



'C.R.'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

MONDAY, THE 1ST DAY OF APRIL 2024 / 12TH CHAITHRA, 1946

WP(C) NO. 23380 OF 2018

PETITIONER/S:

ANAND JOSEPH
AGED 42 YEARS
SON OF JOSEPH, OLATTUPURATH HOUSE,
DOOR NO.32/10543, NAROTH ROAD,
THAMMANAM P.O., KOCHI - 682 032.

BY ADV SHARAN SHAHIER

RESPONDENT/S:

- 1 THE DISTRICT COLLECTOR
AND EX-OFFICIO PRESIDENT OF THE ERNAKULAM
DISTRICT RIFLE ASSOCIATION,
CIVIL STATION, KAKKANAD,
ERNAKULAM - 682 030.
- 2 THE DISTRICT POLICE CHIEF
REVENUE TOWER, PARK AVENUE, ERNAKULAM - 682 031.
- 3 THE ERNAKULAM DISTRICT RIFLE ASSOCIATION
HAVING REGISTERED OFFICE AT NORTH SIDE,
REGIONAL SPORTS CENTRE, KADAVANTHARA,
KOCHI - 682 020,
REPRESENTED BY ITS SECRETARY.
- 4 THE DISTRICT REGISTRAR
OFFICE OF THE DISTRICT REGISTRAR,
NEAR MAHARAJAS GROUNDS, MG ROAD,
ERNAKULAM - 682 011.
- 5 THE SUPERINTENDENT OF POLICE
ORGANIZED CRIME WING (OCW) II,
CBCID, ERNAKULAM - 682 031.



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6 UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME
AFFAIRS, JAI SINGH MARG, CONNAUGHT PLACE, NEW
DELHI - 110 001.

BY ADVS.
SRI.LIJU.V.STEPHEN AND SMT.INDU SUSAN JACOB FOR
R3

OTHER PRESENT:

SRI.BIMAL K.NATH, SR.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01.04.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



"C.R."

EASWARAN S. , J.**W.P. (C) No.23380 of 2018****Dated this the 1st day of April 2024****JUDGMENT**

Based on the averments contained in the writ petition, the pivotal question that arises for consideration is whether a writ petition under Article 226 of the Constitution of India is maintainable against the Ernakulam District Rifle Association and further that a writ of mandamus could be issued to the District Collector who is an ex officio president of the 3rd respondent association.

2. Before appreciating the averments in the writ petition, its apposite to extract the reliefs sought for in the writ petition.

- i. Issue a writ of mandamus or any other appropriate writ or order commanding the 1st respondent to take note of the illegalities committed and perpetuated as evident from Exhibits P6 to P8 and highlighted in Exhibit P12 and take appropriate action under the Arms and Rules;



ii. Issue a writ of mandamus or any other appropriate writ or order commanding the 1 respondent to take action on the basis of the voluntary disclosure made in Exhibit P14 to the effect that Arms are kept in the residence of the Secretary:

iii. Issue a writ of mandamus or any other appropriate writ or order commanding the 4th respondent to take up Exhibit P16 and initiate prompt action thereon as expeditiously as possible;

iv. Issue a writ of mandamus or any other appropriate writ or order commanding the 5th respondent to conduct an impartial and unbiased investigation into the various complaints projected in the writ petition as expeditiously as possible.

3. Grievance of the writ petitioner is with regard to the functioning of the 3rd respondent, Ernakulam District Rifle Association, which is a society registered under the provisions of Travancore Cochin Literary, Scientific and Charitable Societies Act, 1955. The petitioner contends that there are serious irregularities in the functioning of the 3rd respondent Association. Essentially the grievance is about lack of shortage of pistols for shooting, proper shooting range etc. which the



petitioner has voiced under Exhibit P5. The petitioner further submits that under Exhibit P6 he is required to pay the requisite fee, if he wants to purchase pistols through the Association. According to the petitioner, the said condition is in violence to the provisions under Rule 37(3) and (4) of the Arms Rules, 2016. Since the illegalities were perpetuated by the 3rd respondent, the petitioner seems to have approached the 1st respondent with a representation to look into the alleged illegalities being committed by the 3rd respondent. It is further contented that the petitioner's name has been forged in the memorandum of association (Exhibit P15) and the same is submitted for registration. It is stated further that the arms that are purchased by the Association are now stored at the residence of the secretary of the Association which is again a blatant violation of the Arms Rules. Therefore, essentially the grievance in the writ petition is with regard to certain irregularities in the manner of functioning of the 3rd respondent Association. Hence, the petitioner is seeking a writ of mandamus requesting the 1st respondent, District Collector, to



look into Ext.P14 representation and further the 4th respondent be directed to look into Ext.P16 and initiate appropriate action in this regard.

4. I have heard the learned counsel for the petitioner.

5. While considering the writ petition, this Court raised a preliminary issue on the maintainability of the writ petition against the 3rd respondent, which is a society registered under the Travancore Cochin, Literary, Scientific and Charitable Societies Act 1995. The counsel for the petitioner submits that 1st respondent being the District collector and who is amenable to the writ jurisdiction of this court, the writ petition is maintainable. The learned Counsel further submitted that the 3rd respondent has now been de-recognized by the Sports Counsel of India. If that be so, the 3rd respondent cannot now hold any arms license, contends the learned counsel. To a specific query made by this Court as to whether the 3rd respondent is now holding any arms license under the Arms Act and the Rules, the learned counsel for the petitioner submitted that, in view of the de-recognition, they are not entitled to hold the licence under



the Arms Act and the Rules.

6. The question as to whether a Society registered under the Societies Registration Act, 1860 came up for consideration before the Hon'ble Supreme Court in **Shabajit Tewary Vs Union of India [1975(1) SCC 485]**, wherein it was held that societies registered under the Societies Registration Act, 1860 will not come under the definition of "other authorities" as defined under Article 12 of the Constitution of India. The question as to whether a Society registered under the Societies Registration Act, 1860 would come within definition of "other authorities" came up for consideration before the Apex Court in **Ajay Hasia Vs Khalid Mujib Sheravardi [(1981) 1 SCC 722]**. After analysing the facts of the case, the Apex Court held that the Society registered under the J&K Societies Registration Act and running an engineering college falls within the ambit of "other authorities" under Article 12 of the Constitution of India. However, in **Pradeep Kumar Biswas Vs Indian Institute of Chemical Biology [(2002) 5 SCC 111]**, the Apex Court while deviating from the principles laid down in **Ajay Hasia** (*supra*)



reiterated that **Shabarjit Tewary** (*supra*) was rightly decided and the principles in **Ajay Hasia** (*supra*) is not rigid cannot be universally applied. The Apex Court went on to hold that only if the control of the State over such body is deep and pervasive, the same would come within the definition of State. On the other hand, if the control is merely regulatory whether under the Statute or otherwise then it would not serve to make the body a State.

7. Applying the aforesaid principles, this Court finds that the writ petition under Article 226 of the Constitution of India against the affairs of the 3rd respondent is not maintainable.

8. As far as the plea of the petitioner for a direction to the District Collector who is the Ex-officio President of the 3rd respondent Association, to look into the internal mismanagement of the 3rd respondent Association, is concerned, I am afraid that this Court cannot issue a writ of mandamus to the 1st respondent who is only the Ex-officio President of the 3rd respondent, which is a society registered under the Provisions of the Travancore Cochin Literary, Scientific



and Charitable Societies Act, 1955. It is now indisputable that no writ petition is maintainable against a Society registered under the provisions of the Travancore Cochin, Literary, Scientific and Charitable Societies Act, 1955. If that be so, the 1st respondent, who is officiating as the Ex-officio President of the 3rd respondent, is not amenable to the jurisdiction of this Court under Article 226 of the Constitution of India.

9. However the learned Counsel for the petitioner further submits that the 1st respondent has the authority under the Arms Act and the Rules and, hence, he has the power to look into the affairs of the 3rd respondent. However, I am not impressed by the said plea especially since the relief now sought for against the 1st respondent is not in terms of the provisions under the Arms Act, 1959. No proceedings are now brought on records to show that the petitioner has moved the District Collector, who exercises his power as District Magistrate under the Arms Act, 1959 and Rules framed thereunder. Hence, this Court declines to exercise the jurisdiction vested in it under Article 226 of the Constitution of India on facts of this case.



10. The learned counsel appearing for the petitioner points out that by Ext.P6 letter, the petitioner was informed that if the request for purchasing the pistol is approved by the Executive Committee, 3rd respondent shall inform the petitioner regarding the cost and taxes. This according to the petitioner is in violation to provisions of the Arms Act and the Rules. However, this Court cannot test the validity of Ext.P6 in a writ petition filed under Article 226 of the Constitution of India. However, if the petitioner's application for arms licence has been processed and rejected by the authorities constituted under the Arms Act, certainly it will give rise to a cause of action to approach this Court, in which case, the validity of such action could be tested by this Court in a proceedings under Article 226 of the Constitution of India.

11. Be that as it may, the learned counsel for the petitioner submits that the 3rd respondent has now been de-recognised and it is also brought to the notice of this Court that such de-recognition is separately challenged in a writ petition before this Court. That being so, this Court deems it appropriate to dismiss



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the writ petition as one not maintainable. This, however, will not preclude the petitioner for agitating his grievance in an appropriate proceeding constituted under the provisions of the Arms Act or under the Travancore Cochin Literary, Scientific and Charitable Societies Act before the appropriate forum.

With the above observation this writ petition is dismissed.

No order as to the costs.

**Sd/-
EASWARAN S.
JUDGE**

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APPENDIX OF WP(C) 23380/2018

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE CERTIFICATE NO. TRG/CERT/4108 DATED 03/04/2017 CERTIFYING THE PETITIONER TO BE A RENOWNED SHOOTER BY THE KSRA.
- EXHIBIT P2 TRUE COPY OF THE CERTIFICATES ISSUED TO THE PETITIONER EVIDENCING THE CREDENTIALS OF THE PETITIONER IN THE SHOOTING SPORT.
- EXHIBIT P3 TRUE COPY OF THE ID CARD ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT ASSOCIATION.
- EXHIBIT P4 TRUE COPY OF THE DECLARATION OF ELECTION TO THE OFFICE BEARERS OF THE ERNAKULAM DISTRICT RIFLE ASSOCIATION AS SIGNED BY THE 1ST RESPONDENT HIMSELF.
- EXHIBIT P5 TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER VOICING HIS GRIEVANCES TO THE SECRETARY OF THE 3RD RESPONDENT ASSOCIATION DATED 19/09/2017.
- EXHIBIT P6 TRUE COPY OF THE LETTER ISSUED BY THE SECRETARY OF THE 3RD RESPONDENT TO THE PETITIONER.
- EXHIBIT P7 TRUE COPY OF ONE SUCH LETTER DATED NIL ISSUED IN RESPONSE TO A LETTER DATED 15/02/2015 SAID TO HAVE BEEN ISSUED BY THE PRESENT SECRETARY OF THE ASSOCIATION BY THE ERSTWHILE SECRETARY OF THE ASSOCIATION.
- EXHIBIT P8 TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT DATED NIL TO MR. SIVASHANKAR RAGHU.
- EXHIBIT P9 TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN SRI. SHIVASANKAR REGHU AND THE THEN SECRETARY OF THE 3RD RESPONDENT ASSOCIATION DATED 17/12/2015.
- EXHIBIT P10 TRUE COPY OF THE EMAIL DATED 02/10/2017 SENT BY THE PETITIONER TO THE SECRETARY OF THE 3RD RESPONDENT ASSOCIATION.



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- EXHIBIT P11 TRUE COPY OF THE REPLY SENT BY THE SECRETARY OF THE 3RD RESPONDENT ASSOCIATION.
- EXHIBIT P12 TRUE COPY OF THE REPRESENTATION DATED 22/02/2018 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT P13 TRUE COPY OF THE ACKNOWLEDGMENT ISSUED FROM THE OFFICE OF THE DISTRICT POLICE CHIEF DATED 01/03/2018 TO THE PETITIONER.
- EXHIBIT P14 TRUE COPY OF THE COVERING LETTER DATED 08/06/2018 ALONG WITH ALL DOCUMENTS WERE ISSUED PURSUANT THEREON.
- EXHIBIT P15 TRUE COPY OF THE MEMORANDUM OF ASSOCIATION PRINTED IN A STAMP PAPER HAVING A VALUE OF RS.500/- PURCHASED ON 21/04/2017 ALONG WITH THE BYE LAWS AS ISSUED BY THE SECRETARY OF THE 3RD RESPONDENT ASSOCIATION TO THE PETITIONER.
- EXHIBIT P16 TRUE COPY OF THE COMPLAINT DATED 27/06/2018 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXHIBIT P17 TRUE COPY OF THE ACKNOWLEDGMENT ISSUED BY THE 4TH RESPONDENT OF HAVING RECEIVED EXHIBIT P16.
- EXHIBIT P18 TRUE COPY OF VARIOUS TYPES OF LOGOS MUTUALLY EXCLUSIVE TO EACH OTHER BUT ALLEGEDLY BELONGING TO THE SAME ASSOCIATION.
- EXHIBIT P19 TRUE COPY OF THE CERTIFICATES ISSUED TO THE SON OF THE PETITIONER.
- EXHIBIT P20 TRUE COPY OF THE JUDGMENT DATED 25/05/2018 PASSED IN WP(C) 15903/2018.
- EXHIBIT P21 TRUE COPY OF THE JUDGMENT DATED 11/05/2018 PASSED IN WP(C) 15118/2018.
- EXHIBIT P22 TRUE COPY OF THE CERTIFICATE ISSUED BY THE KERALA STATE RIFLE ASSOCIATION DATED 03/07/2015.
- EXHIBIT P23 TRUE COPY OF THE DECLARATION DATED 22/07/2011 ISSUED BY THE 3RD RESPONDENT BEFORE THE



KERALA STATE RIFLE ASSOCIATION.

EXHIBIT P24 TRUE COPY OF THE AUDITED BALANCE SHEET FOR THE FINANCIAL ENDING MARCH 2016.

EXHIBIT P25 TRUE COPY OF ONE SUCH CHEQUE ISSUED BY AN OFFICE BEARER FROM HIS PERSONAL ACCOUNT TO THE KSRA.

RESPONDENTS' EXHIBITS

EXT.R3 (a) TRUE COPY OF ARMS AND AMMUNITION REGISTER

EXT.R3 (b) TRUE COPY OF LETTER/PROCEEDINGS OF THE DISTRICT REGISTRAR DATED 14.8.2018 ISSUED TO THE PETITIONER

EXT.R3 (c) TRUE COPY OF THE ARMS LICENSE OF R3

EXT.R3 (d) TRUE COPY OF COMMUNICATION FROM NRAI DATED 27.9.2017.

EXT.R3 (e) TRUE COPY OF GO(MS) 386/68/HOME, TRIVANDRUM DATED 4.12.1968