

DEVAN RAMACHANDRAN, J.

WP(C) No.1671/2021

Dated this the 2nd day of December, 2021

O R D E R

The learned Additional Advocate General – Sri.Ashok M. Cherian, conceded that the various flag-masts seen on the roads and public spaces in Kerala, if erected without authority, will have to be dealt with appropriately in law. He, however, added that since these installations have been made several years ago and since this has been followed by not merely political parties, but various other entities and persons, it will require the Government to take an apposite decision thereon, so as to avoid unnecessary law and order problems in future. He, therefore, sought for three months time to evolve a policy and inform this Court.

2. Though I appreciate the stand of the Government as voiced by the learned Additional Advocate General - that all unauthorized flag-masts will have to be removed, I am certain

that the time sought for is disproportionately excessive.

3. This Court has taken cognizance of this issue as early as on 12.10.2021, when the first order was issued; and subsequently, three more orders were issued on 01.11.2021, 15.11.2021 and 25.11.2021. In all those orders, the resolve of the Government to deal with this issue has been repeatedly recorded.

4. There can be no doubt that an illegality cannot be perpetuated, even if it is done by a political party or any other entity/person. The competent Authorities are obligated to act as per law; for which purpose, I do not think that a policy of the Government is necessary.

5. When the State affirms before me unequivocally that unauthorized flag-masts will have to be dealt with under the provisions of the applicable law, I fail to fathom why the District Collectors are maintaining stoic silence. This can only be construed to be an abdication of duties and obligations under the law.

6. Since the exhortation of this Court to the perpetrators have not yielded any result, the stage is now set for the District Collectors to step in and take necessary action, for which purpose, certainly, this Court is willing to wait for a few weeks.

I, therefore, adjourn this matter to be called on 20.12.2021; within which time, each of the District Collectors will inform this Court the steps taken with respect to the illegal flag-masts within their territories.

I make it clear that while taking such action, the District Collectors shall be at liberty to act within the contours of the Land Conservancy Act or such other applicable Statutes and Regulations and to impose penalties, so as to invoke prosecution steps against the perpetrators, as is warranted.

By the next posting date, I request the learned Additional Advocate General to inform this Court if the Government has evolved any policy with respect to this

matter, so that it will become easier for this Court to modulate reliefs in future.

Coming to the specific facts of this case, I record the submissions of the learned Additional Advocate General, that notices have been issued to various entities/persons who have installed illegal structures and posts, as also against the petitioners, since they are also suspected to have committed violations under the Land Conservancy Act.

The afore is recorded and I direct the competent Authorities to complete the proceedings thereon without any avoidable delay and to report before this Court by the next posting date.

H/o

Sd/-

**DEVAN RAMACHANDRAN,
JUDGE**