

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM**

W.P.(C)No.

of 2020

N.Prakash

Petitioner

State of Kerala and another

Respondents

SYNOPSIS

This Writ Petition is filed as the petitioner is highly aggrieved by the most arbitrary manner in which the officials under the respondents act without any application of mind in issuing permission to travel even in utmost urgency. The petitioner has three cats in his home and these cats are given food by way of biscuit known as "Meo-Persian", since the petitioner is purely a vegetarian and non-vegetarian food is not at all cooked in his house. Normally one packet of 7 kg of Meo Persian is sufficient for the cats for three weeks. The petitioner used to purchase the cat food from "Felican", pet hospital situated at Eror. Since the advent of lockdown the stock of cat food at "Felican" exhausted and the petitioner enquired with The Cochin Pet Hospital, Kadavanthara and the petitioner was informed that Meo Persian 7 kg is available there. The petitioner submitted request for "affidavit" for travelling to the Cochin Pet Hospital, Kadavanthara on 5.4.2020 at 10.00 a.m. and to return by 10.30 a.m. on 5.4.2020. On 4.4.2020 at 11.27 a.m. the petitioner was served with a reply to this request in the following manner:-

"We regret to inform that your request for affidavit/Emergency Pass is rejected".

Being left with no other efficacious or alternate remedy, the petitioner is approaching this Honourable Court under Article 226 of the Constitution of India.

CHRONOLOGICAL EVENTS:

- i. Request for "affidavit" submitted by the petitioner on 3.4.2020.
- ii. The petitioner received Exhibit P1 message rejecting the request of the petitioner.

SUB: Prevention of Cruelty to Animals Act 1960

RELIEF SOUGHT FOR.

Issue a writ of mandamus or any other appropriate writs, directions or orders directing the respondents to permit the petitioner to travel from his residence upto the Cochin Pet hospital, Kadavanthara for purchasing cat food "Meo-persian" for feeding the cats in the home of the petitioner.

Dated this the 4th April, 2020

N.Prakash
Party-in-Person

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM**

W.P.(C)No.

of 2020

Petitioner

N.Prakash,S/o.A.Narayana Rao
Aged 56, residing at Prajith Vihar
Ayini Nada Road, Maradu P.O
Ernakulam-682304

Respondents

1. State of Kerala, represented by its
Secretary to Government of Kerala,
Department of Home, Secretariat,
Thiruvananthapuram 695 001.
2. The City Police Commissioner/District Police Chief,
Kochi City, Ernakulam-682011

Address for service of notice on the petitioner is as shown above
or on his mail id carnaticliveconcerts@gmail.com and that of the
respondents is as shown above.

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

The petitioner is a citizen of India and resides in the address
mentioned above. This Writ Petition is filed as the petitioner is highly
aggrieved by the most arbitrary manner in which the officials under
the respondents act without any application of mind in issuing
permission to travel even in utmost urgency.

2. The petitioner has three cats in his home and these cats are
given food by way of biscuit known as "Meo-Persian", since the
petitioner is purely a vegetarian and non-vegetarian food is not at all
cooked in his house. Normally one packet of 7 kg of Meo Persian is
sufficient for the cats for three weeks. The petitioner used to purchase

the cat food from "Felican", pet hospital situated at Eroor. Since the advent of lockdown the stock of cat food at "Felican" exhausted and the petitioner enquired with The Cochin Pet Hospital, Kadavanthara and the petitioner was informed that Meo Persian 7 kg is available there.

3. The State Chief of Police via media informed the citizens that citizens can get the "affidavit" which is an essential sine qua non for travelling in urgent situations online from the web portal developed by the Kerala Police, <https://pass.bsaf.kerala.gov.in/>. As the stock of the cat food which the petitioner is having is going to exhaust, the petitioner on 3.4.2020 applied through the abovesaid web portal for "affidavit" for going to the Cochin Pet Hospital, Kadavanthara on 4.4.2020 at 10.a.m. and to return by 10.30 a.m. on 4.4.2020. After about half an hour the petitioner got a reply message that the petitioner's request for affidavit/online pass is rejected. Unfortunately, the petitioner is not having that message received by him as it was deleted accidentally/inadvertently.

4. On the same day after about one hour when the petitioner got the message that his request for "affidavit" is rejected, the petitioner submitted yet another request for "affidavit" for travelling to the Cochin Pet Hospital, Kadavanthara on 5.4.2020 at 10.00 a.m. and to return by 10.30 a.m. on 5.4.2020. On 4.4.2020 at 11.27 a.m. the petitioner was served with a reply to this request in the following manner:-

"We regret to inform that your request for affidavit/Emergency Pass is rejected".

The screen shot of the text message received by the petitioner on 4.4.2020 at 11.27 a.m. from the authority under the respondents is produced herewith and marked as **Exhibit P1**.

5. The petitioner respectfully submits he is maintaining the cats also in utmost security. The photographs of the cats in the petitioner's home, three in numbers are produced herewith and marked as **Exhibits P2, P3 and P4** respectively. The petitioner submits that when the Honourable Chief Minister himself has exhorted to feed even stray dogs in the streets, the action of the respondents in denying permission to travel to pet hospital to buy cat food is high handed.

6. It is submitted that Exhibit P1 is violative of the provisions of the Prevention of Cruelty to Animals Act 1960 which prescribes various measures for the preservation and upkeep of animals which includes pets also. Section 2(a) of the Act defines animal as

“animal” means any living creature other than a human being;”

6. It is submitted that in the decision reported in **Animal Welfare Board of India v. A.Nagaraja (2014)7 SCC 547** the Honourable Supreme Court of India held as follows:-

“62. Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word "life" has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, "life" means something more than mere survival or existence or instrumental value for human-beings, but to lead a life with some intrinsic worth, honour and dignity. Animals' well-being and welfare have been statutorily recognised Under Sections 3 and 11 of the Act and the rights framed under

the Act. Right to live in a healthy and clean atmosphere and right to get protection from human beings against inflicting unnecessary pain or suffering is a right guaranteed to the animals Under Sections 3 and 11 of the PCA Act read with Article 51A(g) of the Constitution. **Right to get food, shelter is also a guaranteed right Under Sections 3 and 11 of the PCA Act and the Rules framed thereunder, especially when they are domesticated. Right to dignity and fair treatment is, therefore, not confined to human beings alone, but to animals as well.** Right, not to be beaten, kicked, over-rider, over-loading is also a right recognized by Section 11 read with Section 3 of the PCA Act. Animals have also a right against the human beings not to be tortured and against infliction of unnecessary pain or suffering. Penalty for violation of those rights are insignificant, since laws are made by humans. Punishment prescribed in Section 11(1) is not commensurate with the gravity of the offence, hence being violated with impunity defeating the very object and purpose of the Act, hence the necessity of taking disciplinary action against those officers who fail to discharge their duties to safeguard the statutory rights of animals under the PCA Act.”

Being left with no other efficacious or alternate remedy, the petitioner is approaching this Honourable Court under Article 226 of the Constitution of India on the following, among, other:-

GROUND

A. Exhibit P1 order of the authority under the respondents is illegal, arbitrary, without application of mind and cannot be countenanced in the eye of law.

B. The cat food which the petitioner is having is going to exhaust within three or four days and thereafter if the food is not made available, the cats will not survive and the petitioner will be put to irreparable loss, injury and mental stress and strain.

C. Exhibit P1 demonstrates the lack of application of mind by the authority under the respondents. Travelling to pet hospital to purchase cat food cannot be termed as an "unnecessary journey" in order to reject the request for "affidavit" for performing the journey.

D. Exhibit P1 violates the fundamental right to live enshrined under Article 21 of the Constitution of India which is available also to cats and other animals as held by the Honourable Supreme Court of India in the decision reported in **Animal Welfare Board of India v. A.Nagaraja (2014)7 SCC 547**.

E. The sad plight of the cats in the event of non-availability of the food ought to have been taken note of by the authority under the respondents and ought to have permitted the petitioner to travel to the Cochin Pet Hospital, Kadavanthara for purchasing the cat food. The rejection of the request made by the petitioner in this regard is high handed and arbitrary. The authority under the respondents cannot deprive the life of three innocent cats by his mere "Ipisi Dixit".

For these and other grounds to be submitted at the time of hearing it is most humbly prayed that this Honourable Court be pleased to:-

- i. Issue a writ of certiorari or any other appropriate writs, directions or orders calling for the records leading upto Exhibit P1 and quash the same.

- ii. Issue a writ of mandamus or any other appropriate writs, directions or orders directing the respondents to permit the petitioner to travel from his residence upto the Cochin Pet hospital, Kadavanthara for purchasing cat food "Meo-persian" for feeding the cats in the home of the petitioner.
- iii. Issue such other orders as are deemed fit and proper in the circumstances of the case.

Interim relief prayed for

For the reasons stated in the Writ Petition it is most humbly prayed that this Honourable Court be pleased to direct the respondents to permit the petitioner to travel from his residence upto the Cochin Pet hospital, Kadavanthara for purchasing cat food "Meo-persian" for feeding the cats in the home of the petitioner, pending disposal of the above Writ Petition (Civil).

Dated this the 4th April, 2020

N.Prakash
Party-in-Person

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM**

W.P.(C)No.

of 2020

N.Prakash

Petitioner

State of Kerala and another

Respondents

Affidavit

I, N.Prakash,S/o.A.Narayana Rao, Aged 56, residing at Prajith Vihar, Ayini Nada Road, Maradu P.O, Ernakulam-682304 do hereby solemnly affirm and state as follows:-

1. I am the petitioner in the above Writ Petition (Civil). I am conversant with the facts of the case.
2. This is the first writ petition filed by me with regard to the present subject matter.
3. The exhibits produced along with the writ petition are the true copies of the original documents.

All the facts stated above are true to the best of my knowledge, information and belief.

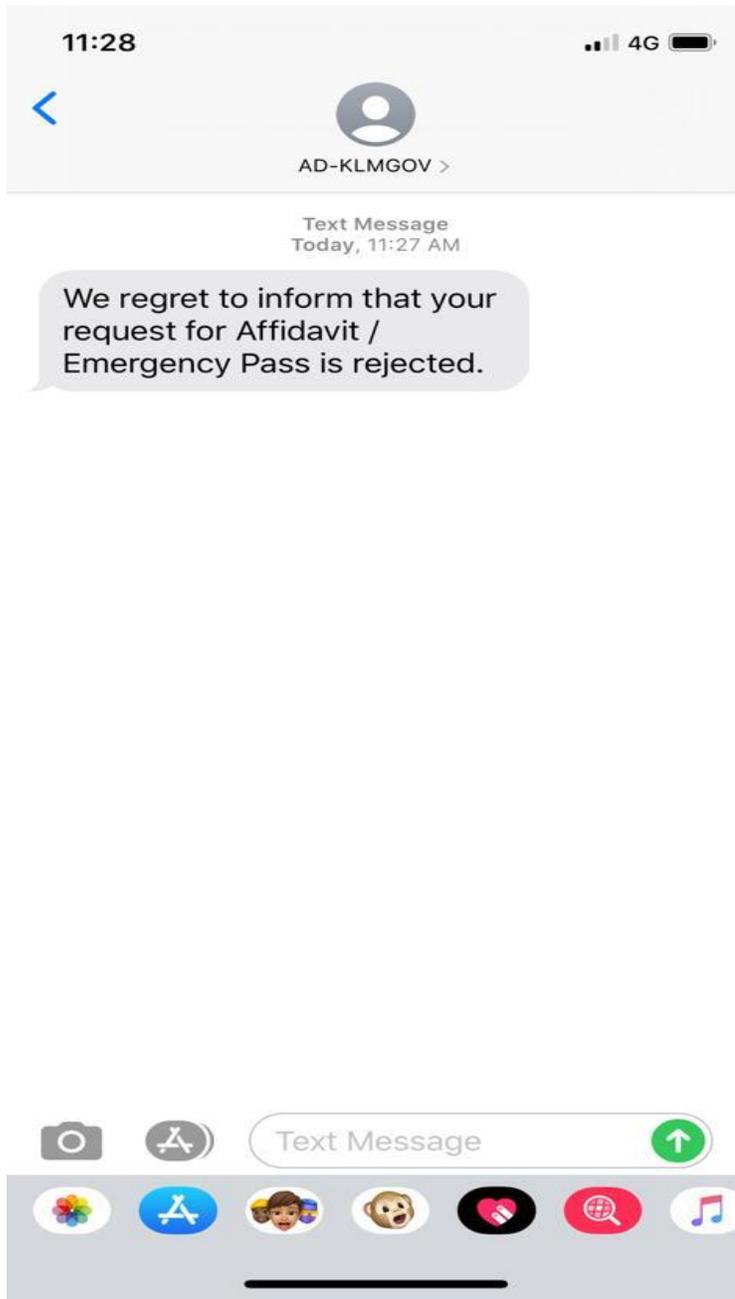
Dated this the 4th April, 2020

Deponent

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 4th April, 2020 in my office at Ernakulam

Advocate

Exhibit P1



This is the photo marked as Exhibit P1 in the Writ Petition.

N.Prakash
Party-in-person

Exhibit P2



This is the photo marked as Exhibit P2 in the Writ Petition.

N.Prakash
Party-in-person

Exhibit P3



This is the photo marked as Exhibit P3 in the Writ Petition.

N.Prakash
Party-in-person

Exhibit P4



This is the photo marked as Exhibit P4 in the Writ Petition.

N.Prakash
Party-in-person

**BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
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Dated this the 4th April, 2020

N.Prakash
Party-in-Person

Appendix

Petitioner's Exhibits

Exhibit P1- The screen shot of the text message received by the petitioner on 4.4.2020 at 11.27 a.m. from the authority under the respondents

Exhibit P2- The photograph of the cat in the petitioner's home

Exhibit P3- The photograph of the cat in the petitioner's home

Exhibit P4- The photograph of the cat in the petitioner's home

Presented on: 04.04.2020

Sub:-Prevention of Cruelty to Animals Act, 1960-Challenge against Exhibit P1 order rejecting the request of the petitioner for "affidavit" for travelling from the petitioner's house to the Cochin Pet Hospital, Kadavanthara for purchasing cat food for feeding the cats in the house of the petitioner.

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

**N.Prakash
Party-in-Person**

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

DATA SHEET

PETITIONS / PROCEEDINGS FILED UNDER ARTICLE 226, 227 OF CONSTITUTION OF INDIA
AND CASE TYPE WITH NOMENCLATURE WA, CONTEMPT CASE CIVIL, CONTEMPT CASE
CRIMINAL, CONTEMPT APPEAL CIVIL and RP's FILED AGAINST THE ABOVE SAID CASES.

CASE TYPE: Writ Petition [c]	FILING NO: (For Office use only)		CNR NO: (For Office use only)	KLHC01
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PETITIONER'S DETAILS

Name of First Petitioner / Organisation		N.Prakash		
Nationality	Indian	Age	56	Senior Citizen
				Y <input type="checkbox"/> N <input type="checkbox"/>
Sex	Male <input type="checkbox"/> Female <input type="checkbox"/> Others <input type="checkbox"/>	Mobile Number	9447594090	
Email ID	Nil	No. of Extra Petitioner[s]	NIL	

DETAILS OF ADVOCATE / PARTY IN PERSON / REGISTERED CLERK

Name of Advocate / Party		N.Prakash		
Bar Council Registration Number		Advocate Code		
Whether represents any Firm? If yes, state Name of Firm			No	
Whether Senior Advocate engaged? If yes, state Name, Bar Council Regn. No. & Advocate Code			No	
Whether presented by Registered Clerk		Y <input type="checkbox"/> N <input type="checkbox"/>		
If Yes, specify, Name & Regn. Number				

RESPONDENT'S DETAILS

Name of First Respondent / Organisation		State of Kerala		
Age	NOT KNOWN	Senior Citizen	Y <input type="checkbox"/> N <input type="checkbox"/>	
Sex	Male <input type="checkbox"/> Female <input type="checkbox"/> Others <input type="checkbox"/>	Number of Extra Respondent[s]	1	

SUBJECT MATTER

a.	State the subject matter [as per the current Roster]	Challenge against Exhibit P1 order rejecting the request of the petitioner for "affidavit" for travelling from the petitioner's house to the Cochin Pet Hospital, Kadavanthara for purchasing cat food for feeding the cats in the house of the petitioner.
b.	Main Act / Rules involved	Prevention of Cruelty to Animals Act, 1960

c.	Whether the case involves offence against	
	Women <input type="checkbox"/>	Children <input type="checkbox"/> Senior Citizen <input type="checkbox"/> Marginalised Sections of Society <input type="checkbox"/>
	SC/ST <input type="checkbox"/>	Physically challenged <input type="checkbox"/> Mentally challenged <input type="checkbox"/>

LOWER COURT / TRIBUNAL DETAILS / ARISING OUT OF

Name of Court	Nil	Case Number & Year	Nil
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COPY SERVED DETAILS [If any]

Details of copy served to the other parties. [Specify the rank]

A.G	ASGI	Standing Counsel	OTHERS
		Government Pleader	NIL
In the case of Writ Appeal state whether No Objection obtained for TODAY moving.			Y <input type="checkbox"/> N <input type="checkbox"/>

OTHER DETAILS [If any]

State whether Victim Anonymity Case [Vide Office Circular No. 3/2017 Dated 21.12.2017]	Y <input type="checkbox"/> N <input type="checkbox"/>
If yes , specify the rank of the Victim	Not applicable.

Specify whether case filed as [In urgently moved cases only]

<input type="checkbox"/> Today <input type="checkbox"/> Tomorrow <input type="checkbox"/> Day After Tomorrow <input type="checkbox"/> Any Other Day [Please Specify the date]
--

Place : Maradu

Date : 4.4.2020

Signature of Advocate / Party in Person

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Declaration

I, N.Prakash,S/o.A.Narayana Rao, Aged 56, residing at Prajith Vihar, Ayini Nada Road, Maradu P.O, Ernakulam-682304 do hereby solemnly affirm and state as follows:-

1. I am the petitioner in the above Writ Petition (Civil). I am conversant with the facts of the case.
2. I hereby undertake that I will pay necessary court fee and any other requisite charges applicable immediately regular Court resumes its function and also file the writ petition duly signed by me and attested by an Advocate in the affidavit of the writ petition.

The above stated facts are true to the best of my knowledge, information and belief.

Dated this the 4th April, 2020

N.Prakash
Party-in-Person