

**IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Monday, the 4<sup>th</sup> day of October 2021 / 12th Aswina, 1943  
WP(C) NO. 20839 OF 2021(S)

**PETITIONER:**

MR. SEBASTIAN PARACHERRY SEBASTIAN, AGED 69 YEARS,  
S/O. DEVASIA DEVASIA, PARACHERRY HOUSE, VADAKKEKKARA,  
VEROOR P.O., CHANGANACHERRY, KOTTAYAM, KERALA- 686 104,  
REPRESENTED BY HIS POWER OF ATTORNEY, MR. SABU MATHEW,  
AGED 64 YEARS, S/O. C.L. MATHEW, PULLUKALAYIL HOUSE,  
ETTUMANOOR P.O., KOTTAYAM, KERALA- 686 631.

**RESPONDENTS:**

1. UNION OF INDIA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF EMPOWERMENT OF PERSONS WITH DISABILITIES, MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT, 524 (B-III), ANTYODAYA BHAWAN, NEW DELHI- 110 003.
2. STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT, SOCIAL JUSTICE DEPARTMENT, ROOM NO.521, 2ND FLOOR, SOUTH SANDWICH BLOCK, SECRETARIAT, THIRUVANANTHAPURAM, KERALA -695 001.
3. THE LOCAL LEVEL COMMITTEE, KOTTAYAM DISTRICT (UNDER THE NATIONAL TRUST FOR WELFARE OF PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT, 1999), REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM, COLLECTORATE, KOTTAYAM, COLLECTORATE P.O., KOTTAYAM, KERALA- 686 002.
4. THE DISTRICT MEDICAL OFFICER, KOTTAYAM DISTRICT MEDICAL OFFICE, COLLECTORATE P.O., KOTTAYAM, KERALA -686 002.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to permit the petitioner to submit an application for guardianship under the NT Act before the 3rd respondent without a PWD Aadhaar No. (Unique Disability ID) or disability certificate issued under the RPWD Act, on the basis of Exhibits P-2, P-3, P-4 and P-5 and direct the 3rd respondent to take a decision on the said application within a time period prescribed by this Honourable Court, pending disposal of this Writ Petition (C).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. SANTHOSH MATHEW, ARUN THOMAS, JENNIS STEPHEN, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, JAISY ELZA JOE, ABI BENNY AREECKAL & SHEEJA N.V., Advocates for the petitioner, ASSISTANT SOLICITOR GENERAL OF INDIA for R1 and of SMT. K. AMMINIKUTTY, SENIOR GOVERNMENT PLEADER for R2 to R4, the court passed the following:

P.T.O.

**Devan Ramachandran, J.**-----  
W.P(C)No.20839 of 2021  
-----**Dated this the 04<sup>th</sup> day of October, 2021****O R D E R**

The learned Assistant Solicitor General appears for respondent No.1; while Smt.K.Amminkutty, learned Senior Government Pleader seeks time on behalf of respondents 2, 3 and 4.

2. This is a rather peculiar case where the petitioner's son is stated to be in United States of America suffering from various disabilities; and he has approached the competent Authority, through Ext.P8, seeking a Certificate under the Rights of Persons with Disabilities Act, 2016, so as to enable him to bring him back to India.

3. The petitioner alleges that the competent Authority is, however, insisting that his son be brought to India for the purpose of issuance of a Certificate.

4. *Prima facie*, I am of the view that on account of the advent of technology, the

patient's condition and medical history can be discovered by the competent Authority without insisting on his physical presence taking advantage of the innovations and progress in the field of Information Technology.

5. I direct the learned Senior Government Pleader to keep this in mind specifically while instructions are obtained from the competent respondents.

6. The learned Assistant Solicitor General of India will obtain instructions from the 1<sup>st</sup> respondent as to whether evaluation of the petitioner's son can be facilitated through appropriate means, including with the aid of the Legal Diplomatic Mission.

List this case for further consideration on 20.10.2021.

Sd/-

**DEVAN RAMACHANDRAN**  
**JUDGE**

H/O

MC

**APPENDIX OF WP(C) 20839/2021**

- Exhibit P2** TRUE COPY OF THE REPORT OF THE GUARDIAN AD LITEM.
- Exhibit P3** TRUE COPY OF THE ORDER OF THE COURT IN THE US APPOINTING THE PETITIONER AS A CO-GUARDIAN
- Exhibit P4** TRUE COPY OF SHRI.NIVIN SEBSTIAN'S LATEST NEUROPSYCHOLOGICAL EVALUATION FROM HIS DOCTOR DATED 04 DECEMBER 2020
- Exhibit P5** TRUE COPY OF THE LETTER FROM SHRI.NIVIN SEBASTIAN'S DOCTOR DATED 10 MARCH 2021 CERTIFYING THAT HIS PATIENT IS TOTALLY DISABLED.
- Exhibit P8** TRUE COPY OF THE APPLICATION DATED 09 SEPTEMBER 2021 PREFERRED UNDER RULE 17 OF THE RIGHTS OF PERSONS WITH DISABILITIES RULES, 2017, IN THE PRESCRIBED FORM-IV ALONG WITH THE SUPPORTING DOCUMENTS

