

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR
&
THE HONOURABLE MR.JUSTICE BASANT BALAJI

Tuesday, the 8th day of July 2025 / 17th Ashadha, 1947
WP(PIL) NO. 74 OF 2025

PETITIONER:

1. G.SAMUEL AGED 60 YEARS S/O. G. GEORGE, VALIYAPARAMBIL, VETTIYAR, MANGANKUZH, MAVELIKKARA, ALAPPUZHA DISTRICT , PIN - 690558
2. ANTONY ALEX AGED 54 YEARS S/O. M.T.ANTONY, MANIMURIMATTATHIL, KOTTAMURI PO, KOTTAYAM , PIN - 686105
3. CHACKO P.J AGED 63 YEARS S/O. JOSEPH, VARAPUTHRA HOUSE, KOTTAMURI PO, THRIKKADITHANAM KOTTAYAM , PIN - 686105

BY ADVS.ALEX K.JOHN,SATHEESH T.P.,JILCY JACOB,SIJIN STANLEY,CYRIAC ELIAS STEEN,SREEKUTTAN M.,SURESH P.N.,ARUN K.V.,NINAN THOMAS,GEGO GEORGE,PRATHITHA MARIYAM THOMAS,

RESPONDENT:

1. STATE OF KERALA REPRESENTED BY GOVERNMENT PLEADER,HIGH COURT OF KERALA, PIN - 682031
2. ADDITIONAL CHIEF SECRETARY GOVERNMENT OF KERALA HEALTH AND FAMILY WELFARE, DIRECTOR OF HEALTH SERVICES, SECRETARIAT, TRIVANDRUM , PIN - 695001
3. MEDICAL SUPERINTENDANT , MEDICAL COLLEGE HOSPITAL, KOTTAYAM , PIN - 686008
4. PRESIDENT, KERALA GOVERNMENT MEDICAL OFFICERS ASSOCIATION, KGMOA HEAD QUARTERS, RED CROSS ROAD, THIRUVANANTHAPURAM , PIN - 695035

SHRI.N.MANOJ KUMAR, STATE ATTORNEY(),

This Writ petition (public interest litigation) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(PIL), the High Court be pleased to direct the 2nd respondent for effective administration of infrastructure,equipments related to the surgery,hygenic situation of the all medical colleges and other said hospitals belong to the government, till the disposal of the writ petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(PIL) and upon hearing the arguments of M/S ALEX K.JOHN, SATHEESH T.P., JILCY JACOB, SIJIN STANLEY, CYRIAC ELIAS STEEN, SREEKUTTAN M., SURESH P.N., ARUN K.V., NINAN THOMAS, GEGO GEORGE, PRATHITHA MARIYAM THOMAS, ALEX K.JOHN, ALEX K.JOHN Advocates for the petitioners, SHRI.N.MANOJ KUMAR, STATE ATTORNEY for respondents 1,2,and 3, the court passed the following:

ORDER

Nitin Jamdar, C.J.
&
Basant Balaji, J.

W.P.(PIL) No. 74 of 2025

Dated this the 08th day of July 2025

ORDER

This writ petition is filed in public interest with the following prayers:

(i) to issue writ of mandamus to the 2nd respondent who is the Additional Chief Secretary of Directorate of Health Service to give effective and proper administration to all medical colleges, Government hospitals, Taluk Hospitals and Health Centers.

(ii) To issue guidelines to the department of health of Kerala Government for effective administration of health which includes the infrastructure, equipments and hygienic situation of all medical colleges, Government hospitals, Taluk Hospitals and Health Centres.

In essence, what is sought in this writ petition is a direction to the State to ensure proper administration of all governmental medical establishments in the State.

2. Heard Mr. Alex K. John, learned counsel for the Petitioners, and Mr. N. Manoj Kumar, learned State Attorney for Respondent Nos.1, 2 and 3.

3. The infrastructure and other facilities in the State to be provided by medical colleges, Government Hospitals, Taluk Hospitals, and Health Centres, as pointed out by the learned State Attorney, are governed by the Kerala Clinical Establishments (Registration and Regulation) Act, 2018 (Act 2 of 2018). This statutory enactment constitutes an independent Council which is entrusted with overseeing the functioning of the government hospitals and carrying out periodical inspections, to ensure administration of the government hospitals.

4. The writ petition is extremely sketchy and does not make any reference to any statutory provision, nor is it backed by any research or any data. Even the Respondents have not been properly joined. Now, the learned counsel for the Petitioners seeks leave to amend the petition to correct the reference to the State of Kerala to the Secretary of the Health and Family Welfare Department. He also seeks leave to join the Kerala State Council for Clinical Establishment as a party Respondent. Amendment is permitted to be carried out within two working days.

5. Section 2(c) of Act 2 of 2018 defines “clinical establishment”, which includes Government Hospitals as per Section 2(c)(ii)(a) of Act 2 of 2018. It also includes hospitals of Local Self Government Institutions as referred to in Section 2(g) of Act 2 of 2018, including Panchayats and Municipalities in the State, governed by their respective statutes. Since this petition focuses on government

hospitals, for the purpose of this order, we refer to the clinical establishments as Government Hospitals.

6. Section 3 of Act 2 of 2018 constitutes a State Council for Clinical Establishments. The composition of the State Council is as under:

“3. Establishment of State Council.—(1) With effect from such date as the Government may, by notification, appoint in this behalf, there shall be established for the purposes of this Act, a Council to be called the State Council for Clinical Establishments.

(2) The Council shall consist of the following members, namely:—

- (a) Secretary, Health and Family Welfare Department, ex-officio, who shall be the Chairperson;*
- (b) Secretary, Ayush Department, ex-officio, who shall be the Vice-Chairperson;*
- (c) Director of Health Services, ex-officio;*
- (d) Director of Medical Education, ex-officio;*
- (e) Director, Indian Systems of Medicine, ex-officio;*
- (f) Director, Homoeopathy Department, ex-officio;*
- (g) Director, Public Health Laboratory, ex-officio;*
- (h) one representative each to be nominated by,—*
 - (i) the Council of Modern Medicine;*
 - (ii) the Council of Indigenous Medicine;*
 - (iii) the Council of Homoeopathy;*

constituted under the provisions of the Travancore-Cochin Medical Practitioners Act, 1953 (IX of 1953);

- (i) one representative each to be nominated by,—*

(i) the Kerala Dental Council constituted under section 21 of the Dentists Act, 1948 (Central Act 16 of 1948);

(ii) the Kerala Nursing Council constituted under section 3 of the Nurses and Midwives Act, 1953 (10 of 1953);

(j) Government nominees, —

(i) one representative from welfare organisations of the patients in the State;

(ii) an Officer not below the rank of Additional Law Secretary to Government, Law Department;

(iii) an officer not below the rank of Additional Secretary to Government, Finance Department;

(iv) one representative of Indian Medical Association of the Kerala Unit; ;

(v) one representative of Ayurveda Medical Association of India of the Kerala Unit;

(vi) one representative of Indian Dental Association of the Kerala Unit;

(vii) one representative of the Association of Homoeopathy Doctors in Kerala;

(viii) one representative of Medical Laboratory Owner's Association in Kerala;

(ix) one representative of the Association of Physiotherapists of Kerala;

(k) Secretary of the Council.”

The State Council for Clinical Establishments (State Council) consists of a Secretary of the Health and Family Welfare Department as the Chairperson, the ex-officio members from the State Government, representatives nominated by the Council of Modern Medicine, Council of Indigenous Medicine and the Council of Homoeopathy,

and other representatives to be nominated by bodies mentioned therein. It also contains Government nominees, including welfare organisations for patients, the Medical Association of Kerala, and other Associations as prescribed under Section 3 of Act 2 of 2018. Thus, it is an independent Authority inclusive of citizen representatives.

7. The functions of the State Council are prescribed under Section 4 of Act 2 of 2018. Clauses (b), (e) and (g) of sub-section (1) of Section 4 of Act 2 of 2018 are relevant for the purpose of the present petition, which read as under:

“(b) classify and categorise the clinical establishments and to recommend the Government to prescribe the standards for each category;

xxx xxx xxx

(e) conduct periodic inspection of clinical establishments for ensuring the standards to be maintained in such manner as may be prescribed;

xxx xxx xxx

(g) notify data and information which are to be mandatorily provided by clinical establishments including their periodicity; analyse the data and make results available in the public domain in such manner as may be prescribed;”

Thus, the State Council is required to classify and categorise the Government Hospitals and to prescribe the standards for each category. More importantly, the State Council has to conduct periodic

inspections of Government Hospitals to ensure that the standards are maintained in the manner prescribed. The State Council also has to notify the data and information which are to be mandatorily provided by the Government Hospitals after analysing the same and make the results available in the public domain in the manner prescribed.

8. Section 7 of the Act 2 of 2018 states that the Council shall follow a consultative and transparent process, including public hearing with adequate notice for making suggestions for altering the mandatory standards and classification of Government Hospitals as provided under the provisions of the Act and the Rules.

9. Under Section 13 of the Act 2 of 2018, the State Government has to prescribe different standards for Government Hospitals of different categories. These standards will have to be prescribed for different categories.

10. Section 31 of Act 2 of 2018 specifically provides for offences committed by the clinical establishments under the control of the Government. Section 31 reads as under:

“31. Offences by Government Departments.—Where an offence under this Act has been committed by any clinical establishment under the control of the Government, the officer responsible for that clinical establishment shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment, if he

proves that the contravention was without his knowledge, or that he had exercised all due diligence to prevent such contravention.”

11. The State Authority, under Section 36 of Act 2 of 2018, has to set up the grievance redressal mechanism to receive complaints from the public regarding violations of the provisions of Act 2 of 2018 and the Rules made thereunder, and give directions to the authority to take appropriate action on the complaints. The citizen through the grievance redressal mechanism can highlight the shortfalls. Thus, along with the scrupulous periodical inspections, a robust grievance redressal mechanism is necessary.

12. Under Section 41 of Act 2 of 2018, the State Authority also has to display information regarding the clinical establishment on the website of Kerala Clinical Establishment Council. This provision is incorporated for transparency and public accountability.

13. Section 50 of the Act 2 of 2018 contemplates that the State Council has to prepare a report of its activities every year and submit the report to the Government, which has to be laid before the Legislative Assembly. This report should contain the particulars regarding the adherence to standards by the Government Hospitals. Therefore, it is crucial that the report is submitted every year and duly placed before the Legislative Assembly. All the mandatory data regarding compliance with the Act and the Rules has to be made available in public domain.

14. Under Section 52, the State Government has the power to frame Rules, which include the framing of Rules for conducting periodic inspections under Section 4(1)(e) of Act 2 of 2018. Under Section 52(2)(zb) of Act 2 of 2018, Rules are to be framed in the manner in which the grievance redressal mechanism is to be set up under Section 36. Under Section 52(2)(zd) of Act 2 of 2018, the manner of publication of the particulars of the clinical establishments by the Authority under Section 41(1) of the Act 2 of 2018 is to be prescribed.

15. We are informed by the learned State Attorney that Rules have been framed by the Government under Section 13(1) read with Section 52 of Act 2 of 2018, wherein different standards for the clinical establishments of different categories, which include the Government Hospitals, are prescribed. The Rule is titled as *“The Kerala Clinical Establishments (Minimum Standards for Modern Medicine, Diagnostic Centre, Medical Laboratory, Dental) Rules, 2023”*.

16. As regards the periodic inspection, which is of importance in this case, the learned State Attorney states that instructions will be taken as to whether these Rules have been framed. The learned State Attorney placed before us the notification issued under Section 19(12) of Act 2 of 2018 for the list of assessors. Section 19, however, is in different context and it pertains to the application for permanent registration of a clinical establishment. Regarding the periodic

inspection, which is the function of the State Council, as per Section 4(1)(e), Section 52(2)(c) of Act 2 of 2018 prescribes the framing of Rules separately for conducting periodic inspections. It is important that the periodical inspections are prescribed by statutory rules.

17. As regards the grievance redressal mechanism contemplated under Section 36 of the Act 2 of 2018, Government Order dated 15 January 2021 by the Health and Family Welfare Department is placed on record. The composition of this notifying Committee, consisting of three private individuals, is as under:

*“Chairman - Sri. C.K. Padmakaran, TC 49/357,
Charusila, Nemom, Trivandrum 695 020.*

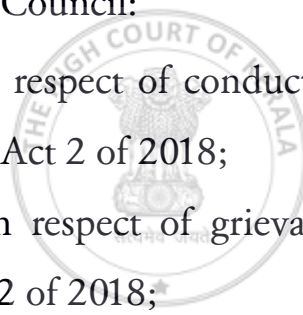
*Member – 1 Dr. V Rajeevan, TC 97/2183, Sandram,
Karimanal PO, Trivandrum 695 583.*

*Member – 2 Dr. V G Pradeep Kumar, 28/248,
Saketham, Pottammal Junction,
Chevarambalam PO –
Kozhikode – 673 017.”*

However, it is not clear whether the composition is prescribed by the statutory rules that are to be framed under Section 52(2)(zb) of Act 2 of 2018. As stated earlier, a robust grievance redressal mechanism is necessary.

18. Thus, it is clear from the framework of Act 2 of 2018 that the State Council has a significant role to perform in respect of the issues raised in this petition, that is, state of infrastructure and adherence to the standards prescribed for Government Hospitals in the State. The

State council also consists of nominees from various stakeholders such as welfare organisation of patients, representative of various medical associations, etc. The Council is tasked with laying down standards for each category of Government Hospitals, carry out periodical inspections, follow transparent consultative process, including public hearing, establish grievance redressal mechanisms with power to issue directions, and also submission of annual reports. Therefore, the following information be placed on record by the Secretary of the Health and Family Welfare Department of the State, who is also the Chairperson of the State Council:

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- i) Rules if framed in respect of conducting periodical inspection under Section 4(1)(e) of Act 2 of 2018;
 - ii) Rules if framed in respect of grievance redressal mechanism under Section 36 of Act 2 of 2018;
 - iii) Rules if framed for publication of particulars of clinical establishment under Section 41(1) of Act 2 of 2018;
 - iv) Details regarding the composition of the State Council, the nominated members, and the annual reports submitted by the State Council since its inception, including whether they have been placed before the Legislative Assembly;
 - v) Details of the periodical inspections carried out in respect of Government Hospitals in the State during the last three years, and the publication of information on its portal regarding the functioning of the Government Hospitals;

- vi) Details of the grievances received in respect of Government Hospitals during the last three years by the Grievance Redressal Committee, along with the action taken thereon;
- vii) Details of any public hearings conducted in relation to grievances raised by the citizens regarding non-adherence to the standards laid down under Act 2 of 2018 by Government Hospitals;
- viii) Details of the members of the Grievance Redressal Committee, the manner of their appointment, and whether such appointments are made pursuant to any statutory rules, laying down the standards, classifications, etc.

19. The learned State Attorney seeks time to place this information on record by way of an affidavit and also the translated copies. He states that the standards prescribed for each category of Government Hospitals will be placed on record in the form of a note culled out from the standards laid down.

20. Post on 22 July 2025.

Sd/-
Nitin Jamdar,
Chief Justice

Sd/-
Basant Balaji,
Judge

ds 08.07.2025

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P.A. to Judge