

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
&
THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA
Friday, the 17th day of October 2025 / 25th Aswina, 1947
WP(CRL.) NO. 1035 OF 2025(S)

PETITIONER:

ART BANK, REP. BY ITS MANAGING DIRECTOR, ABDUL MUTHALIF M.A.,
AGED 55 YEARS, S/O.ABOOBACKER, 128, FLANNIGO SFS GREENS,
CHENGAMANAD P.O., CHENGAMANAD VILLAGE, ERNAKULAM DISTRICT,
PIN - 683102.

RESPONDENTS:

1. STATE POLICE CHIEF OF KERALA, POLICE HEAD QUARTERS, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695010
2. STATION HOUSE OFFICER, KALAMASSERY POLICE STATION, ERNAKULAM, PIN - 682033
3. THE DISTRICT MEDICAL OFFICER, DISTRICT HOSPITAL, ERNAKULAM DISTRICT, PIN - 682031
4. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
5. JOINT SECRETARY, HEALTH & FAMILY WELFARE DEPARTMENT AND APPROPRIATE AUTHORITY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
ADDITIONAL R6 IMPEADED
6. SHANTHI BHAVAN, KAMMATTI PADAM, ERNAKULAM SOUTH, PIN - 682 011.
*ADDL.R6 IS SUO MOTU IMPEADED AS PER ORDER DATED 07/08/2025 IN WP(CRL.) 1035/2025

Writ petition (criminal) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(Crl.) the High Court be pleased to direct the respondents 1 to 3 to produce the detainees before this Hon'ble Court and this Hon'ble Court may kindly be please to set them free as an interim measure pending disposal of this Writ Petition (Crl).

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(Crl.), this Court's order dated 29/09/2025 and upon hearing the arguments of SRI. GIKKU JACOB, Advocate for the petitioner, DIRECTOR GENERAL OF PROSECUTION & SRI. N.B. SUNIL NATH, PUBLIC PROSECUTOR for R1 to R5 and of M/S. FERHA AZEEZ, SREERAG SHYLAN & DEVANANDA S., Advocates for Addl.R6, the court passed the following:

DEVAN RAMACHANDRAN & M.B.SNEHALATHA, JJ.

W.P.(Crl) No.1035/2025

Dated this the 17th day of October, 2025

O R D E R

Devan Ramachandran, J.

Read order dated 29.09.2025.

2. A statement has been filed on behalf of the 5th respondent by the learned Government Pleader – Sri.Sunil Nath, wherein, the misuse, if any, of the ART and its systems have been placed for our consideration.

3. The report says that there are 29 Level 1 Clinics; 89 Level 2 Clinics; 25 ART Banks and 23 Surrogacy Clinics in Kerala, which are registered as per the provisions of the applicable Act. It also says that the licence of the petitioner in this case has been cancelled on account of the issues already discussed earlier, with a complaint having been registered against them.

4. Sri.Sunil Nath, thereafter, showed us that, as per the statement, there are now four complaints pending against other

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Institutions; and that notices have been issued to them to show cause why action be not initiated against them. He added that surprise investigations have been conducted in many institutions; with a further decision having been taken to form a group in ‘WhatsApp’ to provide a common platform for registered institutions to *‘raise and clear doubts regarding implementation of the provisions of the Act’* (sic). The learned Government Pleader, however, submitted with some amount of dismay that, however, no complaints have been impelled against any of the institutions by the public and this perhaps shows the lack of awareness.

5. We have no doubt that the provisions of the Surrogacy (Regulation) Act 2021 and that of the ART (Regulation) Act 2021, require to be permeated into the public domain effectively. As the facts of this case alone indicate, many actions are done by individuals, institutions and even by donors, knowing that the same may not be within the parameters of law, but under a sense of impunity, coupled with

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avarice and concomitant exploitation. We have already dealt with these aspects in our earlier order and propose to speak no more on that at this time.

6. However, the provisions of the afore Acts require to be well publicised; and its most essential provisions to be displayed in the various clinics, ART Banks, hospitals and surrogacy clinics, for the benefit of not only the patients, but also for those who come seeking such services.

7. This being a policy decision, we are of the firm view that the Principal Secretary of the Health Department of the Government of Kerala must immediately initiate steps, through appropriate means, to ensure that the provisions of the afore Acts are displayed permanently in conspicuous spaces in all clinics, ART Banks, Surrogacy Centres and Hospitals offering services under them. This shall be done in both English and Malayalam for ease of reading of every patient/customer seeking services of such institutions.

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8. Of course, it will be ideal if the afore stipulation is made part of the regulatory mechanism itself; but until it is so done, we are of the view that necessary executive orders must be issued to implement it immediately.

9. Sri.Sunil Nath submitted that the afore suggestions will be complied with by the Authority without delay and sought three weeks' time for the same.

10. That said, the statement does not give us details about the investigation being carried on in the case at hand.

11. Sri.Sunil Nath intervened to say that such information shall also be made available by the next posting date.

Post on 07.11.2025.

H/o

Sd/-

DEVAN RAMACHANDRAN, JUDGE

Sd/-

M.B.SNEHALATHA, JUDGE

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