAN INSTITUTE OF MANAGEMENT, IIMK CAMPUS P.O.,  
IIM ROAD, KUNNAMANGALAM, KOZHIKKODE DISTRICT-673570.
24. SHAJI E.V., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
P. R. N. S. S. COLLEGE, MATTANNUR, KANNUR DISTRICT-670702.
25. SUMESH P.C. (CHARIPERSON), ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, SREE NARAYANA COLLEGE,  
THOTTADA P.O., KANNUR DISTRICT-670007.
26. DR. REHIN K.R., ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, MAHATMA GANDHI COLLEGE,  
IRITTY, KANNUR DISTRICT-670703.
27. GREESHMA A., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
MAHATMA GANDHI COLLEGE, IRITTY, KANNUR DISTRICT-670703.
28. BINDU K., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT BRENNEN COLLEGE, THALASSERY, KANNUR DISTRICT-670701.

P.T.O.

29. INDU P., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVERNMENT BRENNEN COLLEGE, THALASSERY, KANNUR DISTRICT-670101.
30. DR. SHACHEENDRAN V., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
GOVINDA PAI MEMORIAL GOVERNMENT COLLEGE, MANJESHWAR,  
KASARGOD DISTRICT-671323.
31. ARUN K.V., ASSISTANT PROFESSOR, DEPARTMENT OF COMMERCE,  
SREE NARAYANA COLLEGE, THOTTADA P.O., KANNUR DISTRICT-670007.
32. DR. VIGI V. NAIR, ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, PAYYANNUR COLLEGE,  
PAYYANNUR, KANNUR DISTRICT-670307.
33. SHAMNA K., ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, STEMS COLLEGE,  
MORAZHA, KANNUR DISTRICT-670331.
34. SASHITHA T., ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES,  
TALIPARAMBA ARTS & SCIENCE COLLEGE, KANHIRANGAD,  
KANNUR DISTRICT-670142.
35. DR. U. FAISAL (CHAIRPERSON, P.G. BOARD), PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, DR. JANAKI AMMA CAMPUS,  
PALAYAD, THALASSERY, KANNUR DISTRICT-670101.
36. ANISH KUMAR K.P., ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, DR. JANAKI AMMA CAMPUS,  
PALAYAD, THALASSERY, KANNUR DISTRICT-670101.
37. DR. KRISHNA PRIYA, ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, DR. JANAKI AMMA CAMPUS,  
PALAYAD, THALASSERY, KANNUR DISTRICT-670101.
38. KARTHIKEYAN P., ASSISTANT PROFESSOR,  
DEPARTMENT OF MANAGEMENT STUDIES, DR. JANAKI AMMA CAMPUS,  
PALAYAD, THALASSERY, KANNUR DISTRICT-670101.
39. DR. M.V. SASIKUMAR, DIRECTOR, INSTITUTE OF CO-OPERATIVE MANAGEMENT,  
PARASSINIKKADAVU, KANNUR DISTRICT-670563.

40.NISA JAMES,ASSISTANT PROFESSOR,

DEPARTMENT OF MANAGEMENT STUDIES,DR.JANAKI AMMA CAMPUS,

PALAYAD,THALASSERY,KANNUR DISTRICT-670101.

41.JASEELA THANIKKAD,ASSISTANT PROFESSOR,DEPARTMENT OF COMMERCE,

GOVERNMENT COLLEGE,MANANTHAWADY,WAYANAD DISTRICT-670645.

42.SUMI VIJAYAN,ASSISTANT PROFESSOR,DEPARTMENT OF COMMERCE,

GOVERNMENT COLLEGE,KASARGOD DISTRICT-671121.

43.MEERA S.,ASSISTANT PROFESSOR,

DEPARTMENT OF MANAGEMENT STUDIES,DR.JANAKI AMMA CAMPUS,

PALAYAD,THALASSERY,KANNUR DISTRICT-670101.

44.DR.SUJESH C.P.,ASSOCIATE PROFESSOR,

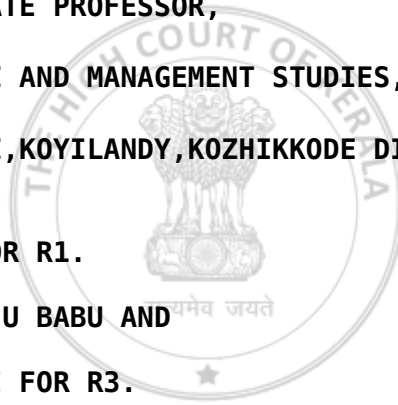
DEPARTMENT OF COMMERCE AND MANAGEMENT STUDIES,

RSM SNDP YOGAM COLLEGE,KOYILANDY,KOZHIKKODE DISTRICT-673305.

BY ADV.SRI.I.V. PRAMOD FOR R1.

SENIOR ADVOCATE SRI.K.JAJU BABU AND

ADV.SMT.M.U.VIJAYALAKSHMI FOR R3.



Prayer for interim releif in the Writ Appeal stating that in the circumstances stated in the appeal memorandum, the High Court be pleased to stay the operation of the judgment of the Learned Single Jduge dated 09.09.2021 in W.P.(C) No.18406 of 2021, pending disposal of the Writ Appeal.

This Writ Appeal again coming on for orders 04/01/2022 upon perusing the appeal memorandum and this Court's order dated 06/12/2021, the court passed the following:

P.T.O.

**EXT.P1:TRUE COPY OF THE NOTIFICATION/ORDER  
NO.ACADC/ACAD C3/8508/2019 DATED 11.08.2021  
ALONG WITH COVERING LETTER NO.ACADC/ACAD C3/8508/2019  
DATED 13.08.2021 ISSUED BY THE RESPONDENT UNIVERSITY.**

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**S.Manikumar, C.J.**

**&**

**Shaji P.Chaly, J.**

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**W.A.No.1530 of 2021**

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**Dated this the 4<sup>th</sup> day of January, 2022**

**ORDER**

**S.Manikumar, C.J.**

Pursuant to our order dated 6.12.2021, a statement dated 10.12.2021 has been filed on behalf of respondent No.3, which reads thus:

"2. The issue involved in the above Writ Appeal relates to constitution and reconstitution of Board of Studies of the Kannur University, the 1<sup>st</sup> respondent in the Appeal.

3. As per Section 2(5) of the Kannur University Act 1996 (in 3 short the Act) the Board of Studies means Board of Studies of the University.

4. Section 30 of the Act deals with Board of Studies which reads A as under:

**Boards of Studies :**

(1) There shall be a Board of Studies attached to each department of study in the University:

Provided that post-graduate studies in each department may have separate Boards of Studies.

(2) The constitution, powers and functions of the Boards of Studies shall be prescribed by the Statutes.

(3) Members of the Boards of Studies shall hold office for a period of two years from the date of their entering upon office.

5. In conformity with Section 30(2) of the Act, Chapter XIII of the Kannur University First Statute 1998 (in short the First Statutes) prescribes constitution, power and function of the Board of Studies. Statutes 1 to 5 of the First Statutes reads as under;

1. Constitution.- There shall be a Board of Studies attached to each subject of study of groups of subjects in the University:

Provided however that Post-Graduate studies in each subject may have separate Board of Studies

2. Boards of each Department.- (1) There may be separate Boards of Studies in such branches of knowledge as the Syndicate may decide to deal with the matters relating to the Post-Graduate Studies.

(2) The constitution and functions of the Boards of Studies shall be as hereinafter prescribed.

3. Reconstitution of the Boards of Studies.-\* The Boards of Studies Shall be reconstituted once in two years.

4. Nomination of Chairman and Member of Board of Studies. The Chairman and Members of the Boards of Studies shall be nominated by the Chancellor. The number of such members shall not be less than 5 or more than 11.

5. Qualification of a Member of a Board of Study.- No person shall be appointed as a Member of Board unless he is a teacher of, or has special knowledge in the subject or one of the subjects with which the Board is concerned.



6. However, Section 25(xvi) of the Act empowers the Syndicate to appoint members to the Board of Studies. Section 25(xvi) reads as under:

Section 25 Power of Syndicate: Subject to the provisions of the Act and the Statutes the executive powers of the University, including the General Superintendents and control over the institutions of the University, shall be vested in the Syndicate and subject likewise, the Syndicate shall have following powers, namely:

xvi. to appoint members to the Board of Studies.

7. When a person is nominated to a position, it means choosing him formally to hold that position. At the same time, the word appointment means the exercising of the right or power to designate a person for a given position. Only the person or body that has the authority to appoint someone can do so.

8. Going by Section 30 of the Act read with Statute 4 chapter XIII of the First Statutes, the Chairman and Members of the Board of Studies shall be nominated by the Chancellor and the minimum and maximum number of its members is also prescribed by the Statute. However the power to appoint the members to the Board of Studies is vested with the Syndicate, under Section 25 (xvi) which is subject to the provision of the Act and First Statutes as stated earlier.

9. Therefore a harmonious reading of Section 30(2) of the Act read with Statutes 1 to 5 of Chapter XIII of the First Statutes and Section 25(xvi) provides for the Chairman and Members of the Board of Studies in conformity with the numbers prescribed in the Statute shall be nominated by the Chancellor and the power of appointment of the members vests in the Syndicate.

10. In the past the Chancellor had reconstituted the Boards of Studies on receipt proposals from the Vice

Chancellor, including the present incumbent Vice Chancellor. The exercise was carried out under the provisions as detailed above.”

2. That apart, Mr.George Poonthottam, learned Senior Counsel for the appellant, has also filed a tabular column setting out the manner in which appointment of Members of Board of Studies is made in different Universities, details of which are incorporated:

**PART-I**

**POWERS OF THE SYNDICATE AND CHANCELLOR TO APPOINT MEMBERS TO THE BOARD OF STUDIES**

S. No.	Act / Statute	Details
1.	Kannur University Act, 1996	<b>Section. 25</b> Powers of Syndicate. Subject to the provisions of this Act and the Statutes the executive powers of the University, including the general superintendence and control over the institutions of the University, shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers, namely  (xvi) to appoint members to the board of studies
2.	Kannur University Act, 1996	<b>Section-30.</b> Boards of Studies -  (1)There shall be a Board of Studies attached to each department of study in the University: Provided that post-graduate studies in each department may have separate Board of Studies.

		<p>(2) The constitution, powers and functions of the Boards of Studies shall be prescribed by the Statutes.</p> <p>(3) Members of the Boards of Studies shall hold office for a period of two years from the date of their entering upon office.</p>
3.	Kannur University First Statutes, 1988	<p><b>Chapter XIII</b>  <b>Statute 4.</b> The Chairman and members of the Boards of studies shall be nominated by the Chancellor. The number of such members shall not be less than 5 or more than 11.</p>
4.	Calicut University Act, 1975	<p><b>Section. 23.</b> Powers of Syndicate: Subject to the provisions of the this Act and the Statutes, the executive powers of the University including the general superintendence and control over the institutions of the University shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers; namely:-</p> <p>(xvi) to appoint members to the Boards of Studies;</p>
5.	Calicut University (Constitution of Faculties and Board of studies) First Statutes, 1976	<p><b>Chapter III.</b>  Statute 20 (3) The members of the Board of studies other than ex-officio members shall be appointed by the syndicate.</p>
6.	Kerala University Act, 1974	<p><b>Section. 23.</b> Powers of Syndicate: Subject to the provisions of the this Act and the Statutes, the executive powers of the University including the general superintendence and control over the institutions of the University shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers; namely:-</p> <p>(xvi) to appoint members to the Boards of Studies</p>
7.	Kerala University First Statutes	<p><b>Chapter 11</b>  <b>Statute 1(2)</b> The board of studies shall be constituted by the Syndicate</p>

		(3) The members of the board of studies shall be appointed by the syndicate.
8.	Cochin University of Science and Technology Act, 1986	<b>Section 18.</b> Powers of the Syndicate. Subject to and the provisions of this Act and the Statutes the executive powers of the University including the general superintendence and control over its institutions shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers, namely:  (xx) To appoint members to the faculties and Board of Studies
9.	Cochin University First Statute, 1980	<b>Chapter XIII</b> <b>Statute 155 (1)</b> The Board of Studies shall be constituted by the syndicate (2) The members of the Boards of studies shall be appointed by the syndicate.
10.	Mahatma Gandhi University Act, 1985	<b>Section 23.</b> Powers of Syndicate:- Subject to the provisions of this Act and the Statutes. The executive powers of the University including the general superintendence and control over the institutions of the University shall be vested in the Syndicate and subject likewise the Syndicate shall have the following powers, namely:  (xvi) to appoint members to the board of studies
11.	Mahatma Gandhi University Statutes, 1997	<b>Chapter-12</b> <b>Statute 2(4)</b> Nomination of members to Boards of Study: Members to the Boards of Studies shall be nominated by the chancellor. The number of such members shall be not less than 5 or more than 11.

**PART-2****OTHER METHODS IN APPOINTING MEMBERS TO THE BOARD OF STUDIES**

S. No	Act / Statute / Regulation	Details
1.	NUALS Regulation, 2006	<p><b>Chapter VII</b></p> <p><b>Regulation 1 (ii)</b> The Board of studies shall be constituted by the executive Council. Executive council is elaborated in section 17(2) of the NUALS Act, 2005,</p>
2.	Sree Sankaracharya University of Sanskrit Act, 1994	<p><b>Section 20(3)</b> The members off the Board of studies shall be nominated by the Vice-Chancellor.</p>
3.	Sree Sankaracharya University of Sanskrit Regulation, 1997	<p><b>Chapter-III</b></p> <p><b>Regulation (3)</b> The dean of the concerned faculty shall be the Ex-officio Chairman of Board of Studies and the Head of the Department shall be the Ex-officio member. (4) Other members of the Board of studies shall be nominated by the Vice Chancellor on the recommendation of the Principal Dean of Studies. The number of such members shall not be less than three or more than five.</p>
4.	Kerala Veterinary And Animal Science University Act, 2010	<p><b>Section 32.</b></p> <p><b>(2)</b> The Board of Studies shall consist of. (a) The Head of the University department or institution in the relevant subject:</p> <p>Provided that, where there is no University department in the subject the Board shall at its first meeting co-opt the Head of the Department from an affiliated college having post-graduate teaching experience in that subject;</p> <p>(b) Six Heads of Department in affiliated colleges, other than Principals having not less than ten years teaching experience, elected by the Heads of departments in affiliated colleges from among themselves.</p>
5.	Kerala University	<p><b>Statute 100 (1)</b> Each Board shall consist of the</p>

	of Fisheries and Ocean Studies First Statutes, 2013	<p>following members</p> <p>(a) The Director of the School who shall be the Chairman</p> <p>(b) The Head of University Department concerned</p> <p>(c) Not less than five and not more than ten other members including experts from outside:</p> <p>Provided that in the case of a subject in which there are two Boards, the number of members in each Board shall not be less than five or more than ten including ex-officio members.</p>
6.	Kerala University of Health Science Act, 2010	<p><b>Section 28</b></p> <p>(2) The Board of Studies shall consist of</p> <p>(a) the Head of the University department or institution in the relevant subject:</p> <p>Provided that, where there is no University department in the subject, nominated by a the person Vice-Chancellor from among the Heads of the Departments from an affiliated college having post graduate teaching experience in that subject:</p> <p>(b) six Heads of Departments in affiliated colleges, other than Principals, having not less than ten years teaching experience, nominated by the Vice Chancellor:</p> <p>(c) two post graduate teachers having not less than ten years of teaching experience from among the teachers of affiliated Government Colleges, one of them preferably a woman nominated by the Vice Chancellor;</p> <p>(d) two eminent persons nominated by Vice-Chancellor, who are (1) either Professors or Associate Professors in other Universities: or</p> <p>(1) persons with relevant experience of not less than ten years in national laboratories or research</p>

		institutions; or recognized  (ii) experts in related field, having published (a) at least one book in the relevant subject, or  (b) four research papers in indexed national or international Journals.
7.	Thunchath Ezhuthachan Malayalam University Act	<b>Section 23</b> (2) Every Board of Studies shall be constituted by the executive committee on the advice of the Academic council.

3. Taking note of the statutory provisions, section 30(2) of the Kannur University Act, 1996, Chapter XIII of the Kannur University First Statutes, 1998 and Section 25 (xvi) of the Act 1996 and the specific contention made on behalf of respondent No.3, we are of the prima facie view that Exhibit P1 notification issued by the Registrar (in-charge) dated 11.08.2021, appointing a new Board of Studies in various Universities, is not in consonance with the statutory provisions stated supra.

4. Let service on respondents 5 to 44 be effected by a special messenger through the Registrar of Kannur University.

5. Let copies of the writ appeal and all documents be furnished so as to enable the Registrar, Kannur University to serve on the respondents 5 to 44.

Post on 17.01.2022.

Sd/-

**S.Manikumar  
Chief Justice**

Sd/-

**Shaji P.Chaly  
Judge**



vpv