



2025:KER:81601

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.1921 OF 2015

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C) .NO.1383 OF 2014
OF HIGH COURT OF KERALA

APPELLANT/3RD RESPONDENT:

HARISH V.
S/O.V.N.VASUDEVAN NAMBOODIRI, HARITHAM,
NEELESWARAM P.O., KASARAGOD, PIN - 671 314.

BY ADV.SRI.S.SREEKUMAR (SR.)
BY ADV.SRI.P.MARTIN JOSE
BY ADV.SRI.P.PRIJITH
BY ADV.SRI.THOMAS P.KURUVILLA

RESPONDENTS/PETITIONERS/RESPONDENTS 1 AND 2:

1 T.C.MATHEW
FORMER HONORARY SECRETARY, KERALA CRICKET ASSOCIATION,
KCA COMPLEX, T.C./131, SHASTAMKOVIL ROAD, THYCAUD P.O,
THIRUVANANTHAPURAM, PIN - 695001.

2 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
VIGILANCE DEPARTMENT, THIRUVANANTHAPURAM - 695001

3 THE DIRECTOR
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM - 695001

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER
BY ADV.SRI.K.JAYAKUMAR (SR.)



2025:KER:81601

BY ADV.SRI.K.N.ABHILASH
BY ADV.SRI.GILBERT GEORGE CORREYA
BY ADV.SRI.NISHIL.P.S.
BY ADV.SRI.M.REVIKRISHNAN
BY ADV.SRI.SOJAN MICHEAL
BY ADV.SRI.SUNIL NAIR PALAKKAT

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
30.10.2025 ALONG WITH W.A.NO.2277/2015 AND CONNECTED CASES,
THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:



2025:KER:81601

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.2277 OF 2015

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.15389 OF 2014
OF HIGH COURT OF KERALA

APPELLANT/3RD RESPONDENT:

JOY KAITHARATH
AGED 60 YEARS
S/O.ANTONY, GENERAL SECRETARY, STATE HUMAN RIGHTS
PROTECTION CENTRE, THRISSUR, VELLIKULANGARA PO

BY ADV.SRI.JOHN K.GEORGE

RESPONDENTS/PETITIONER/RESPONDENTS 1 AND 2:

- 1 JAYESH GEORGE M.
MANICKANAMPARAMBIL HOUSE, S.R.M.ROAD,
ERNAKULAM, KOCHI - 18
- 2 THE DIRECTOR
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM, PIN - 695001
- 3 DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE AND ANTI CORRUPTION BUREAU,
ERNAKULAM UNIT, KATHRIKADAVU, ERNAKULAM - 682017

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER
BY ADV.SRI.K.JAYAKUMAR (SR.)
BY ADV.SRI.K.N.ABHILASH

W.A.Nos.1921, 2277, 2381
& 2382/2015 & 351, 382,
682 & 1083 of 2017

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BY ADV.SRI.M.A.AHAMMAD SAHEER
BY ADV.SRI.M.REVIKRISHNAN
BY ADV.SRI.SUNIL NAIR PALAKKAT

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THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.2381 OF 2015

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.11822 OF 2013
OF HIGH COURT OF KERALA

APPELLANT/4TH RESPONDENT:

JOY KAITHARATH
AGED 60 YEARS
S/O.ANTONY, GENERAL SECRETARY, STATE HUMAN RIGHTS
PROTECTION CENTRE, THRISSUR, VELLIKULANGARA P.O.

BY ADV.SRI.T.T.MUHAMOOD
BY ADV.SRI.A.RENJIT
BY ADV.SRI.GOKUL R.NAIR
BY ADV.SRI.ANSALAM N.X.
BY ADV.SRI.P.SUJITH KUMAR

RESPONDENTS/PETITIONER/RESPONDENTS 1 TO 3:

- 1 KARTHIKEYA VARMA @ KARTHIK VARMA
D4, KAILAS APARTMENTS, N.F.GATE, TRIPUNITHURA,
ERNAKULAM 682 017.
- 2 UNION OF INDIA
REPRESENTED BY THE SECRETARY TO MINISTRY OF LAW
& JUSTICE, NEW DELHI, PIN - 110 011.
- 3 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 4 DEPUTY SUPERINTENDENT OF POLICE



2025:KER:81601

VIGILANCE AND ANTI-CORRUPTION BUREAU,
ERNAKULAM UNIT, KATHRIKADAVU, ERNAKULAM - 682 017.

BY ADV.SRI.K.JAYAKUMAR (SR.)
BY ADV.SRI.K.N.ABHILASH
BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER
BY SMT.O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA
BY SRI.C.DINESH, CENTRAL GOVERNMENT COUNSEL
BY SRI.M.A.AHAMMAD SAHEER
BY ADV.SRI.M.RAMESH CHANDER (SR.)
BY ADV.SRI.SUNIL NAIR PALAKKAT

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FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.2382 OF 2015

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.20071 OF 2013
OF HIGH COURT OF KERALA

APPELLANT/3RD RESPONDENT:

JOY KAITHARATH
AGED 60 YEARS
S/O.ANTONY, GENERAL SECRETARY, STATE HUMAN RIGHTS
PROTECTION CENTRE, THRISSUR, VELLIKULANGARA P.O.

BY ADV.SRI.JOHN K.GEORGE

RESPONDENTS/PETITIONER/RESPONDENTS 1 AND 2:

- 1 T.N.ANANTHA NARAYANAN
S/O.T.V.NATARAJAN, 6/1781, H.K.DADA BUILDING,
PALACE ROAD, MATTANCHERRY, KOCHI - 682 002.
- 2 THE DIRECTOR
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM, PIN - 695 001.
- 3 DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE AND ANTI-CORRUPTION BUREAU,
ERNAKULAM UNIT, KATHRIKADAVU, ERNAKULAM 682 017.

BY ADV.SRI.K.JAYAKUMAR (SR.)
BY ADV.SRI.K.N.ABHILASH
BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER
BY ADV.SRI.M.REVIKRISHNAN

W.A.Nos.1921, 2277, 2381
& 2382/2015 & 351, 382,
682 & 1083 of 2017

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BY ADV.SRI.SOJAN MICHEAL
BY ADV.SRI.SUNIL NAIR PALAKKAT

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&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.351 OF 2017

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.1383 OF 2014
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 AND 2 IN W.P.(C):

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE VIGILANCE
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 2 THE DIRECTOR
VIGILANCE & ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM - 695 001.

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER

RESPONDENTS/PETITIONER & 3RD RESPONDENT IN W.P.(C):

- 1 T.C. MATHEW
FORMER HONORARY SECRETARY, KERALA CRICKET ASSOCIATION,
K.C.A COMPLEX, T.C./131, SASTHAMKOVIL ROAD,
THYCAUD P.O., THIRUVANANTHAPURAM.
- 2 SRI.HARISH V
S/O.V.N. VASUDEVAN NAMBOODIRI, HARITHAM,
NEELESWARAM P.O., KASARAGOD - 671 314.

BY ADV.SRI.K.JAYAKUMAR (SR.)
BY ADV.SRI.K.N.ABHILASH
BY ADV.SRI.AHAMMAD SAHEER

W.A.Nos.1921, 2277, 2381
& 2382/2015 & 351, 382,
682 & 1083 of 2017

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2025:KER:81601

BY ADV.SMT.K.AASHA
BY ADV.SRI.BABU THOMAS (PAZHAYATHOTTATHIL)
BY ADV.SRI.SUNIL NAIR PALAKKAT
BY ADV.SMT.N.K.SHEEBA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
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THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.382 OF 2017

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.11822 OF 2013
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 2 & 3 IN W.P.(C):

- 1 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE & ANTI CORRUPTION BUREAU,
ERNAKULAM UNIT - 682 017.

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER

RESPONDENTS/PETITIONERS & RESPONDENTS 1 AND 4 IN W.P.(C):

- 1 KARTHIKEYA VARMA @ KARTIK VARMA
S/O.N.U.RAMA VARMA THAMPURAN, D4, KAILAS APARTMENTS,
N.F.GATE, TRIPUNITHURA, ERNAKULAM DISTRICT.
- 2 THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE MINISTRY OF
LAW & JUSTICE OF THE UNION OF INDIA, NEW DELHI-110 011.
- 3 JOY KAITHARATH
S/O.ANTONY, GENERAL SECRETARY, STATE HUMAN RIGHTS
PROTECTION CENTRE, THRISSUR, REG.NO.389/2003,
VELLIKULANGARA, THRISSUR - 680 699.



2025:KER:81601

BY ADV.SRI.K.JAYAKUMAR (SR.)
BY ADV.SRI.K.N.ABHILASH
BY ADV.SRI.T.B.HOOD
BY ADV.SMT.M.ISHA
BY SMT.O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA
BY SRI.C.DINESH, CENTRAL GOVERNMENT COUNSEL

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FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.682 OF 2017

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.15389 OF 2014
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 AND 2 IN W.P.(C):

- 1 THE DIRECTOR
VIGILANCE & ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM - 695001
- 2 THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE & ANIT CORRUPTION BUREAU,
ERNAKULAM UNIT - 682017.

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER

RESPONDENTS/PETITIONER & 3RD RESPONDENT IN W.P.(C):

- 1 JAYESH GEORGE M.
S/O.LATE. M.V.GEORGE, MANICKANAMPARAMBIL,
SRM ROAD, ERNAKULAM.
- 2 JOY KAITHARATH
S/O.ANTONY, GENERAL SECRETARY, STATE HUMAN RIGHTS
PROTECTION CENTRE, THRISSUR, REG.NO.389/2003,
VELLIKULANGARA, THRISSUR. 680699.

BY ADV.SRI.K.JAYAKUMAR (SR.)

W.A.Nos.1921, 2277, 2381
& 2382/2015 & 351, 382,
682 & 1083 of 2017

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2025:KER:81601

BY ADV.SRI.K.N.ABHILASH
BY ADV.SRI.NAVANEETH D.PAI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
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CASES, THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:



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FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

W.A.NO.1083 OF 2017

AGAINST THE JUDGMENT DATED 15.07.2015 IN W.P(C).NO.20071 OF 2013
OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 & 2 IN W.P. (C)

- 1 THE DIRECTOR, VIGILANCE & ANTI CORRUPTION BUREAU
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM - 695001
- 2 THE DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE & ANTI CORRUPTION BUREAU,
ERNAKULAM UNIT - 682 017

BY SRI.A.RAJESH, SPECIAL GOVERNMENT PLEADER (VIGILANCE)
BY SMT.S.REKHA, SENIOR GOVERNMENT PLEADER

RESPONDENTS/PETITIONER & 3RD RESPONDENT IN W.P. (C) :

- 1 T.N.ANANTHA NARAYANAN
S/O.T.V.NATARAJAN, 6/1781, H.K DADA BUILDING,
PALACE ROAD, MATTANCHERRY, KOCHI-682 002
- 2 JOY KAITHARATH
S/O.ANTONY, GENERAL SECRETARY,
STATE HUMAN RIGHTS PROTECTION CENTRE, THRISSUR,
REG.NO.389/2003, VELLIKULANGARA, THRISSUR - 680 699.

BY ADV.SRI.K.JAYAKUMAR (SR.)



2025:KER:81601

BY ADV.SRI.K.N.ABHILASH
BY ADV.SRI.SUNIL PALAKKAT
BY ADV.SRI.ABRAHAM GEORGE JACOB

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
30.10.2025 ALONG WITH W.A.NO.1921/2015 AND CONNECTED
CASES, THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:



2025 : KER : 81601

"C.R."

J U D G M E N T

Dr. A.K. Jayasankaran Nambiar, J.

The vexed question that we are called upon to answer in these writ appeals is, whether the office bearers of the Kerala Cricket Association, a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, affiliated to, and functioning under the administrative control of, the Board for Control of Cricket in India [BCCI], can be treated as "public servants" for the purposes of the Prevention of Corruption Act, 1988 ?

The Background:

2. The Prevention of Corruption Act, 1988 [hereinafter referred to as the "PC Act"] is a social welfare legislation that was enacted with the aim of removing corruption from public service. At the time of its enactment, it replaced the earlier legislative regime constituted by the provisions of the Prevention of Corruption Act, 1947, as supplemented by the since omitted Sections 161 to 165(a) of the Indian Penal Code [hereinafter referred to as the "IPC"], and was envisaged to be a complete code in relation to tackling of corruption in public service.



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3. Section 2(c) of the PC Act defines a “public servant” to mean, *inter alia*, “any person who holds an office by virtue of which he is authorised or required to perform a public duty” [Section 2(c)(viii)] as also “any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority” [Section 2(c)(xii)]. Explanations 1 and 2 to Section 2(c) are also relevant and they read as under:

Explanation 1- Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2- Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

“Public duty” is defined in Section 2(b) of the PC Act as meaning “a duty in the discharge of which the State, the public or the community at large has an interest.” An Explanation to the said sub-section clarifies that the term “State” includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in Section 617 of the Companies Act, 1956.

4. It would appear that complaints were filed by certain persons before the Courts of the Enquiry Commissioner & Special Judge at



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Thrissur and Kottayam alleging corruption by the office bearers of the Kerala Cricket Association in the purchase of land in Edakochi at Ernakulam and Manakkad Village in Thodupuzha Taluk for constructing cricket stadiums of International Standards. When the courts aforementioned directed a preliminary enquiry to be conducted in the matters before them, the accused office bearers of the Kerala Cricket Association impugned the orders of the Special Courts before this Court through writ petitions that *inter alia* sought for a declaration that the petitioners office bearers of the Kerala Cricket Association would not come within the purview of the PC Act, 1988 and a consequent writ of *certiorari* to quash the orders passed by the Special Courts.

The impugned judgment:

5. The learned Single Judge, by the judgment impugned in these appeals, allowed the writ petitions and found that the office bearers of the Kerala Cricket Association would not be covered by the definition of 'public servant' under the PC Act, 1988. He drew a distinction between public and private functions, based on a Hohfeldian analysis of the concepts of power, liability, duty and right. He reasoned that in the discharge of both public and private functions there is an inevitable exercise of power by one actor that corresponds to a liability borne by the person exposed to the exercise of the power. The former holds the power to control, reduce and expand the entitlement of the latter who are exposed to the exercise of such power. However, a duty to exercise



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that power (public duty) can be read into only in such situations where a right enuring to another person under the positive laws or valid executive directions of a State, obliges the person holding the power to exercise it in favour of the right-holder. In other words, 'A' who holds the power to control, reduce or expand the entitlement of 'B' can be said to be discharging a public duty in relation to 'B' only if a right conferred on 'B' by the positive laws or valid executive directions of the State obliges 'A' to exercise the power held by him. The learned Judge went on to find that 'public duty' under the PC Act, while referring to a duty in the discharge of which the State, public or the community at large have an interest, must nevertheless be a duty that a public servant must be under a positive command of the law to discharge. Axiomatically, if a body or corporation exercised a State function, without obligation under the existing laws, it would tantamount merely to the exercise of a State function and would not be a discharge of public duty. The learned Judge therefore found that the Kerala Cricket Association was not exercising a public duty within the meaning of the term under the PC Act. The aforesaid reasoning of the learned Judge can be found at paragraphs 42 to 46 of the impugned judgment and read as follows:

"42. Law making is a sovereign power and a State function. It denotes "power" vested with the State to regulate men under juridical laws. Wesley N. Hohfeld a renowned author of "Fundamental Legal Conceptions as Applied in Judicial Reasoning" classifies that jural correlative of 'power' is 'liability'. Thus, someone who holds the power



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can control, reduce and expand the entitlement of the men upon whom the power is imposed. The men bears 'liability' and exposed to exercise of such power. In a Constitutionally governed State, ordinarily, this power to make law, derives from the Constitution. However, due to expansion of State activities, as seen from the judgments afore-noted, certain activities of the private body or Corporation are also capable to control reduce or expand the entitlements. These exercises of power could be classified as a sovereign or State function.

43. On the other hand, 'public duty' refers to a correlative 'public right' based on the jural correlatives as legal position, expounded by Wesley N. Hohfeld. In the context of governance or discharge of Governmental function, the 'public right' is synonymous with 'legal obligation'. The public duty thus, is a public function or a legal obligation discharged by a public servant under the command of public right. These public rights necessarily, presuppose existence of positive law of the State or valid Governmental directions. The "public right" or "legal obligation" cannot exist in vacuum, the "right" or "legal obligation" must be relatable to law or an authorised function by the Government. Thus, public duty discharged by a public servant is based on the positive law of the State or valid executive directions.

44. In every discharge of public duty, there is an element of sovereign function, State function or public function. However, in discharge of sovereign or State function, none could assign that there is a public duty being discharged in that function. This denotes exercise of "power". Legislature, collectively discharges sovereign or State function. A Member of Parliament or a Member of a Legislative Assembly individually discharges a public duty individually, as his activity is accountable under the ordinary law. Legislative exercise cannot be considered as a public duty. On the other hand, it can be treated only as an exercise of power.

45. It is on an analysis of the above legal concepts that the provisions under the PC Act have to be adverted. Thus, public duty under the PC Act refers to discharge of duty in relation to State, public or community at larger interest. Thus, a public servant must be under the positive command under the law to discharge such a duty. If a body or Corporation exercises a State function, without obligation under the existing laws, it is only an exercise of State function and cannot be treated as a discharge of public duty.

46. In the construction of the stadium to hold cricket matches to be viewed by public, no doubt the community at large has interest. By the construction of the stadium, the KCA controls and regulates, entitlement of men to the extent of rules and regulations laid down by them for admission in the stadium. The stadium is being constructed for the public; the activities are controlled by KCA; no doubt, the construction has to be styled as a State function or a public function. If the stadium is constructed based on any positive laws or under the direction of the Government, certainly that function would come within the ambit of public duty. However, if the stadium is not constructed under an existing legal obligation or by Governmental direction, that State function cannot be treated as a public duty."



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The arguments before us:

6. In the writ appeals before us, preferred by the State of Kerala and the *de facto* complainants, the main contention urged is with regard to the reasoning adopted by the learned Single Judge while coming to the conclusion that the office bearers of the Kerala Cricket Association are not public servants within the meaning of the phrase under the PC Act. They point out that the distinction drawn by the learned Single Judge between a public duty mandated by the positive law or executive instructions of the State and a public duty that is not, was wholly irrelevant in the context of the PC Act that did not make a distinction between various forms of public duty and was enacted with the avowed object of removing corruption from public service. Reliance is placed on the judgments in **State of Gujarat v. Mansukhbhai Kanjibhai Shah - [(2020) 20 SCC 360]**; **Aman Bhatia v. State (GNCT of Delhi) - [2025 SCC OnLine SC 1013]**; **Board of Control for Cricket in India v. Cricket Association of Bihar & Ors. - [(2015) 3 SCC 251]**; **Zee Telefilms Ltd & Anr. v. Union of India & Ors. - [(2005) 4 SCC 649]**; **Sukhdev & Ors v. Bhagatram Sardar Singh Raghuvanshi & Anr. - [(1975) 1 SCC 421]**.

7. Per contra, the respondent writ petitioners would support the findings of the learned Single Judge in the impugned judgment and contend that the writ appeals lack merit and are only to be dismissed.



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They also point out that the definition of 'public duty' under the PC act is vague and hence cannot be the basis for fastening a penal liability on persons under the PC Act. They rely on the decisions in **Kartar Singh v. State of Punjab - [(1994) 3 SCC 569]**; **Tolaram Relumal v. State of Bombay - [(1954) 1 SCC 961]**; **Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjayya - [(1990) 4 SCC 76]**; **State of Andhra Pradesh v. Vengu Reddy - [(2002) 7 SCC 631]** and **Pannyan Raveendran v. Shamnad - [2023 (3) KHC 124]** in support of the said contention. Alternatively, they would contend that, even if it is found that the office bearers of the Kerala Cricket Association can be "public servants" for the purposes of the PC Act, the proceedings initiated against them would nevertheless have to be quashed since the averments in the complaints before the Special Courts did not make out an offence against them. It is pointed out that the learned Single Judge did not go into this aspect only because he had found the proceedings to be vitiated on the ground that the writ petitioners were not public servants within the meaning of the term under the PC Act.

8. We have heard Sri.S.Sreekumar, the learned senior counsel, Sri.Martin Jose, Sri.John K. George and Sri.T.T.Muhamood, the learned counsel for the appellants, Sri.T.B.Hood and Sri.K.N.Abhilash, the learned counsel for the respondent Cricket Association, Sri.A.Rajesh, the learned Special Government Pleader (Vigilance) and Smt.S.Rekha,



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the learned senior Government Pleader for the respondent State and Sri.C.Dinesh, the learned Central Government Counsel for the respondent Union of India. We have also meticulously perused the pleadings, the impugned judgment and the precedents cited before us by the learned counsel.

Discussion and Findings:

9. In his foreword to the United Nations Convention Against Corruption that was adopted by the UN General Assembly in October, 2003, the then UN Secretary-General Kofi A Annan, described corruption as an insidious plague that has a wide range of corrosive effects on societies; that it undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organised crime, terrorism and other threats to human security to flourish. India ratified the said Convention and thereafter, the PC Act was amended in 2018 with a view to bringing the Act in line with current international practices and to meet more effectively the country's obligations under the aforesaid Convention. As it stands today, the object of the PC Act is not only to prevent the social evil of bribery and corruption, but also to make the same applicable to individuals who might conventionally not be considered as public servants. The purpose under the PC Act is to shift focus from those who traditionally answered to the description of public officials to even individuals who perform public duties **[See: State of Gujarat v.**



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Mansukhbhai Kanjibhai Shah - [(2020) 20 SCC 360]; Aman Bhatia v. State (GNCT of Delhi) - [2025 SCC OnLine SC 1013]].

10. The Kerala Cricket Association being a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, affiliated to, and functioning under the administrative control of, the Board for Control of Cricket in India [BCCI], has aims and objects similar to that of the BCCI and accordingly functions to instill, promote and propagate interest in cricket among the people; to popularise, regulate and control cricket in the State; to participate in, conduct and regulate matches and tournaments; to arrange for coaching of players; to train and maintain a panel of umpires; to organise and affiliate District Cricket Associations; and to resort to all such measures and do all such acts as are conducive to the furtherance of Cricket. In **Board of Control for Cricket in India v. Cricket Association of Bihar & Ors. - [(2015) 3 SCC 251]** the Supreme Court found that although the BCCI would not answer to the description of "State" within the meaning of that term under Article 12 of the Constitution of India, it would nevertheless be amenable to the writ jurisdiction under Article 226 thereof, on account of the public duties discharged by it that included controlling the activities of players and others involved in the game of cricket. Referring to its own earlier judgment in **Zee Telefilms Ltd & Anr. v. Union of India & Ors. -**



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[(2005) 4 SCC 649], the Court found as follows at para 30 of its judgment:

“30. The majority view thus favours the view that BCCI is amenable to the writ jurisdiction of the High Court under Art.226 even when it is not 'State' within the meaning of Art.12. The rationale underlying that view if we may say with utmost respect lies in the "nature of duties and functions" which the BCCI performs. It is common ground that the respondent - Board has a complete sway over the game of cricket in this country. It regulates and controls the game to the exclusion of all others. It formulates rules, regulations norms and standards covering all aspect of the game. It enjoys the power of choosing the members of the national team and the umpires. It exercises the power of disqualifying players which may at times put an end to the sporting career of a person. It spends crores of rupees on building and maintaining infrastructure like stadia, running of cricket academies and Supporting State Associations. It frames pension schemes and incurs expenditure on coaches, trainers etc. It sells broadcast and telecast rights and collects admission fee to venues where the matches are played. All these activities are undertaken with the tacit concurrence of the State Government and the Government of India who are not only fully aware but supportive of the activities of the Board. The State has not chosen to bring any law or taken any other step that would either deprive or dilute the Board's monopoly in the field of cricket. On the contrary, the Government of India have allowed the Board to select the national team which is then recognized by all concerned and applauded by the entire nation including at times by the highest of the dignitaries when they win tournaments and bring laurels home. Those distinguishing themselves in the international arena are conferred highest civilian awards like the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri apart from sporting awards instituted by the Government. Such is the passion for this game in this country that cricketers are seen as icons by youngsters, middle aged and the old alike. Any organization or entity that has such pervasive control over the game and its affairs and such powers as can make dreams end up in smoke or come true cannot be said to be undertaking any private activity. The functions of the Board are clearly public functions, which, till such time the State intervenes to takeover the same, remain in the nature of public functions, no matter discharged by a society registered under the Registration of Societies Act. Suffice it to say that if the Government not only allows an autonomous/private body to discharge functions which it could in law takeover or regulate but even lends its assistance to such a non-government body to undertake such functions which by their very nature are public functions, it cannot be said that the functions are not public functions or that the entity discharging the same is not answerable on the standards generally applicable to judicial review of State action. Our answer to question No.1, therefore, is in the negative, qua, the first part and affirmative qua the second. BCCI may not be State under Art.12 of the Constitution but is certainly amenable to writ jurisdiction under Art.226 of the Constitution of India.”
(emphasis supplied)



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11. Following the same line of reasoning and taking note of its affiliation with the BCCI and the similarity in the aims and objectives pursued by it, we see no reason to think that the Kerala Cricket Association would not be amenable to the writ jurisdiction of this Court under Article 226 of the Constitution of India.

12. The question then arises as to whether a public duty discharged by the Kerala Cricket Association, which is subject to constitutional limitations and must withstand a scrutiny in judicial review proceedings under Article 226 of the Constitution of India, ought to be excluded from a scrutiny under the PC Act ? As already noticed, the learned Single Judge in the impugned judgment opined that it should, based on the distinction drawn between a public duty mandated by the positive law or executive instructions of the State and a similar public duty discharged by a private body without the mandate of the positive law of the State.

13. We might observe in this connection that the distinction drawn in **Zee Telefilms Ltd (supra)**, and accepted in **BCCI (supra)**, between public duties that are in the nature of State functions and other public duties, was in the context of determining whether or not the entity discharging such functions answered to the description of "State" within the meaning of that term under Article 12 of the



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Constitution of India. The definition of “State” under Article 12 takes in not only the Central and State Governments and the Union Territories but also other 'instrumentalities of the State', and it was to distinguish between the State, as understood in the traditional sense of the term, and other bodies discharging public duties that the distinction was drawn. This is clear from a reading of the judgment in **Zee Telefilms Ltd (supra)**, where while repelling the argument that the BCCI was discharging public duties which are in the nature of State functions and would therefore answer to the description of “State” under Article 12, the Supreme Court found as follows at paragraph 29 of its judgment:

"29. It was then argued that the Board discharges public duties which are in the nature of State functions. Elaborating on this argument it was pointed out that the Board selects a team to represent India in international matches. The Board makes rules that govern the activities of the cricket players, umpires and other persons involved in the activities of cricket. These, according to the petitioner, are all in the nature of State functions and an entity which discharges such functions can only be an instrumentality of State, therefore, the Board falls within the definition of State for the purpose of Art.12. Assuming that the abovementioned functions of the Board do amount to public duties or State functions, the question for our consideration is: would this be sufficient to hold the Board to be a State for the purpose of Art.12? While considering this aspect of the argument of the petitioner, it should be borne in mind that the State / Union has not chosen the Board to perform these duties nor has it legally authorised the Board to carry out these functions under any law or agreement. It has chosen to leave the activities of cricket to be controlled by private bodies out of such bodies' own volition (self arrogated). In such circumstances when the actions of the Board are not actions as an authorised representative of the State, can it be said that the Board is discharging State functions ? The answer should be no. In the absence of any authorisation, if a private body chooses to discharge any such function which is not prohibited by law then it would be incorrect to hold that such action of the body would make it an instrumentality of the State. The Union of India has tried to make out a case that the Board discharges these functions because of the de facto recognition granted by it to the Board under the guidelines framed by it, but the Board has denied the same. In this regard we must hold that the Union of India has failed to prove that there is any recognition by the Union of India under the guidelines framed by it, and that the Board is discharging these functions on its



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own as an autonomous body.” (*emphasis supplied*)

14. Thus, the distinction drawn by the learned Single Judge in the impugned judgment was relevant only in the context of a determination as to whether the body discharging public duty was a ‘State’ or ‘other instrumentality’ for the purposes of Article 12 of the Constitution of India. The said distinction can have no relevance to an interpretation of the terms ‘public duty’ and ‘public servant’ under the PC Act.

15. We are of the view that, given the aims and objectives of the PC Act, that has been amended in 2018 with a view to bringing the Act in line with current international practices and to meet more effectively the country’s obligations under the United Nations Convention Against Corruption, the concept of public duty envisaged thereunder cannot be understood save against the backdrop of the public accountability of public servants that it seeks to achieve. While it may be that the original idea of public duty was merely a duty to obey the law of the land, the concept has since evolved into a duty to serve the public under the law. Public accountability is the constitutional instrument by which that transformation became real, ensuring that all public power remains a trust exercised on behalf of the people. In a democratic republic such as ours, governed by the rule of law, one cannot conceive



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of the discharge of a public duty without a corresponding obligation to act responsibly by keeping the interests of the general public in mind. It was in this vein that Mathew, J. in **Sukhdev & Ors v. Bhagatram Sardar Singh Raghuvanshi & Anr. - [(1975) 1 SCC 421]** famously observed that the governing power wherever situated must be subject to constitutional limitations. Over the years, this idea has only been reinforced in our constitutional jurisprudence through the shift to a culture of justification where citizens are now seen entitled to seek justification for state action instead of merely looking to whether the action complained of was taken by a person who had the legal authority to act. Conceptually, public duty is now seen as a constitutional trust reposed in all holders of public power and it is through the discipline of public accountability that the exercise of public power retains its legitimacy. If that public duty can be tested for its accountability and legitimacy in judicial proceedings under Article 226 of the Constitution of India, as settled through the decisions in **Zee Telefilms Ltd (supra)** and **BCCI (supra)** then surely that duty should also adhere to the standards prescribed under the PC Act. To assume otherwise would be an affront to the concept of good governance that is an integral aspect of the rule of law which, in turn, is recognised as a basic feature of our Constitution.

16. We might also notice in this connection that in an earlier



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round of litigation, when the Special Judge (Vigilance), Thrissur had returned a similar complaint preferred against the office bearers of the Kerala Cricket Association by finding that they would not be 'public servants' under the PC Act, a Single Judge of this Court vide judgment dated 26.10.2010 in Crl.M.C.No.2726 of 2009 set aside the impugned order of the Special Judge (Vigilance) after finding that the office bearers of the Kerala Cricket Association would be 'public servants' for the purposes of the PC Act and remitted the matter to the Special Court for consideration on the merits of the complaint. We are told that the SLP preferred against the said judgment in Crl.M.C.No.2726 of 2009 was dismissed by the Supreme Court. The above developments also serve to fortify our finding that the office bearers of the Kerala Cricket Association would be 'public servants' within the meaning of the term under Section 2(c)(viii) of the PC Act, 1988 in relation to the public duties discharged by them.

17. While the above findings would have sufficed to dispose these writ appeals, the learned counsel for the respondent writ petitioners have urged us to consider their alternate plea in the writ petitions as regards quashing of the proceedings before the Special Court, including the FIR's filed therein, on the ground that the allegations in the complaint do not make out an offence under the PC Act. We are afraid the said contention does not appeal to us since on a perusal of the complaints that have been produced as Exhibits in the



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writ petitions, there are clear averments to the effect that the respondent writ petitioners are public servants; that the Association of which they are office bearers was receiving financial assistance from the State Government; that the Association was engaged in the discharge of duties in connection with the promotion of Cricket that have been recognised as public duties by various judgments of the High Court and the Supreme Court; and that the writ petitioners have obtained undue pecuniary advantages through their activities in connection with the purchase of land for purported construction of a cricket stadium. The said averments, if proved, definitely make out an offence under the PC Act. We therefore do not see any reason to exercise our discretion to quash the proceedings before the Special Courts.

18. We are also not persuaded to accept the contention of the petitioners and hold that the definition of 'public duty' under the PC Act is either vague or uncertain. The definition of the phrase under the Act is quite clear albeit couched in wide terms. The scope and ambit of the definition is one that a court must consider when called upon to determine the applicability of the provisions of the Act to particular factual situations. We do not find any inherent ambiguity in the phrase as defined under the PC Act that would lead us to strike down the statutory provision itself as vague or uncertain.



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The upshot of the above discussions is that we allow these writ appeals by setting aside the impugned judgment of the learned Single Judge and dismissing the writ petitions as devoid of merit.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
JOBIN SEBASTIAN
JUDGE

prp/