

IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)  
PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA  
WRIT PETITION (PIL) (C) NO ..... OF 2015

**IN THE MATTER OF:**

M/s. Centre for Consumer Education (Regd)  
Through Managing Trustee,  
Mr. DejoKappen  
S/o. Late K.C Joseph ,  
R/o. Kappil House,  
Meenachil, Pala,  
KottayamDst, Kerala State

....Petitioner

Versus

1.Union of India ,  
Through Secretary  
Ministry of Law and Justice,  
New Delhi-110001 .

Respondent No.1

2.The office of the Ld. Attorney General for India,  
Through Secretary ,  
Supreme court of India Compound,  
New Delhi-110001...Respondent No. 2

To,

The Hon'ble Chief justice of India and  
His companion Justices of the Hon'ble  
Supreme court of India.

The Humble Petition of the  
petitioner Above named.

A PETITION UNDER ARTICLE 32 OF THE CONSTITUTION  
OF INDIA FOR A SUITABLE WRIT ORDER DIRECTION TO  
THE RESPONDENT NO. 1 TO NOT TO GRANT PERMISSION

TO RESPONDENT NO. 2 FOR APPEARING FOR A PRIVATE PARTY AGAINST THE STATE AND ITS INSTRUMENTALITIES AS THE FUNDAMENTAL RIGHTS OF THE PETITIONERS GUARANTEED UNDER ARTICLE 14,19, 21,HAVE BEEN VIOLATED BY THE RESPONDENT.

**MOST RESPECTFULLY SHOWETH.**

1.The petitioner herein is Centre for Consumer Education (Regd) having registration number.497/88 under the Travancore–Cochin Literary Scientific and Charitable Societies , Kerala State , and the present petition is being filed through its Managing Trustee Mr. DejoKappen , S/o. Late K.C Joseph ,aged 55, R/o. Kappil House, Meenachil, Pala, KottayamDst, Kerala State. A true copy of theprofile of the petitioner and Registration certificateNo.497/88 is enclosed herewith as **ANNEXURE-P1 (pages.....to.....)**.

**1A.**The Managing Trustee Mr. DejoKappen , S/o. Late K.C Joseph ,aged 55, R/o. Kappil House, Meenachil, Pala, KottayamDst, Kerala State of the petitioner is a permanent resident of Pala in KottayamDst, Kerala State and his e-mail id is [dejokappen@gmail.com](mailto:dejokappen@gmail.com), Mobile Number is 09447300978 , Pan Card Number is AWY PK 7640Q and the annual agricultural income during the assessment year 2014-2015 is approximately Rs.4 lakhs, Adhar card

no. is 243640985965 , driving license number is 35/569/1982 .There is no any civil , criminal or revenue cases against the Managing Trustee or the petitioner Trust. The managing Trustee live a simple life with sufficient income from inherited farms ,who spent time and savings for social and charitable purposes, and don't smoke or use intoxicating drinks and making use of his savings for public cause. The petitioner has not approached any concerned authority for the relief prayed, however the petitioner herein filed I.A no.2 of 2015 in Civil Appeal No.5375 of 2015 before this Hon'ble court objecting the appearance of respondent no. 2 , which was not heard and dismissed as withdrawn by order dated 25.08.2015 a copy of which is enclosed as Annexure P-9 at page no.73-79..

**1B.**Mr. DejoKappen , the Managing Trustee of the petitioner is a farmer and a public spirited citizen since his childhood was the University Union Councilor of Kerala University during the period 1977-78, the chairman of Pala St. Thomas College during the period 1978-79 , the University union councilor of Rajagiri College during the period 1981-82, the General Secretary of Kerala University during the period 1982-83, was a senate member during the period 1983-84 and was also the chairman of Kerala Land

Development Corporation during the period 1993-96 and got National Award from the President of India in year 1985 for the best Biographic Documentary Sr.Alphonsa.

**1C.** Mr. DejoKappen , the Managing Trustee was actively involved in social activities for the betterment of the society. In his capacity as the Managing Trustee of the petitioner, the trust filed more than 15 cases in the High court of Kerala at Ernakulum and succeeded in all the cases. It is relevant to mention here that ,in all the cases filed in public interest , the Hon'ble courts took serious view of the submissions and was pleased to pass appropriate positive directions resulting in betterment of the society. There was not even a single incident of imposing cost on the petitioner in more than 15 cases filed by the petitioner , rather the Hon'ble courts appreciated the concern of the petitioner shown to the societal needs .The case filed by the petitioner for having "None of the Above"(NOTA) in electronic voting, and petition for banning Mont Blanc pen for bringing the Mahatma Gandhi series limited edition in flagrant violation of Emblems and Names (Prevention of improper use ) got much appreciation .

**1D.**The petitioner Trust herein is one of the most active and reputed consumer organization from Kerala since 1997 ,addressed various other social issues affecting the general public like Bus Strike, Charging extra fare to Sabirimala pilgrims, alarming increase in road accidents ,solid waste management, environmental issues of Flex Board hoardings, flagrant violation of emblems , election reforms , and also take serious steps for the promotion of prohibition etc. before the Hon'ble courts and succeeded in getting favorable orders resulting in betterment of the society. The petitioner is not having personal gain, private motive or oblique reasons in filing the present public interest litigation. The petitioner is working with the sole aim of betterment of the society .


**1E.**The petitioner herein submits that, in the light of the Articles 1, 12, 143 and 145 of the constitution of India , section 23 of the Advocates Act, read with section 8 , 9 and 10 of the Law officer (Conditions of Service Rules,1987) ,and the Supreme Court rules, the respondent Ministry of Law and Justice went wrong in granting permission to the Ld. Attorney General for India to act and appear on behalf of a private party against the state of Kerala and the

petitioner herein resulting in unfair trial and prejudicial to the interest of the constitution and the petitioner because of the special constitutional status and special privileges Ld. Attorney General for India is holding in comparison other lawyers .

**2.** The petitioner herein submits that , if in principle the practice of the law officers appearing for private party against the State Government is allowed to be followed as a matter of precedent , it will have disastrous consequences on the litigations handled by the Government of India and states, in which the stake of “WE the people of India ” is involved and results in constitutional crisis and legal vacuum because of the special position and privileges Ld. Attorney General for India is enjoying . The petitioner is not having any personal interest or personal gain by conducting the present petition. But the act of Ld. Attorney General for India in appearing for the bar owners against the petitioner and the state of Kerala resulted in violation of article 14 of the petitioner .

**3.**For a better appreciation and understanding of the present writ petition the following documents are essential.

A true copy of the Notification dated 01-01-1987 issued by the Ministry of law and Justice in exercise of powers under Article 309 read with Article 76, which is relevant in deciding the present petition is enclosed herewith as **ANNEXURE-P-2(pages-----to-----)**. A true copy of the office memorandum dated 24-10-2014 issued by the Ministry of law and Justice which is relevant in deciding the present petition is enclosed herewith as **ANNEXURE-P-3 (pages-----to-----)**. A true copy of the office memorandum dated 24-10-2014 issued by the Ministry of law and Justice which is relevant in deciding the present petition is enclosed herewith as **ANNEXURE-P-4(pages-----to-----)**. A true copy of the unstarred question No.3155 in Lok Sabha answered dated 11.12.2014 downloaded from the Ministry of law and Justice which is relevant in deciding the present petition is enclosed herewith as **ANNEXURE-P-5(pages-----to-----)**.

  
**4.** The brief facts of the case leading to the filing of the above mentioned writ petition are as follows.

A. The petitioner above named was respondent no. 4 in Special leave petition Civil No.17476 of 2015 which was converted into Civil Appeal No.5375 of 2015, herein after referred as “civil appeal” which was filed by one

of the bar owner, against the policies of the state of Kerala challenging the impugned final judgment and order dated 31.03.2015 passed by the Hon'ble High Court of Kerala at Ernakulam in W.A No.1804 of 2014 , whereby the Hon'ble High Court allowed the Writ Appeals filed by the State of Kerala and dismissed the writ petitions filed by the bar owners .The petitioner is respondent no. 4 in the above mentioned Civil Appeal .

B. The petitioner herein from the perusal of proceedings of this Hon'ble court from the website of this Hon'ble court ,based on newspaper report found that, leave was granted in the above mentioned special leave petition along with other petitions by order dated 10.07.2015 and the Ld. Attorney General for India appeared for the first petitioner resulting in benefitting all other petitioners . A true copy of the order dated 10.07.2015 passed by this Hon'ble court is enclosed herewith as **ANNEXURE-P-6.(pages----- to-----)**.From the order dated 10.07.2015 it is clear that, the Ld. Attorney General for India appeared in his professional capacity and not in his personal capacity. Even



otherwise once a person is appointed as Attorney General for India according to Article 76 of the constitution of India , there is no scope for any role in his personal capacity, and he is duty bound and looked on as the Ld. Attorney General only legally and practically ,and he is the face of the Government in all the courts in India and other forums with special powers and privileges .

C. It was the respectful submission of the petitioner herein in civil appeal that, the order dated 10.07.2015 passed by this Hon'ble court based on the appearance of Ld. Attorney General for India is void-ab-initio ,without Jurisdiction/locus , and the same is required to be recalled due to illegality, constitutional immorality, impropriety ,conflict of interest and violation of Article 14 of the Constitution of India.

D.The petitioner (respondent no. 4 in the civil appeal) was not even served notice by the registry of this Hon'ble court, resulting in serious prejudice to the cause of the petitionerresulting in miscarriage of justice , violating the basic principles of natural justice, Order XIX rule 7 of this Hon'ble court.However on

request, the council for the petitioner was served a copy of the Special leave petition and the petitioner was heard on the merits of the Civil Appeal only at the time of arguments .

E. The petitioner herein from the perusal of proceedings of this Hon'ble court found that, leave was granted in the above mentioned Civil Appeal along with other petitions by order dated 10.07.2015 and the Ld. Attorney General for India appeared for the first petitioner resulting in benefitting all the other petitioners.

F. The petitioner seriously prejudiced by the illegal action of the respondent No. 2 in appearing for a private party against the state and the petitioner herein filed an application for directions . A true copy of the application for directions filed by the petitioner dated 17.08.2015 is enclosed herewith as **ANNEXURE-P7. (Pages....to....)**.

G. It is relevant to mention here that, when the respondent no. 2 appeared for one of the bar owner, one of the council in Civil Appeal objected to the same , however it was stated that, Ld. Attorney General is

having the permission to appear from the respondent no. 1 . The said permission issued by the respondent no.1 was never placed on record.The case of the petitioner herein is that assuming there is a permission, it is illegal , null and void and ultravires and the same is liable to be quashed as it is against the express provisions of the constitution .

H. That on 21.08.2015 the council for the petitioner Adv. Johnson Mathew Manayani issued a legal notice to the respondent no.1 , requesting the copy of the order / permission granted to the respondent no. 2 to appear on behalf of a private party against the constitutional mandate and State of Kerala and the petitioner herein, in the light of the submission of the respondent no. 2 before this Hon'ble court where the civil appeal no. 4157 of 2015 was being heard , that he was granted permission . However it is submitted that, the statement of Ld. Respondent no.2 about the permission was not recorded as a part of the proceedings. A true copy of the Legal Notice issued by the council for the petitioner dated 25-08-2015

addressed to the respondent no. 1 is enclosed herewith as **ANNEXURE-P 8 (Pages-----to-----)**.

I. The application filed by the petitioner for directions challenging the legality and validity of the respondent no. 2 in appearing for a private party along with other issues, was dismissed as withdrawn as the Ld. Judges hearing the civil appeal was of the view that, it was for the Ministry of Law and Justice to decide on the issue of legality and validity of the Ld. Attorney General for India appearing on behalf of a private party against the state of Kerala and the petitioner which is an altogether different issue beyond the scope of the Civil Appeal. Ministry of Law and Justice was not a party and more than that, the orders issued by the respondent no. 1 permitting the respondent no. 2 to appear was also not brought on record. As the petitioner was not even served notice by this Hon'ble court in the Civil Appeal No.5375/2015, he could not bring on record his application for objections in Ld. Attorney General for India in appearing at the appropriate time when the matter was heard. A true copy of the order dated 25.08.2015 passed by this

Hon'ble court allowing the petitioner to withdraw the application filed by the petitioner is enclosed herewith as **ANNEXURE-P9.(pages----to----)**. A true copy of the office report dated 25.08.2015 issued by the registry of this Hon'ble court is enclosed herewith as **ANNEXURE-P10 .(pages----to----)**. From the office report it is evident that, service was not complete on all the respondents.

**5.**The application No. 2 of 2015 in civil appeal No.5375 of 2015 filed by the petitioner was not heard by the Hon'ble Judges. In the said circumstances, as larger issues were involved touching the basic features of the constitution of India ,with substantial question of law as to the interpretation of Article 76 of the constitution of India ,the petitioner herein decided to file a separate writ petition by impleading proper parties and hence the petitioner herein is filing the present writ petition on the following grounds without prejudice to one another .

### **GROUND**

For the convenience of this Hon'ble court, the petitioner herein is producing the following Articles/sections which

are of relevance for deciding the substantial question of law raised in the above mentioned writ petition.

#### RELEVANT LEGAL PROVISIONS.

AA.Article 76. "Attorney-General for India.- (1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney-General for India

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India .

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine."

AB. Article -1. Name and territory of the Union.(1) India, that is Bharat, shall be a Union of States. (2) The States and the territories thereof shall be as specified in the First Schedule.

A. (3) The territory of India shall comprise (a) the territories of the States; (b) the Union territories specified in the First Schedule; and (c) such other territories as may be acquired.

AC. Article 12 .

12. Definition In this part, unless the context otherwise requires, the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India

AD. Article 143

143. Power of President to consult Supreme Court

(1). If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion

of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon

[\(2\)](#) The President may, notwithstanding anything in the proviso to Article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after such hearing as it thinks fit, report to the President its opinion thereon

#### AE. Article 145 in The Constitution Of India 1949

145. Rules of Court, etc

[\(1\)](#) Subject to the provisions of any law made by Parliament the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including

[\(a\)](#) rules as to the persons practising before the Court,

[\(3\)](#) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under Article 143 shall be five:

Provided that, where the Court hearing an appeal



under any of the provisions of this chapter other than Article 132 consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

AF. Section 23 in THE ADVOCATES ACT, 1961

23. Right of pre-audience.—

[\(1\)](#) The Attorney-General of India shall have pre-audience over all other advocates.

AG. The law officer (Conditions of Service Rules, 1987.

8. Restrictions- (1) A Law Officer shall not - (a) hold briefs in any court for any party except the Government of India or the Government of a State or any University, Government School or College, local authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or

Government managed hospitals, a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), any Corporation owned or controlled by the State, anybody or institution in which the Government has a preponderating interest; (b) 5 { advise any party against the Government of India or a Public Sector Undertaking, or in cases in which he is likely to be called upon to advise, or appear for, the Government of India or a Public Sector Undertaking; } (c) defend an accused person in a criminal prosecution, without the permission of the Government of India; or (d) accept appointment to any office in any company or corporation without the permission of the Government of India; (e) {advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs.} 6 (2). Where a Law Officer appears or does other work on behalf of bodies of Union of India such as the Election Commission, the Union Public Service Commission

etc. he shall only be entitled to fees on the scales mentioned in clauses (c) of sub-rule (1) of rule 7.

9. Perquisites – (1) The services of personal staff, office accommodation and telephones at the office and residence of a Law Officer shall be provided by the Government of India free of cost.

5 Substituted vide G.S.R. 397 (E) dated 14th April 1987. 6 Inserted vide G.S.R. ... (E) dated 25th February, 2005 Provided that a Law Officer shall be liable to make payment for the telephone calls, other than the telephone calls for official purposes, made from his residential telephone, if they exceed such number of telephone calls or such charges for telephone calls in respect of the residential telephone as the Government of India may, from time to time, determine in this regard;

7 “Explanation – For the purpose of this rule “Personal staff” means: – (i) in the case of Attorney General and Solicitor General - a Principal Private Secretary in the appropriate grade, a stenographer and a jamadar;  
(ii) in the case of Additional Solicitor General - a Private Secretary in the appropriate grade, a stenographer and a jamadar”.

(2) A Law Officer would be provided by the Government of India suitable residential accommodation on payment of usual rent fixed by the Government from time to time.

10. Power to relax – Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, and for reasons to be recorded in writing, relax any of the provisions of these rules.

7 Substituted vide GSR ...(E) dated 16<sup>th</sup> December, 2005.

8 {Provided that the provisions of rule 8 shall not be relaxed in relation to any matter where the Government of India or any Central Government instrumentality is or is likely to be affected

8 Inserted vide G.S.R 345 (E) dated 10<sup>th</sup> May 2001.

#### AH.THE PREAMBLE OF THE CONSTITUTION OF INDIA.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and

to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to

promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;  
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Notes:-The Preamble to the Constitution of India serves the following purposes: -

- A. It indicates the source from which the Constitution derives its authority;
- B. It also states the objects, which the Constitution seeks to establish and promote.
- C. The constitution of India starts with a preamble.

It is a brief introductory statement which spells out the guiding purpose and principles of the entire document called the constitution of India. Many constitution and law experts have termed the preamble as the heart and soul of the Indian constitution. There have been many judgments related to the real position of the preamble. This Hon'ble court in the Kesavananda Bharati v. State of Kerala case 1973, recognized that the preamble may be used to interpret various parts of the constitution in case of confusion or differing interpretations. In another verdict in 1995 (Union Government Vs LIC

of India), this Hon'ble Court has once again held that the Preamble is an integral part of the Constitution.

AI. The petitioner herein is making the submissions/ grounds based on the following fundamental principles based on the practice and constitutional philosophy .

- A. The supremacy of the constitution of India .
- B. The office of the Attorney General for India is the creation of the constitution of India by Article 76 and his constitutional position is similar to a Judge of this Hon'ble Court in terms of qualifications, salary, constitutional status, and other privileges and above a lawyer for all reasons..

**B.** Because the act of the Ld. Attorney General appearing for a private party on an issue against prohibition (Article 47) , the policy of the State Government, a constitutional provision, that also an issue connected with the interpretation of Fundamental Rights , mainly Articles 14, 19, 21 resulted in conflict of interest for the Ld. Attorney General who is the face of the Government before this Hon'ble court ,who is holding a superior position

resulting in violation of Article 14 of the constitution of India for the petitioner .

**C.**Because of the dominant position of the Ld. Attorney General while addressing this Hon'ble Court in the light of Article 76 of the Constitution of India read with section 21 of the Advocates Act , the act of the Ld. Attorney General appearing for a private party against the state of Kerala and the petitioner resulted in miscarriage of justice and violation of Article 14 of the constitution of India for the petitioner .

**D.**Because from the contents of the above mentioned Articles of the Constitution of India and other provisions , it is clear that, the Ld. Attorney General is appointed by the President of India, for India and he is a constitutional functionary, with all powers and privileges attached to its office and he represents India which includes the states because of Article 1 and 12 .

E. Because the Ld. Attorney General represents the Government of India in any reference made by the President to this Hon'ble Court under Article 143 of the Constitution and is the bridge of communication between the President of India and the union of India and is holding a superior constitutional post with various duties and responsibilities all exclusively for "defending the constitution" and its philosophy and principles.

F. Because the Ld. Attorney General is member of various committees with a superior legal and constitutional position, resulting in appearance for private party against constitutional provisions is patently illegal .

G. Because clause (4) of the Article 76 provides that the salary or remuneration of the Ld. Attorney General is determined by the President of India and to the knowledge of the petitioner the salary of the Ld. Attorney General is equivalent to that of a Judge of this Hon'ble Court and the office of the Attorney General is a full time assignment resulting in a situation in which there is no scope for the



person appointed according to Article 76 of the constitution of India to act against the constitutional provisions failing which the most serious question, who will discharge the powers under Article 76 of the constitution of India, in an issue of Article 47, because of the conflict of Interest and legal vacuum which should have been avoided at any cost.

H. Because the Ld. Attorney General is a bridge and a channel of communication holding a special constitutional status, between the President of India and the Union of India with all facilities and infrastructures for the proper discharge of his duties and is very much above a lawyer under the Advocates Act with special privileges and powers was duty bound to act exclusively in the best interest of the constitution only. The position of the Ld. Attorney General for India in the Constitution of India in Chapter 1, under the head "Executive" in Article 76 is also relevant and the intention of the framers of the constitution to place the office of the Ld. Attorney general in a higher position is relevant.

I. Because, the petitioner herein submits that, the Ld. Attorney General appeared on behalf of the petitioners in civil appeal for the bar owners, against the interest of state

of Kerala and the petitioner, against the letter and spirit of Article 1, 12, and 47 of the Constitution of India in the above mentioned civil appeal .

J .Because it is the respectful submission of the petitioner herein that , the Ld. Attorney General cannot have any other interest other than the interest spirit and philosophy of the constitution and all his duty is exclusively to protect and defend the constitution .

K .Because the state of Kerala along with the petitioner herein were entitled to the benefit of the Ld. Attorney General's wisdom, knowledge , experience and his special constitutional position according to the constitution of India in the above mentioned civil Appeal. .

L. Because Rule 8(a) of the Law Officer (Conditions of Service) Rules, 1987, clearly restricts the Ld. Attorney General of India in Holding brief in any court except Government of India or the Government of State or other instrumentalities .

M .Because Rule 10 of the Law Officer (Conditions of Service) Rules, 1987, relating to power to relax specifically states provision of rule 8 shall not be relaxed in relation to any matter where the Government of India or any Central Government instrumentality is or is likely to be affected.

N .Because it is clear that , the Law Officer (Conditions of Service) Rules, 1987, visualize the Attorney General not as the counsel for the Centre government alone but also of the “States” which includes the categories indicated above, which are all institutions that would fall within the ambit of state.

O. Because It is pertinent to mention here that , power of relaxation under Rule 10 cannot take away the spirit of the main rule namely rule 8, as rule 8 has a constitutional foundation in Article 12 read with Articles 76 and 309.

P. Because there are serious procedural irregularities touching the root of the issue, illegalities , impropriety, and clear violation of the rule 8 of the law officer (Conditions of

service ) rules ,1987, in the order dated 10.07.2015 passed by this Hon'ble court in Civil Appeal No.5375 of 2015 .

Q .Because the Ld Attorney General of India appointed under Article 76 of the constitution of India, with a duty to advice the Government of India and to perform such other duties of a legal character, assigned to him by the President, is the face of the Government of India before this Hon'ble court and is in an advantageous position , and being a quasi-federal the face of the government of the state also. He also represents to the Government of India in any reference made by the President to the Supreme Court under Article 143 of the Constitution. All references are made to the Attorney General by the Union Ministry of Law and Justice.

R .Because even according to section 23 of the Advocates Act ,the Ld.Attorney General is also having the Right of pre-audience. The Attorney-General of India shall have pre-audience over all other advocates resulting in a special or superior position . The action of the Ld Attorney General appearing for a private party , other than the Government of India or the state Government or its instrumentalities

which will result in serious prejudice to the opposite sides because of the dominant position the Ld. Attorney General is holding even before this Hon'ble court .

S.Because strictly speaking , whatever proceedings based on the submissions of the Ld. Attorney General for India before any court against the state or its instrumentalities , or the constitutional provisions is void ab initio, as there is conflict of interest and more than that, he is in a dominant position than the ordinary lawyers and Ld. Senior Advocates representing the other side due to his special Constitutional position resulting in violation of Article 14.

T.Because the orders passed on the basis of the appearance of Ld. Attorney General For India is null and void and the same is void-ab-initio and interest of justice and ends of justice requires maintaining status ante-in the above mentioned Civil Appeal , failing which justice will be the causality as justice is to be done and seems to be done failing which it will erode the faith of the people in the constitution itself .

U. Because the petitioner herein is constrained to move the present writ petition in public interest and in the interest of justice and in the ends of justice, due to the patent illegalities met before this Hon'ble court, all leading to destabilizing the constitution, its principles, high ideals, and if in principle if it is allowed to happen, the net result will be anarchy, a serious concern for every citizen who believe in rule of law.

V. Because every constitutional functionaries are bound to uphold and defend the constitution and there is no scope for any other interest other than the interest of the constitution for a constitutional functionary.

W. Because if the act of the respondent Ministry of Law and Justice permitting a Constitutional Functionary to appear against the provisions of the Constitution is taken as precedent, the net result will be the collapse of the rule of law, the system, resulting in all law officers, at least few will be interested in enjoying all the benefits of office and making

use of the same for acting for private interests leading to the question who will act for the state in courts of law with complete interest and will result in spoiling the morale of people who believes in the law officers working at various levels, and result in demoralizing the entire constitutional set up, eroding the present constitutional set up .

**6.** The petitioners has not filed any other Writ Petition before this Hon'ble Court or any other courts for the same relief, however the petitioner herein filed a petition by way of application no.2 of 2015 in Civil Appeal No.5375 of 2015 before this Hon'ble court, which was dismissed as withdrawn due to technical problems and the said application was not heard . The petitioner is also having no other effective alternative remedy other than filing the present Writ Petition which requires intervention from this Hon'ble Court under Article 32 of the Constitution of India. The respondent reserves the right to file additional documents , raise additional grounds at the time of arguments.

**7.**The cause of action for filing the present Writ Petition arose on 10.07.2015 when the Ld. Attorney General for India appeared for the petitioners in Civil Appeal No.4157 of 2015 against the state of Kerala in which he was the lead counsel, and the civil appeal no.5375 of 2015 in which the petitioner who is the respondent no. 4 was tagged resulting in serious violations as stated above in the grounds. The cause of action further arose when the petitioner issued a legal notice dated 21.08.2015 requesting the respondent no. 1 to serve a copy of the permission granted to the respondent no. 2 to appear in a private matter.

**8.**That the petitioners are not having any other alternative effective remedy other than filing the present Writ Petition under Article 32 before this Hon'ble Court, particularly in the light of the fact that, because of the constitutional privileged position the Ld. Attorney General for India is holding, a friend, philosopher and guide of this Hon'ble court, the link between the President of India and this Hon'ble court in reference and other very serious issues, much above an ordinary Lawyer and even much above a designated Senior Advocate before this Hon'ble court and



every courts of law is equal to that of a Judge of the Hon'ble Supreme Court of India. Being an issue affecting the law officers of the country, interest of justice and ends of justice requires a constitutional bench of this Hon'ble court to decide the substantial question of law as to the interpretation of Article 76 the constitution of India raised herein particularly in the light of the fact that the office of the Ld. Attorney General for India is much above an Integrity Institution. Every action of the respondent no. 2 should be just fair and reasonable and above all doubts and its actions should be in harmony with the ideals, philosophy and mandate of the constitution, because the office of the Ld. Attorney General for India is an integral part of the constitutional set up, with full time assignment in which there is no scope for taking private assignments other than assignments for India. Even otherwise considering disastrous consequences that can happen to the legal system and rule of law, if law officers of the country are allowed to appear against the Government and its policies as a matter of precedent, all resulting in eroding the faith of the people in the constitutional set up, there is an urgent need of deciding the above mentioned substantial question of law by a constitutional bench of this Hon'ble

court and hence the present writ petition is maintainable before this Hon'ble court. This Hon'ble court on several occasions interfered in various matters under Article 32 of the Constitution of India considering the stake involved touching the foundation , basic features, and basic structure of the constitution and the Interest of justice requires framing guidelines by this Hon'ble court on the issue of appearance of "law officers" favoring the private parties and against the instrumentalities of the state , at various levels of Judiciary. It is also submitted that nobody or any alternative arrangements can fill the constitutional vacuum created , when the Ld. Attorney General for India is appearing for a private party against a state government on an issue directly against the provisions Article 47 of the Constitution of India.

9. It is respectfully submitted that the petitioner is not having any private interest or illegal motives in filing the present writ petition other than public interest involved in it, and the only intention of the present petitioner is in preserving the constitution , its basic structure along with its basic features .

### **PRAYER**

In the above mentioned facts and circumstances it is most respectfully prayed that this Hon'ble court may be graciously be pleased to :-

A. Issue a writ in the nature of mandamus or any other appropriate writ , orders directing the respondent no. 1 to stop granting permission to the respondent no. 2 to appear for private parties against the state and its instrumentalities.

B. Pass any other order or orders that this Hon'ble court, may deem fit and proper in the interest and ends of justice.

FOR THIS ACT OF KINDNESS THE PETITIONER  
RESPONDENT IS DUTY BOUND SHALL EVER PRAY

Drafted by-Adv. Wills Mathews  
Enrolment No.K-211/1989

Settled by Adv. Johnson Mathew Manayani.

Drafted on 04.09.2015  
Filed on 11.09.2015

Filed by.

SHREEPAL SINGH

ADVOCATE FOR THE PETITIONER  
WILLS/F.NO.2418/2015 /08/FFF/12/9/15/23.

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3.	Writ petition with affidavit	
4.	<b>ANNEXURE-P-1.</b> A true copy of the profile of the petitioner and Certificate of registration No.K-497/88 .	
5.	<b>ANNEXURE-P-2.</b> A true copy of the Notification dated 01.01.1987 issued by the Ministry of law and Justice.	
6.	<b>ANNEXURE-P-3.</b> A true copy of the Office memorandum dated 24-10-2014 issued by the Ministry of Law and Justice.	
7.	<b>ANNEXURE-P-4.</b> A true copy of the Office memorandum dated 24-10-2014 issued by the Ministry of law and Justice.	
8.	<b>ANNEXURE-P- 5.</b> A true copy of the unstarredquestion no.3155 in Lok Sabha dated 11-12-2014 downloaded from the web site of the Ministry of law and Justice.	
9.	<b>ANNEXURE-P-6.</b> A true copy of the order dated 10.07.2015 passed by this Honb' le court.	
10.	<b>ANNEXURE-P-7</b> A true copy of the application for directions filed by the petitioner dated 17.08.2015 before this Honb'le court. I.A No.2 of 2015.	

11. **ANNEXURE-P-8** A true copy of the legal notice dated 21.08.2015 issued by the council for the petitioner Adv. Johnson Mathew Manayani
12. **ANNEXURE-P-9** A true copy of the order dated 25.08.2015 passed by this Honb'le court allowing the petitioner to withdraw the application filed by the petitioner .
- 13 **ANNEXURE-P-10.** A true copy of the office report dated 25.08.2015 issued by the registry of this Honb'le court.
- 14 **I.A No.....of2015.** Application for exemption from filing official translation.
- 15 Letter dated 14.09.2015