

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

Monday, the 3rd day of November 2025 / 12th Karthika, 1947

WP(C) NO. 39797 OF 2025

PETITIONERS:

1. DOMESTIC ON-GRID SOLAR POWER PROSUMERS FORUM-KERALA, TC 43/40, KUTTIVILAKAM HOUSE, MANACADU, THIRUVANANTHAPURAM, REPRESENTED BY ITS PRESIDENT - M ABDUL SATHAR, PIN - 695009
2. M ABDUL SATHAR, AGED 58 YEARS S/O LATE MR. MAITHEENKUNJU, HIRA, HOUSE NO. 56, ROYAL ENCLAVE, HRA LANE NO. 3, THIRUVALLAM, THIRUVANANTHAPURAM, PIN - 695027

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ADDL CHIEF SECRETARY, DEPARTMENT OF POWER & ENERGY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
2. KERALA STATE ELECTRICITY REGULATORY COMMISSION, REPRESENTED BY IT'S SECRETARY, KPFC BHAVANAM, C.V. RAMAN PILLAI ROAD, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695010
3. KERALA STATE ELECTRICITY BOARD LIMITED, REPRESENTED BY IT'S CHAIRMAN & MANAGING DIRECTOR VAIDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM, PIN - 695004
4. CENTRAL BUREAU OF INVESTIGATION, REPRESENTED BY ITS DIRECTOR PLOT NO 5-B, CGO COMPLEX, LODHI ROAD, NEW DELHI , PIN - 110003
5. T.K. JOSE, AGED 67 YEARS CHAIRMAN, KSERC, KPFC BHAVANAM, C.V. RAMAN PILLAI ROAD, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695010
6. A. J. WILSON, AGED 60 YEARS MEMBER (LAW), KSERC, KPFC BHAVANAM, C.V. RAMAN PILLAI ROAD, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695010
7. B. PRADEEP, AGED 63 YEARS MEMBER (TECHNICAL), KSERC, KPFC BHAVANAM, C.V. RAMAN PILLAI ROAD, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695010

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 stay all further proceedings, deliberations, and decision-making processes relating to the framing, finalization, or notification of the kerala state electricity regulatory commission (renewable energy and net metering) regulations, 2025, as being vitiated by wilful and deliberate fraud and conflict of interest involving the respondent nos. 2, 3, 5, 6 & 7.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.AYSHA ABRAHAM, ADOLPHIN MAMACHAN & REJI JOHN KALLELY, Advocates for the petitioners, the court passed the following:

MOHAMMED NIAS C.P, J.

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Dated this the 03rd day of November, 2025

ORDER

The 1st petitioner is stated to be a registered association (Reg.No. TVM/TC/252/2024) representing thousands of domestic on-grid solar power prosumers across Kerala, formed to protect the rights of solar energy users who have invested in rooftop installations relying on the policies of the Government, KSERC, and KSEB Ltd. The 2nd petitioner, its President, is also a prosumer personally affected by the impugned actions.

2. The petitioners allege that the 2nd respondent, Kerala State Electricity Regulatory Commission (KSERC), constituted under Section 82 of the Electricity Act, 2003, has ceased to function as an independent statutory regulator and has been captured by the Kerala State Electricity Board Ltd. (KSEBL). They contend that respondents 5 to 7, appointed as Members of KSERC, are former KSEB officials or persons closely connected with the political

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executive, whose appointments were made in blatant violation of Section 85(5) of the Electricity Act. Respondent No. 7, a former Chief Engineer (Commercial and Tariff), and respondent No. 6, a former Private Secretary to the Minister for Electricity, are alleged to have been directly involved in the corruption surrounding the 2014–15 Design, Build, Finance, Own and Operate (DBFOO) power purchase agreements, which caused losses exceeding Rs.5,926.75 crores to consumers. Despite such adverse records and vigilance inquiries, they were elevated as Members of the Regulatory Commission, thus institutionalising conflict of interest and bias in the regulatory framework.

2.1. It is further alleged that the electricity sector in Kerala is steeped in systemic corruption, where power is procured through manipulated PPAs and PSAs that benefit officials and intermediaries. Exhibits P5 and P6 Letters issued by the then Principal Secretary (Power) and the CMD of KSEB Ltd. reveal large-scale irregularities and direct complicity of respondent No.7, and even recommended a CBI inquiry. Instead of prosecuting the

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wrongdoers, the Government regularised them by appointing them as regulators, thereby using KSERC as a tool to legitimise corruption and stifle renewable energy initiatives. Exhibit P7 decision of the Commission in OP No.5 of 2021 exposed a massive financial loss, but was later reviewed and neutralised through collusive litigation, ensuring that no criminal liability is attached to the responsible officers. The petitioners assert that this pattern of conduct, cancelling long-term low-cost power agreements, sabotaging hydroelectric projects like Idukki Extension and Bhoothathankettu, and discouraging solar energy, was calculated to preserve the illicit revenue streams generated through power purchases. Projects worth thousands of crores have either been abandoned or indefinitely delayed, resulting in wastage of public funds while keeping the State dependent on purchased power. They contend that this “organised nexus” between respondents 1 to 3 operates like an economic crime syndicate, perpetuating corruption, suppressing renewable energy, and burdening consumers through inflated tariffs and cross-subsidies.

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2.2. The petitioners further allege that the new KSERC (Renewable Energy and Related Matters) Regulations, 2025, were drafted through a fraudulent process to destroy the rooftop solar sector. The Evaluation Committee constituted on 08.08.2024 was chaired by the tainted respondent No. 7 and comprised entirely of retired KSEB officials drawing pensions from KSEBL, with no representation for prosumers, consumers, or independent experts. Exhibits P10 and P11 RTI records reveal that even the Committee's study reports are retained by KSEB Ltd., not by KSERC, showing that the licensee is controlling the regulator. This, according to the petitioners, is a textbook case of regulatory capture that violates natural justice, transparency, and the doctrine of institutional integrity. The petitioners also refer to Comptroller and Auditor General (CAG) reports highlighting KSEB's persistent financial mismanagement, illegal pay revisions, diversion of funds, unbridled debt exceeding Rs.18,000 crores, and burdening consumers through rate hikes. They submit that all these demonstrate that respondents 1 to 3 have acted in concert to plunder public resources and

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suppress renewable energy, causing continuing loss to the State and the public. It is thus contended that the KSERC's independence stands destroyed, and its actions, particularly in framing the Renewable Energy Regulations, 2025, are vitiated by fraud, bias, and conflict of interest.

2.3. Based on the above pleadings, the following prayers are sought :

"I. Issue a writ of mandamus or other appropriate writ to the Respondent No.1 directing the separation of Generation, Transmission, and Distribution functions of the Respondent No.3 company.

II. Issue a writ of mandamus or other appropriate writ to the Respondent No.1 to initiate action against the Board members of the Respondent No.3 for pay revision without government approvals and in violation of its own Articles of Association.

III. Declare the appointment of the 7th Respondent as Member (Technical) of the Kerala State Electricity Regulatory Commission as being ultra vires Sec.85(5) of the Electricity Act, 2003;

IV. Declare the appointment of the 6th Respondent as Member (Law) of the Kerala State Electricity Regulatory Commission as being ultra vires Sec.85(5) of the Electricity Act, 2003;

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V. Declare that the constitution of the Evaluation Committee through Exhibit-P9 under the chairmanship of the 7th Respondent and all proceedings or actions emanating therefrom, including the proposed Renewable Energy Regulations 2025, are illegal, void, and vitiated by Fraud, bias and conflict of interest;

VI. Issue a writ of mandamus or any other writ directing the 1st Respondent to take appropriate disciplinary action against officials involved in DBFOO, Idukki Extension and Bhoothathankettu Projects and to recover the loss from the erring officers and contractors.

VII. Direct the 4th Respondent, Central Bureau of Investigation, to conduct an independent and court-supervised investigation into the large-scale corruption, financial misappropriation, and regulatory manipulation in the power sector of Kerala involving the 2nd and 3rd Respondents, particularly relating to the DBFOO Power Purchase Agreements, Idukki Extension Hydro Electric Project, and Bhoothathankettu Hydro Electric Project and to prosecute the officers involved.

VIII. Issue such other appropriate writ, order, or direction as this Hon'ble Court may deem just and proper in the facts and circumstances of the case."

3. The above writ petition was numbered and came up for consideration on the 25th day of October, 2025, on which day this Court passed the following order:

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“The learned Government Pleader appears for the 1st respondent. Sri. Nandagopal S.Kurup appears for the 2nd respondent. Sri.B.Premod appears for the 3rd respondent. Sri. Sreelal N.Warrier appears for the 4th respondent. Notice to respondents 5 to 7 is dispensed with for the time being.

2. Petitioners are directed to correct the description of the 3rd respondent for consideration of the question of maintainability and the prayer for interim relief.

3. Petitioners shall file an application to correct the description of the 3rd respondent if required under law.”

4. The 2nd respondent, Kerala State Electricity Regulatory Commission, has filed a statement confined to the issue of maintainability. It is contended that the writ petition, though framed as one invoking Article 226, in substance amounts to a public interest litigation alleging large-scale corruption and seeking far-reaching reliefs such as CBI investigation, quashing of appointments to the Commission, and separation of functions of KSEB Ltd. The petitioners have not pleaded any specific infringement of their individual legal, statutory, or constitutional rights. On their own showing, they seek to espouse the general interests of all electricity consumers and solar prosumers in Kerala.

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4.1. The Commission points out that when a petition is in the nature of a public interest litigation, Rule 146A of the Kerala High Court Rules mandates the filing of a duly sworn affidavit affirming that the petitioner has no personal interest, that the matter is not covered by existing judicial pronouncements, and that no personal benefit will accrue from the outcome. No such affidavit has been filed here. Hence, the petitioners cannot be permitted to espouse any public cause in the guise of a regular writ petition.

4.2. It is further contended that the petitioners lack locus standi to maintain the writ petition. Under settled law, only a person whose legal or fundamental rights are directly and substantially affected may invoke Article 226. Associations or third parties cannot maintain such petitions, except in cases of genuine public interest litigation, habeas corpus, or quo warranto. As the petitioners themselves disown the PIL character of their case and have failed to demonstrate any personal or direct injury, the writ petition is liable to be dismissed in limine.

4.3. The Commission also submits that the petitioners had

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earlier filed W.P.(PIL) No. 79 of 2025 before this Court seeking physical public hearings, in connection with the draft KSERC (Renewable Energy and Related Matters) Regulations, 2025, which was disposed of by directing such hearings at four district centres. The Supreme Court in S.L.P. (C) No. 26862 of 2025 declined to stay that judgment, but decided to consider national-level standards for such hearings. Pursuant thereto, the Commission has been conducting the hearings in compliance with the court's directions. The present writ petition, filed to stay all further proceedings on the very same draft regulations, is therefore a repetitive and obstructive attempt to stall the ongoing statutory process, now under the Supreme Court's consideration.

4.4. It is further submitted that the writ petition contains no specific factual material or evidence to substantiate the sweeping allegations of fraud, bias, or corruption. The vague and generalised assertions cannot justify any judicial intervention at the stage of regulation-making. Moreover, as the 1st petitioner is a registered association claiming to represent thousands of members, it is bound

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to produce the list of members and pay separate court fees for each member; non-compliance, as held in *Maradu Market Traders' Association v. State of Kerala and Others* [2018 (3) KHC 530], renders the petition defective and not maintainable. On these grounds, the Commission prays that the writ petition be dismissed at the threshold as not maintainable, reserving liberty to file a detailed counter, if the matter proceeds on merits.

5. Heard Sri. Yeshwanth Shenoy, appearing on behalf of the petitioners, Sr. Adv. K. Jayakumar, instructed by Sri. Nandagopal S. Kurup, Sri. C.E. Unnikrishnan, Special Government Pleader to AG, and Sri.B. Premod for the Electricity Board, on the issue of maintainability.

6. Learned Senior Counsel Sri. K. Jayakumar, apart from reiterating the contentions taken in the statement filed, argues that paragraph 7 of the writ petition itself would show that it is being filed on behalf of the entire citizens in the State of Kerala. That apart, the prayers sought for also would show that he is allegedly espousing a public interest. The challenge to the members of the

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Regulatory Commission can only be made by way of a writ of quo warranto, and therefore, the writ petition is not maintainable.

7. Sri. C.E. Unnikrishnan, the learned Special Government Pleader, appearing for the government, apart from adopting the contentions of Sri. K. Jayakumar would cite the judgment of the Honourable Supreme Court in ***Garden Reach Shipbuilders and Engineers (GRSE) Limited v. GRSE Limited Workmens Union*** [2025 KHC 6247] and the judgment of the High Court in ***Trivandrum Apollo Towers Pvt. Ltd. v. Union of India*** [2025 KHC 439] to say that this court cannot entertain the writ petition as the petitioners have to file a Public Interest Litigation which has to be considered by the Division Bench. It is also argued that the first petitioner, claiming to be a registered association, has not disclosed the number of members, nor has it paid the court fee, as held by this court in its judgment in ***Maradu Market Traders' Association v. State of Kerala and Others*** [2018 (3) KHC 530].

8. The learned counsel, Sri. B. Premod appearing for the Electricity Board would contend that even Ext.P1 authorisation

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given by the first petitioner would show that the same was to file a Public Interest Litigation. The allegations against the Board are all baseless and were the subject matter of several litigations before this court.

9. The learned counsel for the petitioners, Sri. Yeshwanth Shenoy argues that primarily the writ petition is meant to question the appointment/continuance of respondents 6 and 7, members of the Kerala State Electricity Regulatory Commission. It is argued that since the petitioners are affected by the illegal actions and will benefit if the reliefs are granted, it prevents the petitioners from filing an affidavit for the purpose of filing a PIL under the High Court Rules.

10. It is trite that where the very appointment is under challenge on the ground of ineligibility of the incumbent to hold the post, a writ of quo warranto would lie. The allegations of functional impropriety, abuse of power and acting against public interest, post the appointment of the members of the regulatory commission, which constitute misconduct during the tenure,

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standing alone, could have been examined by a Single Bench. However, the core relief questioning the entitlement of respondents 6 and 7 to continue in statutory office is certainly a matter which has to be considered in a public law remedy maintainable at the instance of any person, to ensure that a public office is not usurped by one without legal authority. The assertions against respondents 6 and 7 and the Regulatory Commission, prima facie, disclose issues that warrant judicial scrutiny.

11. Having heard the learned counsel on both sides at length and considering the pleadings in the writ petition, I am of the view that the reliefs prayed are multifarious. The pleadings in paragraph 7 of the writ petition would show that the petitioner is not acting for the benefit of any individual litigant, but in a larger public interest for the protection of the entire citizenry. The objection to maintainability is not merely technical, for jurisdiction cannot be conferred either by the consent of the parties or by combining private reliefs with public causes.

12. Institutional propriety and judicial discipline mandate

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that matters be heard strictly in accordance with the roster determined by the Chief Justice. As noticed earlier, since the reliefs are inextricably interwoven, it would be inappropriate for this court to dissect and adjudicate them piecemeal. Given the above, the matter needs to be considered in its entirety by the Bench competent to deal with principal relief.

13. Resultantly, while refraining from entering upon the merits of the rival contentions, I deem it appropriate that the writ petition must be placed before the Chief Justice for appropriate orders on the Roster. In view of the urgency projected on behalf of the petitioners, the Registry is directed to forthwith place the matter before the Hon'ble Chief Justice for appropriate orders.

Sd/-
MOHAMMED NIAS C.P.
JUDGE

DMR/-

APPENDIX OF WP(C) 39797/2025

Exhibit P1	THE TRUE COPY OF THE AUTHORIZATION LETTER DATED 19.10.2025 ISSUED BY DOMESTIC ON-GRID SOLAR POWER PROSUMERS FORUM-KERALA
Exhibit P2	A COPY OF THE ORDER DATED 28.07.2025 OF THIS HON'BLE COURT IN W.P. (PIL) 79/2025
Exhibit P3	A COPY OF THE ORDER DATED 06.10.2025 OF THE HON'BLE SUPREME COURT IN SPECIAL LEAVE TO APPEAL (C) NO. 26862 OF 2025
Exhibit P4	A COPY OF THE STORY PUBLISHED IN SEPTEMBER 2025 EDITION OF TOWN EXPRESS MAGAZINE
Exhibit P5	THE TRUE COPY OF THE LETTER DATED 04.06.2022 BY PAUL ANTONY
Exhibit P6	THE TRUE COPY OF THE LETTER DATED 16.07.2022 OF CMD OF 3RD RESPONDENT TO THE 1ST RESPONDENT
Exhibit P7	THE TRUE COPY OF THE ORDER IN OP NO. 5 OF 2021 OF KSERC DATED 10.05.2023
Exhibit P8	A TRUE COPY OF THE NOTICE DATED 30.05.2025 WITH THE DRAFT REGULATIONS 2025
Exhibit P9	THE TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY OF KERALA STATE ELECTRICITY REGULATORY COMMISSION NO. 3228/CON. ENGG/2023/KSERC DATED 12.08.2024 ALONG WITH TYPED COPY
Exhibit P10	THE TRUE COPY OF THE RTI APPLICATION DATED 30.06.2025 FILED BY SHRI BLESSAN JOSEPH TO THE 2ND RESPONDENT
Exhibit P11	A TRUE COPY OF THE REPLY DATED 08.07.2025 ISSUED BY THE PUBLIC INFORMATION OFFICER OF THE RESPONDENT NO.2

