



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

FRIDAY, THE 25<sup>TH</sup> DAY OF AUGUST 2023 / 3RD BHADRA, 1945

W.P.(C) NO. 35061 OF 2018

PETITIONERS:

- 1 SURESH KUMAR, AGED 40 YEARS, S/O LATE  
JANARDANAN NAIR THUNDATHIL HOUSE, THULAPPILLI  
POST, NARANAMTHODU, PAMPA, PATHANAMTHITTA  
DISTRICT, PIN-686510.
- 2 ANOJKUMAR, AGED 47 YEARS, S/O.VASUDEVAN NAIR,  
ANOJ NIVAS, MANDIRAM POST, RANNI,  
PATHANAMTHITTA DISTRICT, PIN-689672 (CHAIRMAN,  
'SABARIMALA ACHARA SAMRAKSHANA SAMITHI',  
PATHANAMTHITTA) .

BY ADVS .

T.M.RAMAN KARTHA

SRI.RAJESH CHAKYAT

SRI.JAIRAM.V.MENON

SRI.M.VIVEK

SRI.R.VINU RAJ

SRI.ASHOK SURESH

SRI.MANSOOR.B.H.

SRI.R.SUDHEER

SUSHEEL MENON

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE SECRETARY  
DEPARTMENT OF HOME, GOVT OF KERALA,  
GOVT.SECRETARIAT, THIRUVANATHAPURAM-695001.
- 2 DIRECTOR GENERAL OF POLICE, STATE POLICE CHIEF,  
POLICE HEADQUARTERS, THIRUVANANTHAPURAM-695010.



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- 3        ADDITIONAL DIRECTOR GENERAL OF POLICE,  
          SOUTH ZONE, POLICE HEADQUARTERS,  
          THIRUVANANTHAPURAM-695010.
- 4        INSPECTOR GENERAL OF POLICE, TRIVANDRUM RANGE,  
          POLICE HEADQUARTERS, THIRUVANANTHAPURAM-695010.
- 5        DISTRICT POLICE CHIEF, PATHANAMTHITTA, PIN-  
          689645.
- 6        DEPUTY SUPERINTENDANT OF POLICE, THIRUVALLA,  
          PIN-689101.
- 7        DEPUTY SUPERINTENDANT OF POLICE,  
          PATHANAMTHITTA, PIN-689645.
- 8        STATION HOUSE OFFICER, PAMPA, PIN-689662.
- 9        STATION HOUSE OFFICER, RANNY, PIN-689672.

BY ADVS.

SRI.N.MANOJ KUMAR, STATE ATTORNEY

SRI.S. RAJMOHAN, SENIOR GOVT.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR FINAL HEARING ON 06.06.2023, ALONG WITH WP(C).35361/2018, THE COURT ON 25.08.2023 DELIVERED THE FOLLOWING:



W.P.(C) Nos.35061 and 35361 of 2018

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

FRIDAY, THE 25<sup>TH</sup> DAY OF AUGUST 2023 / 3RD BHADRA, 1945

W.P.(C) NO. 35361 OF 2018

PETITIONER:

P. PREMCHAND, AGED 44 YEARS, S/O  
V.PARAMESWARAN, CHIRAMBIL HOUSE, VELLOORKUNNAM,  
MARKET P.O., MUVATTUPUZHA - 686673.

BY ADV K.ARJUN VENUGOPAL

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY TO  
GOVERNMENT, DEPARTMENT OF DEVASWOM, GOVERNMENT  
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 2 TRAVANCORE DEVASWOM BOARD, REPRESENTED BY ITS  
SECRETARY, NANTHANCOD, KAWDIAR  
POST, THIRUVANANTHAPURAM, KERALA-695 003.
- 3 PRESIDENT, TRAVANCORE DEVASWOM  
BOARD, NANTHANCOD, KAWDIAR  
POST, THIRUVANANTHAPURAM, KERALA-695 003.
- 4 DEVASWOM OMBUDSMAN, TRAVANCORE DEVASWOM  
BOARD, NANTHANCOD, KAWDIAR  
POST, THIRUVANANTHAPURAM, KERALA-695 003.
- 5 COMMUNIST PARTY OF INDIA (MARXISTS), AKG  
CENTRE, A RAGHAVAN ROAD, THIRUVANANTHAPURAM-695  
034, KERALA.

BY ADVS.

R1 BY SRI.S.RAJMOHAN, SR.GOVERNMENT PLEADER.

R2 TO R4 BY SRI.G.BIJU, SC, TDB



W.P.(C) Nos.35061 and 35361 of 2018

**OTHER PRESENT:**

**SRI.N.MANOJ KUMAR, STATE ATTORNEY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR FINAL HEARING ON 06.06.2023, ALONG WITH WP(C).35061/2018, THE COURT ON 25.08.2023 DELIVERED THE FOLLOWING:**



W.P.(C) Nos.35061 and 35361 of 2018

### **JUDGMENT**

P.G.Ajithkumar, J.

W.P.(C) No.35061 of 2018:- The 1<sup>st</sup> petitioner runs a Tea-stall near Nilakkal Shiva Temple. The 2<sup>nd</sup> petitioner runs a Jenaseva Kendra at Ranni. He is the Chairman of the Sabarimala Achara Samrakshana Samithi. Following the decision of the Apex Court in **Indian Young Lawyers Association v. State of Kerala and others [(2019) 11 SCC 1]** there was a conscious attempt to take women of age group between 10 to 50 years to Sabarimala. Several review petitions were filed against the said order before the Apex Court contending that the permission given for the entry of women of that age group is against the customary and traditional practices in Sabarimala Temple. Protesting the attempt to allow entry at Sabarimala to women of that age group, protests were held by various groups at Nilakkal. The petitioners along with others on the auspices of Sabarimala Achara Samrakshana Samithi also held protest peacefully at Nilakkal by erecting a shed. But the police personnel without



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any reason and provocation tried to forcibly disburse the protestors. Even though there was no violence on the part of the protestors, the District Collector issued an order under Section 144 of the Code of Criminal Procedure, 1973. Several criminal cases were registered by the police against protestors. But, the petitioners were not involved in commission of any offence. However, photographs were published by the police authorities stating to be the photographs of the persons committed offences. The petitioners apprehend arrest in connection with the said crime although they have not been involved in any such activities. Further, the police personnel indulge in vandalising the vehicles parked on the roadside and such other illegal acts. In such circumstances, the petitioners filed the Writ Petition seeking the following reliefs,-

- (i) Issue a writ of prohibition or an order in its nature, prohibiting respondents 2 to 9 from arresting or harassing the petitioners or any other devotees without registering crimes and for the sole reason that their photographs are included in Ext. P2;
- (ii) Direct the respondents to make a report to this Hon'ble



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Court regarding the basis of arrest and detention of devotees without registering any crime against them and without following the procedure for arrest established under Section 41 of the Criminal Procedure Code as explained in **Arnesh Kumar v. State of Bihar & another [(2014) 8 SCC 273]**; and

- (iii) Issue a writ of prohibition or an order in its nature, prohibiting respondents 1 to 9 from interfering with, obstructing or preventing the petitioners and similarly situated devotees of Lord Ayyappa from conducting "Nama Japa Yajnam" etc, in exercise of their rights under Article 19(1)(a) and 25 of the Constitution of India."

2. W.P.(C) No.35361 of 2018:- The petitioner claims to be devotees of Lord Ayyappa of Sabarimala Temple. Following the judgment dated 28.09.2018 of the Apex Court in **Indian Young Lawyers Association (2019) 11 SCC 1]** there was a conscious attempt to take women of age group between 10 to 50 years to Sabarimala. Since review petitions were filed before the Apex Court pointing out that entry of women of that age group is against the customary and traditional practices in Sabarimala Temple. But there were attempts to ensure entry of women of such age group to Sabarimala which was unacceptable to the devotees of Lord



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Ayyappa. Therefore, there were protests. The Temple was to open on 17.03.2018 in connection with monthly pooja. Women having dubious backgrounds attempted to enter Sabarimala with the consent and connivance of the police personnel. Several organisations started agitation at Nilakkal against such attempts. The police without any provocation tried to forcibly disburse the protestors. The police tried to assault protestors even using weapons. The media started reporting the violence perpetrated by the police on the protestors. In one of such news items, it was seen that the policemen were stealing the helmets of devotees and in another the police were causing damage to the motorcycles parked on the road side. During that time the District administration issued ban orders under Section 144 of the Code of Criminal Procedure although there was no violence from the part of the agitators. Many of the police personnel, who were perpetrating violence on the devotees were not wearing name plates, exhibiting their names. Police personnel without wearing uniform also indulged in committing violence against the





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devotees. Several criminal cases were registered against the persons who held agitation in a peaceful manner and without identifying them. A lookout notice exhibiting photographs of many persons who did not involve in any such objectionable act were published; one among which is the photograph of a policeman. Political leaders, particularly from the Communist Party of India (Marxist) issued several public statements denouncing the Hindu faith and favouring entry of women of age between 10 to 50 years to Sabarimala. Statements given by various leaders of that party had ignited the religious feelings, resulting in more protests. The police initiated false cases and arrested the protestors. On 28.10.2018 alone, 3345 devotees were arrested. Out of them 122 devotees were remanded to judicial custody. 517 cases were registered. Many arrestees were tortured by the police. It was in the said circumstances, this Writ Petition was constrained to be filed.

The reliefs claimed in the writ petitions are the following:-

- (i) Issue a writ of mandamus or any other writ, order or direction directing the 4<sup>th</sup> respondent to enquire into the violence committed upon devotees of Sabarimala Temple



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and submit report before this Hon'ble Court;

- (ii) Issue a writ of mandamus or any other writ, order or direction directing the 1<sup>st</sup> respondent to initiate appropriate action against those responsible for violence against devotees and damaging vehicles of devotees of Sabarimala Temple.”

3. The learned Senior Government Pleader took notice for the respondents in W.P.(C) No.35061 and respondent No.1 in W.P.(C) No.35361 of 2018. The learned Standing Counsel for Travancore Devaswom took notice for respondent Nos.2 to 4 in W.P.(C) No.35061 of 2018. It was ordered that no notice need be sent to respondent No.5 in W.P.(C) No.35361 of 2018 for the time being.

4. After hearing the preliminary submissions at the Bar, this Court on 05.11.2018 issued the following direction;

“4. On going through some of the materials, particularly Ext.P5 produced in W.P.(C) No. 35061 of 2018, it is seen that a group of police officers are apparently acting in frenzy, charging against the two wheelers and autorikshaws parked on the side of road causing damage to those vehicles by 'lathi' and such other means. If it is true, this cannot be held as part of discharging their duty and appropriate action has to be taken, after



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conducting an enquiry. The learned State Attorney submits that the Police Chief has already identified an officer in the rank of I.G. to look into these aspects, to decide the further course of action.

5. The State Police Chief is directed to conduct a preliminary enquiry either himself or through an officer of his choice as above and file a report before this Court along with a list of the civil police officers who took part in the said operation as reflected from Ext.P5, for deciding the further course of action to be taken, if the version put forth by the petitioners is found correct.”

5. On 03.01.2019, when this matter came up for consideration this Court passed the following order in W.P.(C) No.35361 of 2018,-

“The learned counsel for the petitioner submits that the direction given by this Court as per interim order dated 05.11.2018 is still to be complied with in so far as no enquiry has been completed nor has the Police/Government given the list of police officers deployed for duty on the date on which the alleged atrocities were committed by them, causing damage to the parked vehicles.

2. Reference is made to Ext. P4 photographs where many of the persons in uniform are not seen wearing their 'name plates'. It is stated that as per the relevant provisions of law, Rules, Norms, Guidelines and orders,



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every Police Officer has to wear the name plate on his right chest. It is to be ascertained whether the persons who were not wearing the name plates were "trainees" or such others identified by the higher officials to conceal the identity and avoid the consequences. It is pointed that an affidavit is necessary to decide the further course of action against the said officers and also against the supervisory officers who identified the personnel and deployed them on duty."

6. In the meantime, the panel of Observers appointed by this Court in a batch of Writ Petitions, including these Writ Petitions, placed on record their report wherein the nature of the actions taken by the police to tackle with the protest by various organisation at Nilakkal have been stated and explained.

7. In W.P.(C) No.35061 of 2018 the petitioner filed I.A.No.1 of 2018 producing therewith Exts.P3 to P7. Exts.P3 to P5 are photographs and Ext.P6 is a video C.D. containing police violence said to have occurred at Nilakkal. In the light of the direction of this Court to the State Police Chief to conduct an enquiry in order to identify the police personnel, who allegedly had unleashed violence and done miscreant



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activities, the respondents have filed a petition, I.A.No.2 of 2018 to direct the petitioner to furnish true colour copies of Exts.P3 to P6, which the petitioners have obliged. In W.P.(C) No.35361 of 2018 the petitioners produced Ext.P15 along with I.A.No.3 of 2018 and Ext.P16 along with I.A.No.1 of 2019, which are copies of various Facebook posts and photographs.

8. Pursuant to the direction of this Court to the State Police Chief to have enquiry regarding the identity of the police personnel, who indulged in undesirable kind of violence on the devotees and also the persons who appeared without bearing name badges, an enquiry was conducted. The State Police Chief filed a formal affidavit and the Inspector General of Police, Ernakulam Range filed a detailed affidavit stating the nature of enquiry conducted and the outcome of such enquiry. The details are contained in paragraphs No.4, 5, 6, 12, 13 in the affidavit, which are extracted below:-

“4. It is submitted that, as stated in my affidavit dated 08.01.2019, the specific video clips of policemen damaging vehicles, which were provided by the second petitioner, were examined in detail. It is revealed in the



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enquiry, that a group of agitators, who came to the spot in two wheelers, parked their vehicles some distance off from the area of protest and then came and joined the mob. They then pelted stones at the Police and proceeded to cause damage to the vehicles of the Media, Police and other Government Departments. To prevent these illegal attacks and to protect the lives of the Pilgrims and the Media personnel, the Police declared the mob as an unlawful assembly and gave a proper warning to the mob to disperse. When the warning fell to deaf ears and the stone throw and attacks continued, the Police chased the protestors from the scene. The protestors ran in different directions and started pelting stones from all directions. Since Nilakkal has a totally hilly terrain, to contain the same, the Police party had to divide into various groups to chase the mob in different directions.

5. A small fringe group of Police men followed one set of agitators in the road leading to Laha and tried to disperse them. But the agitators ran to the area where the motorcycles were parked and started throwing stones at the Police. The Police party chased them and in the spur of the moment, during the time of dispersing the agitators, some of the police personnel (eight police personnel) pushed and hit a few two wheelers, as is seen in the video. It is evident from the photos and videos that the Senior Police officials



accompanying this particular team were trying their best to control the Police personnel. Whereas the huge majority of the Police personnel, who were part of the law and order maintenance process, had acted in a thoroughly professional and legal manner, upholding the rule of law, it was only a very miniscule minority who were seen to have been involved in the above-mentioned acts. Enquiry has further revealed that nobody has yet approached Police with any complaints of damages to two wheelers and it was not possible to identify the vehicles or the damages caused.

6. As stated above, on perusing the video and photographs, it is found that eight Police personnel, while dispersing the agitators, pushed the motorcycles parked on the road side and threw a helmet. The video collected from the second petitioner was sent to the Commandants of Kerala Armed Police (KAP) First (I) and Third (III) Battalions for identifying the police personnel.

12. As per Letter dated 28.03.2019, the State Police Chief directed the Commandants of the Battalions I and III of KAP to order Departmental Proceedings for imposing major penalty against the police personnel who were reported to have indulged in the aforementioned incident. A true photocopy of the Letter dated 28.03.2019 issued by the Assistant Inspector General of Police, for State Police Chief, to the Commandants (CMTs) of the First (I) and Third



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(III) Battalions of the Kerala Armed Police (KAP) is produced herewith and marked as **Exhibit R2(a)**.

13. As per Order No.H1-7924/2019/KAP-I dated 28.03.2019, the Commandant of the KAP First Battalion had appointed Assistant Commandant (QM) to be enquiry officer to conduct oral inquiry against the three police personnel from the said Battalion who were reportedly involved in the said incident. The Enquiry Officer has been directed to complete the inquiry and file a report in two months."

9. It has been explained in the affidavit that there was no purposeful laxity on the part of the police or any of its officers. However, the excesses on the part of eight police personnel were found in the enquiry and all of them were identified. Action against all of them was said to be in contemplation. The said affidavits were filed in W.P.(C) No.35061 of 2018 and adoptions memos were filed in the other Writ Petition. The petitioner in W.P.(C) No.35061 of 2018 had filed a reply-affidavit also.

10. Heard the petitioners in the respective Writ Petitions, the learned State Attorney and the learned Standing Counsel for the Travancore Devaswom Board.





11. The Apex Court in **Indian Young Lawyers Association [(2019) 11 SCC 1]** held that the ban imposed for the entry of women between 10 and 50 years to Sabarimala Temple is violative of the religious faith guaranteed to them under Article 25 of the Constitution of India. That paved the way for a demand by a few women of that age group to go to Sabarimala, which was objected to by various political and religious organisations, and other outfits saying that the same is against the long standing religious practice and will hurt the religious feelings of Lord Ayyappa at Sabarimala. Various organisations started agitation mainly at Nilakkal, where is the Base Camp of Sabarimala Temple.

12. The learned counsel appearing for the petitioners would submit that all the agitations took place at Nilakkal were so peaceful, but the Government and the political parties in power wanted to implement the order of the Apex Court by any means and that resulted in unleashing violence by the police against the protestors. On the basis of the allegation that the persons participated in the protest and agitation were



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indiscriminately tortured, arrested and implicated in false cases and that many a police personnel without wearing proper uniform and name badges, acted in frenzy and damaged so many two-wheelers, took off helmets, etc.

13. In the affidavit filed by the Inspector General of Police the details of cases registered and the circumstances in which many persons were to be arrested, have been stated. The petitioners' main allegation is that so many crimes were registered without any basis and persons participated in the agitations were arrested falsely. Although several photographs have been produced in these Writ Petitions, no details of registration of false cases and arrests without sufficient reason, and also the torture of persons arrested have been produced by the petitioners. It is a fact that there were arrests, use of force to disperse the crowd, registration of crimes and production of arrestees before the court. Those are parts of enforcement of law and order. All such incidents took place in 2018. There is an allegation that the police, while effecting such arrests, did not follow the procedure



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contained in Sections 41 and 41B of the Code of Criminal Procedure, 1973 and the guidelines issued by the Apex Court in **Arnesh Kumar v. State of Bihar and another [(2014) 8 SCC 273]**. The petitioners however did not produce any material to prove specific incidents of illegal arrest and torture of any devotee.

14. One of the reasons for filing these Writ Petitions is that the petitioners and others who participated in the incident would be illegally arrested and implicated in false cases. Now, five years have passed. After this length of time and when investigation in all crimes registered in connection with the incidents in question, obviously, would have been over, there is no basis for such an apprehension. In such circumstances, we are of the view that relief Nos.(i) and (iii) in W.P.(C) No.35061 of 2018 and relief No.(i) in W.P.(C) No.35361 of 2018 practically have become infructuous and the same do not deserve consideration. What remains is as to whether any police personnel indulged in illegal acts including perpetuating violence on the devotees and the police



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personnel who participated in the action at Nilakkal violated the rules and regulations in regard to wearing of uniform, name badge, etc.

15. The Inspector General of Police, Ernakulam Range, stated in his affidavit that eight police personnel were responsible for police excesses and all of them were identified. During the course of arguments, the learned State Attorney submitted that departmental actions were taken against all such erring police personnel. The learned State Attorney made available for our perusal the orders of the respective appointing authorities and also the appellate authorities in regard to the punishment imposed on the incumbents. After due disciplinary enquiry, punishments were imposed on the incumbents. In some cases the appellate authorities interfered and reduced or altered the nature of punishment.

16. The learned counsel appearing for the petitioner in W.P.(C) No.35361 of 2018 in the above context, invited our attention to Section 101 of Kerala Police Act, 2011 and submitted that there shall be a direction to initiate criminal



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proceedings against such persons. Section 101 of the Kerala Police Act envisages that a member of police force who is found guilty in a departmental enquiry, and subjected to penalty, can be prosecuted if the act in question amounts to an offence. That does not mean that in every case where an incumbent is found guilty in disciplinary proceedings shall be subjected to criminal prosecution. From the materials produced in these Writ Petitions we do not find that there shall be a direction to initiate prosecution steps against the persons against whom disciplinary actions were taken.

17. Similarly, the learned counsel appearing for the petitioner in W.P.(C) No.35361 of 2018 submitted that identity of guilty police personnel and the nature of punishment imposed on them are not made known to the petitioner, however, it is apparent that flea bite punishments alone were imposed on them. What the petitioner clamour thereby is that sufficiency of the penalty imposed on those police personnel shall be put to scrutiny by this Court. The High Court in the exercise of the powers under Article 226 of the Constitution of



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India is not expected to interfere with the disciplinary proceedings against a public servant, if the proceedings are in the nature of the public interest litigation. In both these Writ Petitions, the petitioners have not claimed that they were manhandled by the police or their properties were destroyed. Therefore, in the matter of alleged police violence they are espousing the grievance of others.

18. In **Ranjith Prasad v. Union of India and others [2000 (9) SCC 313]** the Apex Court held that in respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in the Apex Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" inquiry in which the employee is provided an opportunity of being heard as required by the



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Constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of the court.

19. In the said circumstances, we are of the view that no interference by this Court is required in the matter of disciplinary action taken against the erring police personnel who had involved in the police actions against the protestors at Nilakkal in respect of which these Writ Petitions are filed.

20. Clause (a) of Section 41B of the Code of Criminal Procedure deals with procedure for arrest and duties of officers making arrest. It reads-,

"Every police officer while making an arrest shall--

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;"

The Director General of Police, Kerala issued circular No.3 of 2011 in this regard. The circular contains a strict instruction



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that civil police officers and senior police officers on duty shall bear name plates showing their name in block capital letters in the first line and the designation in the second line.

21. From Ext.P4 produced in W.P.(C) No.35361 of 2018 and also other materials on record, it is seen that a few police personnel on duty did not wear name badges. When the rules and instructions insist that every member of the police force on duty shall wear a name plate, no such personnel can be allowed to disobey the direction. There is a purpose for such an instruction. If in a situation like this, a member of the law enforcing agency behaves errant and erratic his name plate will help to identify him.

22. In **Re:Destruction of Public and Private Properties v. State of A.P. [(2009) 5 SCC 212]**, the Apex Court held that,-

“20. There is thus no doubt that the High Courts in India exercising their jurisdiction under Article 226 have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the government or a public authority has failed to exercise or has wrongly exercised the discretion





conferred upon it by a statute or a rule or a policy decision of the government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case a High Court can, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the court may itself pass an order or give directions which the government or the public authority should have passed or given had it properly and lawfully exercised its discretion."

23. It is established that the provisions of Section 41B(a) of the Code of Criminal Procedure and the direction contained in circular No.3 of 2011 issued by the Director General of Police were violated by many police personnel who were on duty at Nilakkal during the relevant period. Hence, there shall be a direction to the State Police Chief not to repeat such dereliction in duty in future.



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24. These Writ Petitions are accordingly disposed of directing the State Police Chief, Kerala to ensure that the provisions under Section 41B(a) of the Code of Criminal Procedure and the directions contained in Circular No.3 of 2011 are scrupulously complied with by every police personnel and any violation in that regard is dealt with appropriately. The other reliefs claimed in these Writ Petitions are declined.

**Sd/-**

**ANIL K. NARENDRAN, JUDGE**

**Sd/-**

**P.G. AJITHKUMAR, JUDGE**

dkr

APPENDIX OF WP(C) 35361/2018

## PETITIONER EXHIBITS

- EXHIBIT P1            A TRUE COPY OF PRINT OUT OF A NEWS ARTICLE WITH PHOTOGRAPHS OF INJURED DEVOTEES STATING THAT THE NATIONAL HUMAN RIGHTS COMMISSION HAS SOUGHT A REPORT REGARDING THE VIOLENCE PUBLISHED ON THE WEBSITE OF JANAM TV A TELEVISION NEWS CHANNEL ON 25.1.2018
- EXHIBIT P2            TRUE COPY OF PRINTOUTS OF FRAMES OF THE VIDEO SHOWING POLICED DAMAGING VEHICLES OF DEVOTEES.
- EXHIBIT P3            TRUE COPY OF PRINTOUTS OF FRAMES OF THE VIDEO THAT CAPTURES A POLICE OFFICER WHILE STEALING THE HELMET FROM THE VEHICLE OF A DEVOTEE.
- EXHIBIT P4            TRUE COPY OF PRINT OUTS OF PHOTOGRAPHS WITH CAPTIONS DEPICTING POLICE OFFICER WITHOUT NAME PLATES ASSAULTING DEVOTEES PUBLISHED ON THE WEBSITE OF THE INDIA EXPRESS DAILY ON 18.01.2018
- EXHIBIT P5            A TRUE COPY PRINT OUT OF A NEWS ARTICLE PUBLISHED ON THE WEBSITE OF JANAM TV ON 18.01.2018 REGARDING TRAINEES BEING DEPUTED TO DISBURSE AND ARREST DEVOTEES.
- EXHIBIT P6            A TRUE COPY OF PRINT OUT OF AN ARTICLE PUBLISHED ON THE WEBSITE OF MANORAMA DAILY DATED 26.10.2018
- EXHIBIT P7            A TRUE COPY OF PRINT OUT OF AN ARTICLE PUBLISHED ON THE WEBSITE OF MANORAMA DAILY DATED 27.10.2018



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- EXHIBIT P8 A TRUE COPY OF PRINT OF AN ARTICLE PUBLISHED ON THE WEBSITE OF JANAM TV DATED 28.10.2018
- EXHIBIT P9 A TRUE COPY OF PRINT OUT THE SAID ARTICLE AUTHORED BY SRI.S RAMACHANDRAN PILLAI, PUBLISHED ON A WEBSITE NAME PEOPLES DEMOCRACY.
- EXHIBIT P10 A TRUE COPY OF FRAME FROM THE NEW TELECAST ABOUT THE SPEECH ON JANAM TV.
- EXHIBIT P11 A TRUE COPY OF PRINTOUT OF AN ARTICLE DATED 26.10.2018 PUBLISHED ON THE NEWS 18 NEWS CHANNEL
- EXHIBIT P12 A TRUE COPY OF PRINT OUT AN ARTICLE DATED 26.10.2018 PUBLISHED ON THE NEWS 18 NEWS CHANNEL
- EXHIBIT P13 A TRUE COPY OF PRINT OUT OF A NEWS ARTICLE PUBLISHED ON THE WEBSITE OF JANAM TV ON 28.10.2018
- EXHIBIT P14 A TRUE COPY OF PRINT OUT OF A NEWS ARTICLE PUBLISHED ON THE WEBSITE OF JANAM TV ON 22.10.2018
- EXHIBIT P15 TRUE COPY OF THE POST ON THE OFFICIAL FACEBOOK PAGE THE KERALA POLICE
- EXHIBIT P16 TRUE COPY OF ALBUM OF ALLEGED PROTESTERS AT SABARIMALA PREMISES PUBLISHED BY KERALA POLICE.
- EXHIBIT P17 TRUE COPY OF PHOTOGRAPH PUBLISHED ALONG WITH AN ARTICLE DATED 17.10.2018 OF THE INDIAN EXPRESS.
- EXHIBIT P18 TRUE COPY OF PHOTOGRAPH PUBLISHED ALONG WITH AN ARTICLE DATED 18.10.2018 OF THE MID-DAY.



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EXHIBIT P19 TRUE COPY OF PHOTOGRAPH PUBLISHED ALONG WITH AN ARTICLE DATED 18.10.2018 OF THE MONEYCONTROL.COM

EXHIBIT P20 TRUE COPY OF PHOTOGRAPH PUBLISHED ALONG WITH AN ARTICLE DATED 26.10.2018 OF THE INDIAN EXPRESS.

RESPONDENT EXHIBITS

EXHIBIT R2 (A) TRUE PHOTOCOPY OF THE LETTER DATED 28.03.2019 ISSUED BY THE ASSISTANT INSPECTOR GENERAL OF POLICE FOR STATE POLICE CHIEF TO THE COMMANDANTS (CMTs) OF THE FIRST (I) AND THIRD (III) BATTALIONS OF THE KERALA ARMED POLICE (KAP)

APPENDIX OF WP(C) 35061/2018

## PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF REPORT DATED NIL SUBMITTED BY SPECIAL COMMISSIONER, SABRIMALA BEFORE THIS HON'BLE COURT IN S.M.NO.30/2018.
- EXHIBIT P2 TRUE COPY OF THE PHOTOGRAPHS PUBLISHED BY A NEW CHANNEL (SERIAL NO.80 BEING THE PHOTOGRAPH OF THE PETITIONER).
- EXHIBIT P3 TRUE SCREEN SHOTS TAKEN FROM THE VIDEO PUBLISHED IN MEDIA RELATING TO POLICE VIOLENCE AGAINST DEVOTEES IN PAMBA.
- EXHIBIT P4 TRUE COPY OF THE NEWS ITEMS PUBLISHED IN THE INTERNET NEWSPAPER "NEWS MINUTES"
- EXHIBIT P5 TRUE PHOTOGRAPHS OF POLICEMEN DESTROYING VEHICLES AND TAKING AWAY VALUABLE ARTICLES IN NILACKAL.
- EXHIBIT P6 TRUE VIDEO CD CONTAINING CLIPPINGS EVIDENCING POLICE VIOLENCE IN NILAKKAL, PAMBA AND SANNIDHANAM
- EXHIBIT P7 TRUE COPY OF THE COMPLAINT OF VIDYAVATHI DATED 28.10.2018 MADE BEFORE THE 5TH RESPONDENT.
- EXHIBIT P8 TRUE COPIES OF 6 PHOTOGRAPHS PUBLISHED IN ELECTRONIC MEDIA DEPICTING THE MISERABLE LIVING CONDITIONS THE DEVOTEES ARE EXPOSED TO IN SABARIMALA SANNIDHANAM
- EXHIBIT P9 TRUE COPIES OF THE 4 NEWS ITEMS PUBLISHED IN THE MALAYALA MANORAMA DAILY DT.18.11.2018 REGARDING THE PLIGHT OF DEVOTEES IN SABARIMALA.



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**RESPONDENT EXHIBITS**

**ANNEXURE I** TRUE COPY OF THE ORDER DATED 31.10.2018 DIRECTING INSPECTOR GENERAL OF POLICE TO CONDUCT AN ENQUIRY INTO THE ALLEGED EXCESS ACTS BY ANY POLICEMEN.

**ANNEXURE II** TRUE COPY OF THE REQUEST SENT BY THE INSPECTOR GENERAL OF POLICE SEEKING EXTENSION OF TIME TO PROCEED WITH ENQUIRY AND SUBMIT REPORT.

**EXHIBIT R2 (A)** TRUE PHOTOCOPY OF THE LETTER DATED 28.03.2019 ISSUED BY THE ASSISTANT INSPECTOR GENERAL OF POLICE FOR STATE POLICE CHIEF TO THE COMMANDANTS (CMTs) OF THE FIRST (I) AND THIRD (III) BATTALIONS OF THE KERALA ARMED POLICE (KAP).