IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 3797 OF 2020

PETITIONER:

M.K. BABY
AGED 70 YEARS
D/O. KUMARA PILLAI, MOOTHEDATHU VEETTIL, KOVIL VATTOM DESOM, ERNAKULAM, PRESENTLY RESIDING AT 'MARBLE ARCH, 1-A SKY LINE BUILDING, KALOOR, ERNAKULAM - 682 017.

BY ADVS.
K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SRI.H.PRAVEEN (KOTTARAKARA)
SRI.T.S.NEJIMUDDIN
SMT.T.V.NEEMA
SMT.D.S.THUSHARA

RESPONDENTS:

1 DISTRICT COLLECTOR
COLLECTORATE, CIVIL STATION, ERNAKULAM - 682 030

2 REVENUE DIVISIONAL OFFICER
TALUK OFFICE, FIRST FLOOR, KB JACOB RD, FORT KOCHI, KOCHI, KERALA - 682 001.

3 TAHSILDAR
TALUK OFFICE, KANAYANNUR PARK AVENUE ROAD, MARINE DRIVE, ERNAKULAM - 682 011.

4 VILLAGE OFFICER, ERNAKULAM
PARK AVENUE ROAD, ERNAKULAM - 682 011.

BY SRI.RENJITH, SPECIAL GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 12912 OF 2020

PETITIONERS:

MINI JAIRAJ
AGED 55 YEARS
W/O.JAIRAJ, DOOR NO.XI/187 Z 44, OLIVE 7, JAIRAJ SONATA APARTMENTS PADAMUGAL, THRIKKAKARA P.O., PIN-682 021.

BY ADVS.
REJI GEORGE
SHRI.NASEER MOIDU
SRI.BINOY DAVIS
SRI.RAMU RAJENDRAN

RESPONDENTS:

1 THE DISTRICT COLLECTOR
ERNAKULAM, CIVIL STATION, KAKKANAD P.O., PIN- 682 021.

2 THE REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE, 1ST FLOOR, K.B.JACOB ROAD, FORT KOCHI, PIN-682 001.

3 THE ADDITIONAL TAHSILDAR
KANAYANNUR TALUK OFFICE, ERNAKULAM PIN- 682 011.

4 THE LOCAL LEVEL MONITORING COMMITTEE
THRIKKAKARA MUNICIPALITY, REPRESENTED BY ITS

CONVENOR, AGRICULTURAL OFFICER, KRISHI BHAVAN, THRIKKAKARA P.O., PIN- 682 021.

5 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM PIN- 695 001.

BY SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER FOR RESPONDENTS.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 15069 OF 2020

PETITIONERS:

1 MATHEW
AGED 41 YEARS
S/O. SKARIYA, RESIDING AT KOLATHAMKUNNEL HOUSE, PONNUKKARA P.O., THRISSUR DISTRICT, PIN-680 306.

2 SINJU MATHEW
AGED 31 YEARS
W/O. MATHEW, RESIDING AT KOLATHAMKUNNEL HOUSE, PONNUKKARA P.O., THRISSUR DISTRICT, PIN-680 306.

BY ADVS.
T.C.SURESH MENON
SRI.P.S.APPU

RESPONDENTS:

1 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2 THRISSUR CORPORATION
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE, THRISSUR-680 001.

3 THE REVENUE DIVISIONAL OFFICER
OFFICE OF THE REVENUE DIVISIONAL OFFICER, THRISSUR-680 001.

BY ADVS

SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER FOR R1 & R3

SRI.SANTHOSH P.PODUVAL, STANDING COUNSEL FOR R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 22598 OF 2020

PETITIONER:

RAJESH M.K.
AGED 45 YEARS
S/O BALAKRISHNAKURUP, RAJ NIVAS, KOLATHARA
P.O.,CHERUVANNUR VILLAGE, KOZHIKODE DISTRICT.

BY ADV P.M.ZIRAJ

RESPONDENTS:

1 THE REVENUE DIVISIONAL OFFICER (R.D.O)
KOZHIKODE,KOZHIKODE DISTRICT, PIN-673 020.

2 THE DISTRICT COLLECTOR,
KOZHIKODE DISTRICT, PIN-673 020.

3 THE LOCAL LEVEL MONITORING COMMITTEE,
KOZHIKODE , REPRESENTED BY ITS CONVENER,
AGRICULTURAL OFFICER, KRISHI BHAVAN, KOZHIKODE
MUNICIPAL CORPORATION, KOZHIKODE DISTRICT, PIN-673
032.

4 THE DISTRICT LEVEL AUTHORIZED COMMITTEE,
KOZHIKODE DISTRICT, REPRESENTED BY ITS CHAIRMAN,
REVENUE DIVISIONAL OFFICER (RDO), KOZHIKODE,
KOZHIKODE DISTRICT, PIN-673 020.

5 THE VILLAGE OFFICER,
CHERUVANNUR VILLAGE, KOZHIKODE DISTRICT , PIN-673
655.

6 THE THAHASILDAR,
KOZHIKODE TALUK, KOZHIKODE DISTRICT, PIN-673 655.

7 THE STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

BY SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER FOR RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 22786 OF 2020

PETITIONER:

ASOK KUMAR
AGED 62 YEARS
S/O.KRISHNAN, ARUNANJALI HOUSE, U.C.COLLEGE P.O., EAST KADUNGALLUR, ALUVA TALUK, ERNAKULAM-683102.

BY ADVS.
BLOSSOM MATHEW
SRI.THOMAS JOHN AMBOOKEN
SRI.B.SAJEEV KUMAR

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE, GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695001.

2 **THE DISTRICT COLLECTOR,**
ERNAKULAM, CIVIL STATION, KAKKANAD, ERNAKULAM-682030.

3 **THE REVENUE DIVISIONAL OFFICER,**
FORT KOCHI, REVENUE DIVISION OFFICE, FORT KOCHI, KOCHI-682001.

4 **THE TAHSILDAR (L.R.), PARAVUR TALUK,**
FIRST FLOOR, POLICE STATION RD, ABOVE SUB REGISTRAR

OFFICE, NORTH PARAVUR, KERALA-683513.

**5 THE VILLAGE OFFICER,
ALANGAD VILLAGE OFFICE, THIRUVALLOOR, ERNAKULAM-683511.**

BY SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER FOR RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 27812 OF 2020

PETITIONER:

SHAJUDHEEN
AGED 39 YEARS
S/O. ABDUL LATHEEF, THASNI MANZIL, PARAKKALAM,
KUZHALMANNAM-678 702, PALAKKAD DISTRICT.

BY ADV R.HARISHANKAR

RESPONDENTS:

1. **THE DISTRICT COLLECTOR, PALAKKAD**
CIVIL STATION, PALAKKAD, PIN-678001
2. **AGRICULTURE OFFICER,**
KRISHI BHAVAN, KUZHALMANNAM, PALAKKAD,PIN-678 702
3. **THE REVENUE DIVISIONAL OFFICER,**
CIVIL STATION, PALAKKAD, PIN-678 001

BY SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER FOR RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF OCTOBER 2021 / 30TH ASWINA, 1943

WP(C) NO. 6046 OF 2021

PETITIONER:

SUHARA V.A PAKKAI
AGED 61 YEARS
VELLARKODATH HOUSE, CHANGAMPUZHA NAGAR P.O, AMBALAM ROAD, KOONATHAI, ERNAKUALM DISTRICT, PIN - 682033.

BY ADVS.
R.ROHITH
SRI.SAYED MURTHALA THANGAL
SMT.HARISHMA P.THAMPI

RESPONDENTS:

1. **THE THAHASILDAR**
   PARAVUR TALUK, N.PARAVUR, ERNAKULAM - 683513.
2. **THE SECRETARY**
   ELOOR MUNICIPALITY, ERNAKULAM DISTRICT - 683501,
3. **THE AGRICULTURE OFFICER**
   KRISHIBHAVAN, ELOOR, ERNAKULAM DISTRICT - 683501.
4. **LOCAL LEVEL MONITORING COMMITTEE**
   ELOOR MUNICIPALITY, ERNAKULAM DISTRICT - 683501, REPRESENTED BY ITS CONVENER.
5. **THE VILLAGE OFFICER**

ELOOR VILLAGE OFFICE, ERNAKULAM DISTRICT - 683501.

6 THE PRICNIPAL AGRICULTURAL OFFICER
CIVIL STATION BUILDING, KAKKANAD, ERNAKULAM, PIN - 682030.

BY ADV SRI.K.S.ARUN KUMAR FOR R2

SRI.S.RENJITH, SPECIAL GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2021, ALONG WITH WP(C).3797/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CR

JUDGMENT

SHAJI P.CHALY, J.

Captioned writ petitions are filed challenging the constitutional validity of section 27A to section 27D of the Kerala Conservation of Paddy land and Wetland Act, 2008, hereinafter called, "Act, 2008" and the consequential provisions of the Kerala Conservation of Paddy land and Wetland Rules, 2008, hereinafter called, "Rules, 2008", and for other related and consequential reliefs. These writ petitions were posted before the Division Bench tagged along with writ petitions seeking similar reliefs already referred to the Division Bench for authoritative consideration, in accordance with the provisions of the Kerala High Court Act, 1958 and the Rules thereto.

2. In fact hundreds and hundreds of writ petitions filed by owners of unnotified paddy lands, challenging the constitutional validity of aforesaid provisions, are pending before this Court. It is important to note that the Act, 2008 was amended and introduced various provisions so as to tackle various situations including the aspect of the reclamation and conversion of the paddy lands which are not included in the data bank prepared as per the

provisions of the Act, 2008. Sections 27A to 27D were introduced on and w.e.f. 30.12.2017 along with the definition of unnotified land as per section 2(XVIIA), and incorporating other amendments. Section 27A was introduced into the statute in order to enable the owner of any unnotified land who desires to utilise such land for residential or commercial or other purposes, to apply to the Revenue Divisional Officer for permission, in such manner as may be prescribed. Unnotified land is defined to mean, "the land within the area of jurisdiction of the committee which have been included as paddy land or wetland in the Basic Tax Register maintained in Village Offices, but are not notified by the land or wetland under sub-section (4) of Section 5 or where data bank has not been published under the provisions of clause (i) of sub-section (4) of Section 5, the lands which have already been filled up on the date of commencement of this Act and are not paddy land according to the report of the Kerala State Remote Sensing Centre and the Local Level Monitoring Committee or where the report of the Kerala State Remote Sensing Centre is not available, lands which are not paddy land according to the report of the Local Level Monitoring Committee". Prior to the aforementioned amendments, such aspects were dealt with under the provisions of the Land Utilisation Order 1967, a State legislation prepared by virtue of the powers conferred by the Essential Commodities Act 1955, a Central enactment. We are informed that some public interest writ petitions are also pending challenging the Constitutionality of the very same provisions on the ground that the State was not right in introducing such amendments relaxing the imperative conditions of the act quite contrary to the legislative intentions and purpose of the act .

3. It is only for the purpose of understanding the issues raised in the writ petition and in view of the order proposed to be passed by us, the above aspects are dealt with. In fact, we intend to dispose of these writ petitions leaving open the challenge made to the constitutionality of the provisions, because, consequent to the amendment made to the Schedule constituted as per rule 12(9) of the Rules, 2008, there is no requirement for payment of fees / charges for conversion up to and inclusive of 25 cents of Paddy land, on and with effect from 25.02.2021. .

4. Rule 12(9) of the Rules, 2008 prescribes that if permission is granted to utilise any unnotified paddy field for other purposes in contemplation of Section 27A, the State Government is vested with powers to impose fees/charges in accordance with the Schedule of Rules, 2008. As per the amended schedule, reclamation of any paddy land up to 25 cents is

not liable to be imposed with any fee w.e.f. 25.02.2021. However, the properties exceeding 25 cents and up to 1 Acre are liable to be imposed with 10% of the fair value , and the properties exceeding 1 acre are liable to be imposed with 20% of the fair value. The captioned writ petitions are all claiming to be 25 cents and below, except the property in W.P.(C) No.22786/2020, the extent of which is 25.002 cents, and therefore we thought it fit to be considered along with this batch treating it as 25 cents, the limit exceeded being only a minuscule fraction of a cent of the property .

5. Suffice to say, the majority of the similar writ petitions pending before the writ court and some referred matters pending before the Division Bench, are exceeding 25 cents of paddy land. In view of the amendment to the Schedule as stated above exempting payment up to 25 cents, these writ petitions could be closed, leaving open the liberty of the petitioners in the other writ petitions pending, to address arguments on the constitutionality of the provisions in question. But the learned senior Government Pleader submitted that in view of the circular issued by the State Government dated 23.07.2021, only the applications submitted after the said cut off date of 25.02. 2021 can alone be considered under the exempted category, which was opposed by the counsel for the writ petitioners and therefore we are

constrained to address the issue raised on the basis of the circular in question .

6. We have heard learned counsel appearing for the writ petitioners and learned Special Government Pleader Sri.S.Renjith and perused the pleadings and materials on record.

7. The sole contention advanced by the learned Senior Government Pleader is that in view of the Circular dated 23.7.2021 issued by the State Government and circulated among the Revenue Officials, only the applications submitted after 25.2.2021 alone need be given the benefit of the amendment of the Schedule by granting exemption upto 25 cents .

8. In view of the said contention, the question crops up for consideration is, what is the scope of the Circular in legal parlance, and whether it amounts to an interpretation of the provisions of the Rules, 2008 and the Schedule thereto ? It is by virtue of the powers conferred under the provisions of Section 27A(3), r/w Rule 12 (9) of the Rules 2008, fee/charge can be imposed by the Government and it was accordingly that the Schedule was introduced, and the consequential amendment was made to the Schedule. It is clearly specified therein that up to an extent of 25 cents an owner of a paddy land need not pay any fee/charge for reclaiming the land

for other purposes other than paddy cultivation. The issue in respect of the binding nature of a circular is no more *res integra* in view of several authoritative pronouncements of the apex court .

9. In **Bengal Iron Corporation and another v. Commercial Tax Officer and others** [1994 Supp.(1) SCC 310], it was held that an interpretation contained in administrative instructions in circulars are not binding on courts and it was held as follows:

> ***"18.*** *So far as clarifications/circulars issued by the Central Government and/or State Government are concerned, they represent merely their understanding of the statutory provisions. They are not binding upon the courts. It is true that those clarifications and circulars were communicated to the concerned dealers but even so nothing prevents the State from recovering the tax, if in truth such tax was leviable according to law. There can be no estoppel against the statute. The understanding of the Government, whether in favour or against the assessee, is nothing more than its understanding and opinion. It is doubtful whether such clarifications and circulars bind the quasi-judicial functioning of the authorities under the Act. While acting in quasi-judicial capacity, they are bound by law and not by any administrative instructions, opinions, clarifications or circulars. Law is what is declared by this Court and the High Court — to wit, it is for this Court and the High Court to declare what does a particular provision of statute say, and not for the executive. Of course, the Parliament/Legislature never speaks or explains what does a provision enacted by it mean. (See Sanjeev Coke Mfg. Co. v. Bharat Coking Coal Ltd. [(1983) 1 SCC 147 : AIR 1983 SC 239])*

10. In **Commissioner of Income Tax v. Hero Cycles Pvt. Ltd.** [1997(2) KLT Online 1129 (SC)] again the Apex Court considered the relevance and effect of a circular in the realm of Income Tax Laws and held that it is well settled that circulars can bind the Income Tax Officers but will not bind the appellate authority or the Tribunal or Court or even the assessee.

11. In Commissioner of **Central Excise, Bolpur v. Ratan Melting & Wire Industries** [(2008) 13 SCC], a five member Constitution Bench had occasion to consider the binding effect of the circulars issued by the State and Central Governments vis-a-vis the Judgments of the Constitutional Courts and held that circulars and instructions issued by the Board are no doubt binding law on the authorities under the respective statutes but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of the Supreme Court or the High Court. It was also held therein that so far as the clarifications/circulars issued by the Central Government and the State Governments are concerned, they represent merely their understanding of the statutory provisions and they are not binding upon the

court and therefore, it is for the court to declare what is the particular provision of the statute says and it is not for the executive. Accordingly, it was concluded that the circular, which is contrary to the statutory provisions, has really no existence in law. Same was the principle of law laid down by the Apex Court in **Commissioner of Central Excise, Nagpur v. Gurukripa Resins Private Limited** [(2011) 13 SCC 180], considered in the realm of Central Excise Act, 1944.

12. In **Madras Bar Association v. Union of India** [2021(4)KLT Online 1019(SC)], the Apex Court had occasion to consider the separation of powers between three organs – legislature, executive and judiciary, and the independence of the judiciary and held that no provision shall be made in legislative enactments, which would have the tendency of making inroads into the judicial sphere. This judgment assumes significance in the instant case, for the basic reason that, the circular in our view, transgressed into the arena of interpretation of the rules 2008, which is the absolute prerogative of a court of law. Paragraphs 22 to 27 are relevant to the context and they read thus:

> *22. The doctrine of separation of powers informs the Indian constitutional structure and is an essential constituent of rule of law. In other words, the doctrine of separation of powers, though*

not expressly engrafted in the Constitution, its sweep, operation and visibility are apparent from the scheme of the Indian Constitution. The Constitution has made demarcation, without drawing formal lines between the three organs— legislature, executive and judiciary. Separation of powers between three organs—the legislature, executive and judiciary—is also nothing but a consequence of principles of equality enshrined in Article 14 of the Constitution of India. Accordingly, breach of separation of judicial power may amount to negation of equality under Article 14. Stated thus, a legislation can be invalidated on the basis of breach of the separation of powers since such breach is negation of equality under Article 14 of the Constitution. (State of Tamil Nadu v. State of Kerala & Anr. 2014 (2) KLT 603 (SC) = (2014) 12 SCC 696) Equality, rule of law, judicial review and separation of powers form parts of the basic structure of the Constitution. Each of these concepts are intimately connected. There can be no rule of law, if there is no equality before the law. These would be meaningless if the violation was not subject to the judicial review. All these would be redundant if the legislative, executive and judicial powers are vested in one organ. Therefore, the duty to decide whether the limits have been transgressed has been placed on the judiciary. (I.R. Coelho v. State of T.N., 2007 (1) KLT 623 (SC) = (2007) 2 SCC 1) Though, there is no rigid separation of governmental powers between the executive, legislative and judiciary, it is clear from the above judicial pronouncements and literature that separation of powers forms part of the basic structure of the Constitution. Violation of separation of powers would result in infringement of Article 14 of the Constitution. A legislation can be declared as unconstitutional if it is in violation of the principle of separation of powers.

Independence of the Judiciary

***23**. Alexander Hamilton wrote in The Federalist No.78 as follows:*

"The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, that it shall pass no

bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice in no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing. "

24. Basic Principles on the Independence of the Judiciary were adopted by the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26.08.1985 to 06.09.1985 and endorsed by the General Assembly resolutions on 29.11.1985 and 13.12.1985. The relevant basic principles are that the independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of the governmental and other institutions to respect and observe the independence of the judiciary. The term of office of Judges, their independence, security, adequate renumeration, conditions of service, pensions and the age of retirement shall be adequately secured by law. The United Nations Economic and Social Council authorized the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities to request Dr. L.M. Singhvi to prepare a report on the independence and impartiality of judiciary. He submitted a draft declaration on the independence and impartiality of the judiciary, jurors, assessors and the independence of lawyers, which came to be known as the Singhvi Declaration. The United Nations Commission on Human Rights invited governments to take the Singhvi Declaration into account in implementing the Basic Principles on the Independence of the Judiciary. The Bangalore Principles on Judicial Conduct, the product of several meetings and deliberations of Chief Justices and Judges of both common law and civil law systems and adopted by the United Nations Commission on Human Rights on 29.04.2003, identified core values of the judiciary, one of which is independence. The measures adopted by the Judicial Integrity

Group at its meeting held in Lusaka, Zambia on 21st and 22nd January, 2010 for effective implementation of the Bangalore Principles of Judicial Conduct referred to the responsibilities of States to ensure guarantees, through constitutional or other means, on judicial independence. One of the guarantees required to be provided by the State to maintain judicial independence is that the legislative or executive powers that may affect Judges in respect of their office, their renumeration, conditions of service or other resources, shall not be used with the object or consequence of threatening or bringing pressure upon a particular Judge or Judges.

25*. In his address dated 24.05.1949, Dr. B.R. Ambedkar stated that: -*

"There can be no difference of opinion in the House that our judiciary must be both independent of the executive and must also be competent in itself. And the question is how these two objects can be secured".

26*. Article 50 of the Constitution of India provides that the State shall take steps to separate the judiciary from the executive in the public services of the State. The concept of separation of judiciary from executive cannot be confined only to the subordinate judiciary, totally discarding the higher judiciary. If such a narrow and pedantic or syllogistic approach is made and a constricted construction is given, it would lead to an anomalous position that the Constitution does not emphasise the separation of higher judiciary from the executive (Supreme Court Advocates-on-Record Association & Ors. v. Union of India, 1993 (2) KLT OnLine 1103 (SC) = (1993) 4 SCC 441). Article 50, occurring in a chapter described by Granville Austin as "the conscience of the Constitution" in his work titled 'The Indian Constitution: Cornerstone of a Nation', underlines the importance given by the Constitutionmakers to immunize the judiciary from any form of* *executive control or interference. (Union of India v. Sankalchand Himatlal Sheth & Anr., 1977 KLT OnLine 1166 (SC) = (1977) 4 SCC 193)*

27. The independence of the judiciary is a fighting faith of our Constitution. It is the cardinal principle of the Constitution that an independent judiciary is the most essential characteristic of a free society like ours and the judiciary which is to act as a bastion of the rights and freedom of the people is given certain constitutional guarantees to safeguard the independence of judiciary. An independent and efficient judicial system has been recognised as a part of the basic structure of our Constitution. (Supreme Court Advocates-on-Record Association & Ors. v. Union of India (supra))

13. Taking into account the well settled proposition discussed above, we have no hesitation to hold that the Circular issued by the State Government dated 23.7.2021, fixing the cut off date of 25.2.2021 is not binding on this Court. However, learned Senior Government Pleader has addressed an argument that the cut off date fixed is a reasonable classification made but we are unable to agree with the said contention for the reason that, even an application filed prior to the cut off date of 25.2.2021 and subsequent to the said cut off date would be considered by the statutory authority even at a later point of time and in that process two different set of orders would be passed on similar or rather typical matters. When the issue is considered from that angle, according to us, there is no

object sought to be achieved by making such a cut off date. When the State Government intended to classify and exclude farmers holding up to 25 cents of unnotified paddy land from the payment of fee/charge for reclamation and utilisation of the same for other purposes other than paddy cultivation, such farmers constitute a class by themselves thus precluding the State from further re-classifying the homogeneous class of the same nature merely because the applications are submitted on different dates, which according to us would be nothing but an unreasonable and arbitrary classification, violative of Article 14 of the Constitution of India. At this juncture we are reminded of the basic principles enunciated by the honourable apex court in the context of Article 14 of the Constitution of India that, all persons and things similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed, and equality before the law means amongst the equals the law should be equal and should be equally administered, and that the like should be treated alike. It is also well settled in law that a classification to be valid must be reasonable and must rest upon some real and substantial distinction bearing reasonable and just relation to the needs in respect of which the classification is made i.e., the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group; and the differentia must have a rational relation to the object sought to be achieved by the statute in question. Which thus means, in the instant case there is no object sought to be achieved by differentiating the class of owners of land upto 25 cents on the basis of the date of the application submitted by them before the very same statutory authority. If such an interpretation is made to the Rules, the purpose sought to be achieved by the State Government by granting exemption from payment of fee to the owners of the paddy field up to 25 cents would be lost, or rather defeat the said purpose. Therefore, in our considered opinion, the action of the State Government making an interpretation to the already constituted rules by issuing a circular directing the officers of the State to discharge their functions in a particular manner can never be sustained, being violative of all canons of law and beyond the comprehension of the Constitutional mandates. As we have pointed out above, interpretation of the laws is the exclusive domain and sphere of the courts which can never be tinkered by the legislature and the executive, by virtue of the principles of separation of powers envisioned by the framers of the Constitution, to be followed scrupulously by all in order to sustain the basic tenets and characteristic spirit of the democratic ethos manifested by the Constitution of India. That is to say, even though the legislature makes the law, the courts alone are vested with powers to interpret, administer and decide the exactitude of the laws, and definitely not the legislature and the executive .

14. Taking into account the aforesaid legal and factual circumstances, we have no hesitation to hold that the circular dated 23.7.2021 is also an unconstitutional one for the fundamental reason that, it is an inroad into the powers exercised by this Court on the principles of separation of powers, and further that, by introducing the circular, the State Government has attempted to interpret the Schedule to the Rules, which by itself is a rule, and for that matter the entire contents of the circular insofar as it is violative of the provisions of the Act 2008 and the Rules 2008 is impermissible in law.

15. Therefore, the writ petitions are disposed of directing the appropriate statutory authorities to consider the applications submitted by the petitioners irrespective of the cut off date fixed in the Circular dated 23.7.2021 for payment of fee, however, in accordance with the provisions of the Act, 2008 and the Rules, 2008, at the earliest possible and at any rate within two months from the date of receipt of a copy of this judgment. But we make it clear that the questions raised in the writ petitions in regard to

the constitutional validity of Sections 27A to 27D and the consequential rules thereto are left open to be considered in the pending writ petitions.

Sd/-

S. MANIKUMAR,
CHIEF JUSTICE.

SHAJI P. CHALY,
JUDGE.

smv

APPENDIX OF WP(C) 3797/2020

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE POSSESSION CERTIFICATE NO.1846/15-A DATED 1.8.2015 ISSUED TO THE PETITIONER AND HER SISTERS BY THE 4TH RESPONDENT IN RESPECT OF AN EXTENT OF 01.55 ARES.**
EXHIBIT P1 (a)	**TRUE COPY OF THE POSSESSION CERTIFICATE NO.1846/15-A DATED 1.8.2015 ISSUED TO THE PETITIONER AND HER SISTERS BY THE 4TH RESPONDENT IN RESPECT OF AN EXTENT OF 0.93 ARES.**
EXHIBIT P1 (b)	**TRUE COPY OF THE POSSESSION CERTIFICATE NO.1846/15-A DATED 1.8.2015 ISSUED TO THE PETITIONER AND HER SISTERS BY THE 4TH RESPONDENT IN RESPECT OF AN EXTENT OF 0.92 ARES.**
EXHIBIT P1 (c)	**TRUE COPY OF THE POSSESSION CERTIFICATE NO.1846/15-A DATED 1.8.2015 ISSUED TO THE PETITIONER AND HER SISTERS BY THE 4TH RESPONDENT IN RESPECT OF AN EXTENT OF 0.51 ARES.**
EXHIBIT P2	**TRUE COPY OF THE BASIC TAX RECEIPT DATED 30.5.2019.**
EXHIBIT P2 (a)	**TRUE COPY OF THE BASIC TAX RECEIPT DATED 30.5.2019.**
EXHIBIT P2 (b)	**TRUE COPY OF THE BASIC TAX RECEIPT DATED 30.5.2019.**
EXHIBIT P2 (c)	**TRUE COPY OF THE BASIC TAX RECEIPT DATED 30.5.2019.**
EXHIBIT P3	**TRUE COPY OF THE THANDAPER REGISTER**

	NO.269/19 DATED 20.6.2019 OF THE PROPERTIES OF THE PETITIONER.
EXHIBIT P3 (a)	**TRUE COPY OF THE THANDAPER REGISTER NO.269/19 DATED 20.6.2019 OF THE PROPERTIES OF THE PETITIONER.**
EXHIBIT P3 (b)	**TRUE COPY OF THE THANDAPER REGISTER NO.272/19 DATED 20.6.2019 OF THE PROPERTIES OF THE PETITIONER.**
EXHIBIT P3 (c)	**TRUE COPY OF THE THANDAPER REGISTER NO.271/19 DATED 20.6.2019 OF THE PROPERTIES OF THE PETITIONER.**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION DATED 17.8.2019 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT WITH ACKNOWLEDGMENT DUE ALONG WITH POSTAL RECEIPT DATED 20.8.2019.**
EXHIBIT P5	**TRUE COPY OF THE JUDGMENT IN WRIT PETITION 24179/2019 DATED 4.9.2019.**
EXHIBIT P6	**TRUE COPY OF THE PROCEEDINGS OF THE REVENUE DIVISIONAL OFFICER 2ND RESPONDENT DATED 19.12.2019.**
EXHIBIT P7	**TRUE COPY OF THE COMMISSION REPORT DATED 28.9.2006 FILED IN OS NO.588/88.**
EXHIBIT P8	**TRUE COPY OF THE GO(Rt)1166/2021/REV.D.DATED 25.2.2021**

APPENDIX OF WP(C) 12912/2020

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF SALE DEED NO.945/09 DATED 22/6/09 OF THRIKKAKARA SUB REGISTRY.**
EXHIBIT P2	**TRUE COPY OF THE RELEVANT PAGE OF THE DATA-BANK ISSUED BY THE REVENUE AUTHORITIES.**
EXHIBIT P3	**TRUE COPY OF THE THANDAPPER ACCOUNT NO.17566 ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE.**
EXHIBIT P4	**TRUE COPY OF THE BASIC TAX NO.7446445 DATED 16/4/18 ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE.**
EXHIBIT P5	**TRUE COPY OF THE REPRESENTATION DATED 17/10/15 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE LETTER NO.H3-20616/15 DATED 20/10/2015 ISSUED BY THE 3RD RESPONDENT TO THE SECRETARY, THRIKKAKARA MUNICIPALITY.**
EXHIBIT P7	**TRUE COPY OF THE LETTER NOH3-20518/15 DATED 20/10/15 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
EXHIBIT P8	**TRUE COPY OF THE APPLICATION DATED 17/11/17 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.**
EXHIBIT P9	**TRUE COPY OF THE APPLICATION DATED 27/4/18 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
EXHIBIT P10	**TRUE COPY OF THE LETTER NO.L10-185660/18 DATED 25/5/18 SENT BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.**

APPENDIX OF WP(C) 15069/2020

PETITIONER'S EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE LAND TAX RECEIPT ISSUED BY THRISSUR VILLAGE OFFICE TO THE PETITIONERS DATED 19.3.2020.**
EXHIBIT P2	**TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS DATED 1.2.2020.**
EXHIBIT P3	**TRUE COPY OF FEW PHOTOGRAPHS WHICH SHOW THE FACTUAL SITUATION DATED NIL.**
EXHIBIT P4	**TRUE COPY OF THE INFORMATION OBTAINED FROM THE OFFICE OF THE 2ND RESPONDENT, DATED 5.1.2019.**
EXHIBIT P5	**TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT DATED NIL.**

APPENDIX OF WP(C) 22598/2020

PETITIONERS' EXHIBITS

EXHIBIT P1	TRUE COPY OF THE TAX RECEIPT IN CONNECTION WITH THE PROPERTY OF PETITIONER DATED 23.5.208 ISSUED BY THE FIRTH RESPONDENT
EXHIBIT P2	TRUE COPY OF THE AGE CERTIFICATE OF BUILDING ISSUED BY THE SECRETARY, KOZHIKODE MUNICIPAL CORPORATION DATED 2.11.2019
EXHIBIT P3	TRUE COPY OF THE TAX RECEIPT OF BUILDING DATED 5.6.2017 ISSUED BY THE SECRETARY, KOZHIKODE MUNICIPAL CORPORATION
EXHIBIT P4	TRUE COPY OF THE OWNERSHIP CERTIFICATE DATED 5.6.2017 ISSUED BY THE SECRETARY, KOZHIKODE MUNICIPAL CORPORATION
EXHIBIT P5	TRUE COPY OF THE RELEVANT PAGES OF DATA BANK IN CONNECTION WITH THE PROPERTY OF PETITIONER
EXHIBIT P6	TRUE COPY OF THE APPLICATION DATED 16.12.2019 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT BEFORE THE FIRST RESPONDENT THROUGH REGISTERED POST
EXHIBIT P7	TRUE COPY OF THE RECEIPT DATED 16.12.2019 REGARDING PROOF OF SERVICE OF EXHIBIT P6 APPLICATION

APPENDIX OF WP(C) 22786/2020

PETITIONER'S EXHIBITS

EXHIBIT P1	**TRUE COPY OF SALE DEED NO.4088/2012 OF ALANGADU SUB REGISTRAR OFFICE.**
EXHIBIT P2	**TRUE COPY OF THE CERTIFICATE DATED 6.11.2012 ISSUED BY 5TH RESPONDENT.**
EXHIBIT P3	**TRUE COPY OF APPLICATION DATED 29.7.2020 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF LAND TAX RECEIPT DATED 16.10.2020 ISSUED BY THE 5TH RESPONDENT PERTAINING TO PETITIONER'S PROPERTY.**

APPENDIX OF WP(C) 27812/2020

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE DOCUMENT NO. 998/2015 OF KUZHALMANNAM SRO DATED 21.04.2015.
EXHIBIT P2	TRUE COPY OF POSSESSION CERTIFICATE BY VILLAGE OFFICER, KUZHALMANNAM 1 VILLAGE DATED 04.05.2019.
EXHIBIT P3	TRUE COPY OF BASIC TAX RECEIPT DATED 02.05.2019.
EXHIBIT P4	TRUE COPY OF CERTIFICATE DATED 06.02.2018 ISSUED BY VILLAGE OFFICER, KUZHALMANNAM 1 VILLAGE.
EXHIBIT P5	TRUE COPY OF COMMUNICATION DATED 02.03.2016 ISSUED BY 2ND RESPONDENT.
EXHIBIT P6	TRUE COPY OF THE ORDER DATED 19.05.2018 OF THE 1ST RESPONDENT.
EXHIBIT P7	TRUE COPY OF ORDER DATED 16.01.2020 ISSUED BY 3RD RESPONDENT.
EXHIBIT P8	PHOTOGRAPHS OF PROPERTY OF PETITIONER.

APPENDIX OF WP(C) 6046/2021

PETITIONER'S EXHIBITS

EXHIBIT P1	**A TRUE COPY OF THE SALE DEED NO.4350/2015 IN FAVOUR OF THE PETITIONER DATED 14.12.2015.**
EXHIBIT P2	**A TRUE COPY OF THE LAND TAX RECEIPT DATED 16.07.2019 ISSUED BY 5TH RESPONDENT IN FAVOUR OF THE PETITIONER.**
EXHIBIT P3	**A TRUE COPY OF THE LOCATION PLAN CERTIFICATE DATED 06.05.2017 ISSUED BY THE 5TH RESPONDENT IN FAVOUR OF THE PETITIONER.**
EXHIBIT P4	**A TRUE COPY OF POSSESSION CERTIFICATE DATED 21.07.2019 ISSUED BY THE 5TH RESPONDENT IN FAVOUR OF THE PETITIONER.**
EXHIBIT P5	**A TRUE COPY OF THE APPLICATION DATED 27.07.2016 PREFERRED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.**
EXHIBIT P6	**A TRUE COPY OF THE CERTIFICATE DATED 09.05.2017 ISSUED BY THE 5TH RESPONDENT.**
EXHIBIT P7	**A TRUE COPY OF THE LETTER DATED 06.10.2020, T.A(1) 6104/19 BY 6TH RESPONDENT TO THE 3RD RESPONDENT.**
EXHIBIT P8	**A TRUE COPY OF THE REPORT DATED 05.11.2020 BY THE 3RD RESPONDENT SUBMITTED BEFORE THE 6TH RESPONDENT.**