

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

Friday, the 30th day of April 2021/10th Vaisakha, 1943

WP(C) No.10855/2021(S)

PETITIONER

DR. PRADEEP K.P., ADVOCATE, AGED 47 YEARS,
SON OF LATE K.KRISHNAN NAIR, KALLETUMKADAVU,
P.O. RAMANTHALI, KANNUR-670 308.

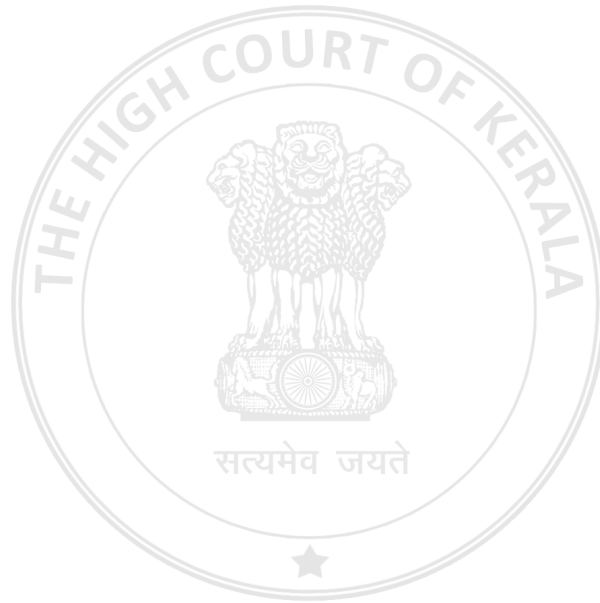
RESPONDENTS

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
3. STATE POLICE CHIEF,
KERALA POLICE STATE POLICE HEADQUARTERS,
VAZHUTHAKKAD, THIRUVANANTHAPURAM-695 010.
4. UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI- 110 001.
5. COMMUNIST PARTY OF INDIA (MARXIST),
STATE COMMITTEE, AKG CENTRE, PALAYAM AIRPORT ROAD,
NEAR KERALA UNIVERSITY OFFICE ROAD, THIRUVANANTHAPURAM-695 034,
REPRESENTED BY ITS STATE SECRETARY
akgcentre@cpimkerala.org.
6. INDIAN NATIONAL CONGRESS,
KERALA PRADESH CONGRESS COMMITTEE, INDIRA BHAVAN,
VELLAYAMBALAM, THIRUVANANTHAPURAM-695 010,
REPRESENTED BY ITS STATE PRESIDENT pcckerala@gmail.com
7. BHARATHIYA JANATHA PARTY,
STATE COMMITTEE OFFICE, MARARJI BHAVAN, THYCAUD,
THIRUVANANTHAPURAM-695 014, REPRESENTED BY ITS STATE PRESIDENT
bjpkeralaooffice@gmail.com
8. LEFT DEMOCRATIC FRONT-LDF, AKG CENTRE,
PALAYAM AIRPORT ROAD, NEAR KERALA UNIVERSITY OFFICE ROAD,
THIRUVANANTHAPURAM-695 034, REPRESENTED BY ITS CONVENOR.
9. UNITED DEMOCRATIC FRONT-UDF, KPCC OFFICE, INDIRABHAVAN,
VELLAYAMBALAM, THIRUVANANTHAPURAM-695 010,
REPRESENTED BY ITS CONVENOR.
10. NATIONAL DEMOCRATIC ALLIANCE,
MARARJI BHAVAN, THYCAUD, THIRUVANANTHAPURAM-695 014,

REPRESENTED BY ITS CONVENOR.

P.T.O.

For information purpose only



ADDL. R11 IMPEADED

11. ELECTION COMMISSION OF INDIA, NIRVACHAN SADAN,
ASHOKA ROAD, NEW DELHI.

ADDL. R11 IS SUO MOTU IMPEADED AS PER ORDER DATED 30/04/2021 IN WPC
10855/2021

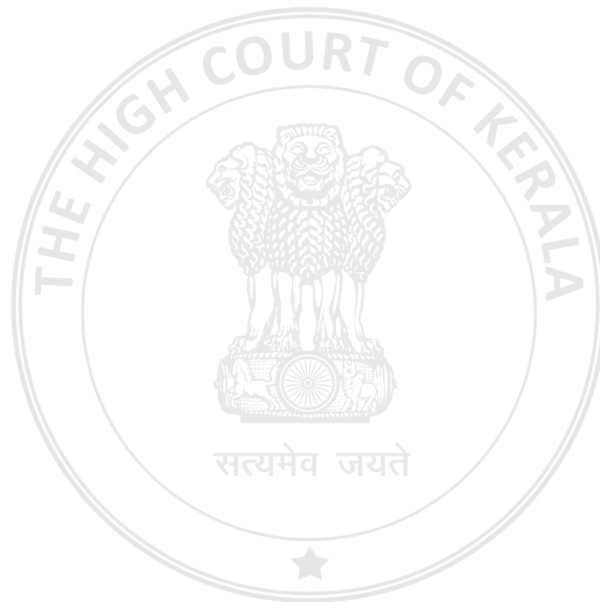
Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct respondents 5 to 10 and the coalition parties of respondents No.8 to 10; their associate organizations, to desist themselves from organizing any kind of political or social activities with public gatherings or procession or victory parade or any kind of gatherings, from 1st May, 2021 to 5th May, 2021, in connection with counting of votes and declaration of result with respect to the General Election to the Kerala State Legislative Assembly and in generally, during the period of Covid 19 regulations; violating the Covid 19 regulations issued by the appropriate authorities, during the pendency of this Writ Petition.

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 DR.PRADEEP K.P.(PARTY IN PERSON), STATE ATTORNEY for R1 to R3, SRI.DEEPULAL MOHAN, STANDING COUNSEL for Addl. R11 and of ASSISTANT SOLICITOR GENERAL OF INDIA, the Court passed the following:

P.T.O.,

- EXHIBIT P3: TRUE COPY OF THE ORDER NO.464/INST/2021/EPS
DATED 27/04/2021 ISSUED BY THE ELECTION COMMISSION
OF INDIA.
- EXHIBIT P4: TRUE COPY OF THE ORDER NO.GO(RT) 383/2021/DMD
DATED 26/04/2021.

For information purpose only



Devan Ramachandran & M.R.Anitha, JJ.

W.P.(C)No.10855 of 2021 S

Dated this the 30th day of April, 2021

ORDER

Devan Ramachandran, J.

The petitioner, in public interest, inter alia seeks that this Court declare all kinds of public and social gatherings, processions or parades in the 'name of election oriented or organisational activities' by the political parties, to be unconstitutional and illegal during the period when the COVID-19 protocols are in force; and as an interim measure, prays that such activities be banned, particularly between 01.05.2021 and 04.05.2021.

2. The learned State Attorney, in response, submitted that the official respondents are fully alive to the rapidly evolving COVID-19 pandemic scenario and that consequently, no gatherings or meetings or processions or parades in violation of the pandemic protocols will be allowed by any one, including political parties.

3. *Quad hoc* the counting day preparedness, he added that the General Directives of the Election Commission of India dated 21.08.2020, supplemented by Exhibit P3 order dated 27.04.2021 and the directions in Exhibit P4 Government Order dated 26.04.2021, will be scrupulously implemented.

4. *Prima facie*, we cannot view this writ petition to be adversarial, since the averments, in its inherent nature and tenor, present a compelling public cause.

5. The upward curve of the pandemic statistics is climbing by the day, reminding all of us to act responsibly and with extreme care.

6. The 'social distancing' protocols are acme and need to be enforced effectively and unreservedly, no matter the excuse some may make against it.

7. Hence strict prevention, rather than initiation of punitive action after infractions, is – as the aphorism goes - the need of the hour.

8. We are certain that the directives of the Election Commission of India and that of the Government cannot merely rest on paper, as it seemingly were when the election

campaigns had been completed. This Court cannot, therefore, afford to allow anything to chance, when our State is in the brink of a precipice.

9. The petitioner is, consequently, directed to take out notice before admission to respondents 5 to 10 by E-mail/Fax, while recording that the learned State Attorney has taken notice on behalf of respondents 1 to 3 and that the learned Assistant Solicitor General seeks time to obtain instructions from the fourth respondent.

10. Considering the nature of the prayers made, we also deem it appropriate to *suo motu* implead the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi. It is so ordered. The petitioner is directed to serve a copy of this writ petition on Sri. Deepu Lal Mohan, learned Standing Counsel for the said respondent, today itself.

11. We record the afore submissions made by the learned State Attorney and resultantly direct respondents 1 to 3, particularly the State Police Chief, as also the District Collectors – who are the District Electoral Officers and the Commissioners/District Superintendents of Police to take

effective and requisite steps to ensure that no social or political assemblages, meetings, gatherings, processions or parades of any kind – be that celebratorial, cheering or otherwise – in violation of the COVID-19 protocols, as also the directives of the Election Commission of India (both general and those contained in its order dated 27.04.2021) and the mandate of the Government Order dated 26.04.2021, are held anywhere in the State of Kerala – including at the counting stations or Offices/establishments of political parties - between 01.05.2021 and 04.05.2021; and to take swift and unreserved action to avert, avoid and prevent any violation of these orders under the applicable laws, including the Epidemic Diseases Act and the Disaster Management Act.

Call this case for verification of compliance on 04.05.2021.

Sd/-
Devan Ramachandran, Judge

Sd/-
M.R.Anitha, Judge

tkv