

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

Friday, the 7th day of February 2025 / 18th Magha, 1946
IA.NO.5/2025 IN CON.CASE(C) NO. 3252 OF 2024(S) IN WP(C) 19253/2010

APPLICANT/RESPONDENT NO.1 IN THE CONTEMPT OF COURT CASE:

M.V.GOVINDAN MASTER, CPI(M) STATE SECRETARY,"SYAMA", MORAZHA P.O
TALIPARAMBA, KANNUR, PIN - 670331.

RESPONDENTS/PETITIONER & RESPONDENTS 2 TO 19 IN THE CONTEMPT OF COURT CASE:

1. N.PRAKASH, AGED 60 YEARS, SON OF LATE A.NARAYANA RAO, PRAJITH VIHAR, AYINI ROAD MARADU P.O. ERNAKULAM, PIN - 682304.
2. SHAIK DARVESH SAHEB IPS, STATE POLICE CHIEF, STATE POLICE HEADQUARTERS THIRUVANANTHAPURAM, PIN - 695010.
3. G.SPARGAN KUMAR IPS, IGP AND COMMISSIONER OF POLICE, POLICE GROUND, CV RAMAN PILLAI ROAD PANAVILA, THYCAUD THIRUVANANTHAPURAM, PIN - 695014.
4. GIRILAL.D, CIRCLE INSPECTOR OF POLICE, STATION HOUSE OFFICER, T.C.25/3200(1), VANCHIYOOR POLICE STATION THIRUVANANTHAPURAM CITY.
5. PRAJEESH SASI, STATION HOUSE OFFICER, CANTONMENT POLICE STATION, NEAR SECRETARIAT, CANTONMENT GATE, STATUE, THIRUVANANTHAPURAM-695001.
6. BINOY VISWAM, CPI STATE SECRETARY, P.R. NAMBIAR SMARAKAM, KALLACHI, NADAPURAM, KOZHIKODE - 673506.
7. PANNIAN RAVINDRAN, PANNYAN HOUSE, SECTION 2, KAKKAD ANGADI, PUZHATHI, KAKKAD P.O., KANNUR - 670 005.
8. JAYACHANDRAN KALLINGAL, GENERAL SECRETARY, JOINT COUNCIL OF STATE SERVICE ORGANISATIONS, RESIDING AT K.N.R.A 65B, KADAPPATHALA, NEAR GOLF CLUB, KOWDIAR P.O., THIRUVANANTHAPURAM - 695 003.
9. PUTTA VIMALADITYA IPS, DIG AND COMMISSIONER OF POLICE, POLICE COMMISSIONERATE, KOCHI CITY, PARK VIEW, MARINE DRIVE, ERNAKULAM - 682 011.
10. MOHAMMED SHIYAS, DISTRICT CONGRESS COMMITTEE PRESIDENT, ERNAKULAM, RESIDING AT VADAPPILLIL HOUSE, THAIKATTUKARA P.O., ALUVA - 682 006.
11. SARADA MURALEEDHARAN IAS, CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
12. M.VIJAYAKUMAR, PHAS (PATTUR HOUSING ACCOMMODATION SCHEME OF KERALA STATE HOUSING BOARD), EMS NAGAR, PATTOOR, THIRUVANANTHAPURAM - 690 529.
13. V.K. PRASANTH MLA, ROOM NOS. 31 AND 32, NILA BUILDING, MLA HOSTEL, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM -695 033.
14. V. JOY MLA, SOUHRUDHAM, PERUGUZZHI P.O., THIRUVANANTHAPURAM-695 305.
15. KADAKAMPALLY SURENDRAN MLA, KADAKAMPALLY, T.C. 79/678, KARIKKAKOM

P.O., THIRUVANANTHAPURAM-695 305.

16. T.J.VINOD MLA, THAIVELIKKAKATH, NAROTH ROAD, THAMMANAM P.O., KOCHI - 682 032.
17. DOMINIC PRESENTATION, VALIYATHAYIL, SUNORO CHURCH ROAD, ELAMKULAM, COCHIN - 682 020.
18. ANISH JOY, CIRCLE INSPECTOR OF POLICE, (STATION HOUSE OFFICER), ERNAKULAM CENTRAL POLICE STATION, OLD RAILWAY STATION ROAD, NEAR KERALA HIGH COURT, ERNAKULAM - 682 018.
19. SMT.KIRAN NARAYANAN IPS, DISTRICT POLICE CHIEF, THIRUVANANTHAPURAM RURAL, DISTRICT POLICE OFFICE, PATTOOR PMG ROAD, UNIVERSITY OF KERALA, SENATE HOUSE CAMPUS, PALAYAM, THIRUVANANTHAPURAM, KERALA - 695 033.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to exempt the applicant herein/respondent No.1 in the contempt case, from personally appearing before this Hon'ble Court in the above Contempt of Court Case on 10.02.2025 and allow this petition accordingly.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of SRI.T.KRISHNANUNNI (SR.) along with M/S. M.SASINDRAN & T.B.HOOD, Advocates for applicant in IA/R1 in COC, SRI. N.PRAKASH(Party-In-Person) for R1 in IA/petitioner in COC, SRI.ASOK M.CHERIAN, ADDITIONAL ADVOCATE GENERAL & SRI.T.S.SHYAM PRASANTH, GOVERNMENT PLEADER for R2 to R4 in IA/COC, SRI. N.N.SUGUNAPALAN (SR.) along with M/S. NANDAGOPAL S.KURUP & ADITH KIRAN R.S., Advocates for R12 in IA/COC, SRI. R.LAKSHMI NARAYAN (SR.) along with VIDHYA. A.C, Advocates for R13 & R14 in IA/COC, SRI.K.JAYAKUMAR (SR.) along with M.P.Sreekrishnan, A.MUHAMMED MUSTHAFA, THEJALAKSHMI R.S., Advocates for R15 in IA/COC, M/S. P.K.SAJEEVAN, T.ASAFALI & SMT.LALIZA. T.Y., Advocates for R16 in IA/COC, M/S. JACOB P. ALEX, JOSEPH P.ALEX, MANU SANKAR P. & AMAL AMIR ALI, Advocates for R17 in IA/COC, the court passed the following:

ANIL K. NARENDRAN & MURALEE KRISHNA S., JJ.

Cont. Case (C)No.3252 of 2024

Dated this the 7th day of February, 2025

ORDER

Anil K. Narendran, J.

I.A.No.5 of 2025

This is an application filed by the 1st respondent in the Cont. Case (C), who is the State Secretary of the Communist Party of India (Marxist), invoking the provisions under Rule 12 of the Contempt of Courts (High Court of Kerala) Rules, under the Contempt of Courts Act, 1971, seeking an order to exempt him from personally appearing before this Court on 10.02.2025. In the affidavit filed in support of this interlocutory application it is stated that as part of Conferences conducted from Branch level to All India level, Thrissur District Conference is scheduled to be held on 09.02.2025, 10.02.2025 and 11.02.2025 to discuss the last three years' functioning and to elect new office bearers. Being the State Secretary, it is absolutely essential for the applicant-1st respondent to participate in the State Conference at Thrissur. As the State Conference is scheduled much earlier and any change of the date would affect the entire process of different conferences, in the interest of justice, his personal appearance on 10.02.2025

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may be exempted. In paragraph 5 of the affidavit filed in support of this interlocutory application it is stated that the applicant-1st respondent is prepared to appear before this Court on any subsequent date, as and when directed.

2. When this interlocutory application came up for consideration at 12 O' clock, we heard arguments of the learned Senior Counsel for the applicant-1st respondent and the 1st respondent-petitioner, who appeared in person.

3. This contempt case is one filed alleging willful disobedience of the directions contained in Annexure A1 judgment of a Division Bench of this Court in **Khalid Mundappilly v. Executive Engineer [2010 (3) KLT 86]**, which was followed by Annexure A2 order dated 13.08.2010 in R.P.No.670 of 2010 - **Chief Secretary to Government v. Khalid Mundappilly [2010:KER:30849]** and Annexure A4 judgment dated 22.03.2012 in W.P.(C)No.32429 of 2011 and connected matter - **Dejo Kappen v. State of Kerala [2012:KER:13001]**. One among the allegations is that a stage has been constructed on 05.12.2024 by the members of the Communist Party of India (Marxist) for conducting the Palayam Area Conference of that political party, on the public road in front of Vanchiyoor Court

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Complex and Vanchiyoor Police Station, blocking one track of Uppidamoodu-Vanchiyoor road, after putting up a temporary stage on that track, even blocking the movement of pedestrians through the pedestrian crossing (zebra crossing) provided on that road. On 09.01.2025 this Court passed a detailed order in this contempt case. Paragraphs 9 to 12 of the said order, which deals with the stage put up on the right-of-way of Uppidamoodu-Vanchiyoor road in connection with the Palayam Area Conference of the Communist Party of India (Marxist) held on 05.12.2024, are extracted hereunder;

"9. On 12.12.2024, we viewed in open Court Annexure A7 video clippings produced along with the contempt case of the news item that appeared in the Asianet News channel. Three screenshots taken from that news item are reproduced hereunder;



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10. Three screenshots taken from Annexure A7 video clippings produced along with the contempt case of the news item that appeared in the Mathrubhumi News are reproduced hereunder;



11. In the order dated 12.12.2024 this Court noticed that the stage where the Palayam Area Conference of the Communist Party of India (Marxist) was held on 05.12.2024 was put up on the right-of-way of Uppidamoodu-Vanchiyoor road, which is a public road in front of the District Court Complex and Vanchiyoor Police Station, completely blocking one track of the road. A large number of the public, including school children travelling in two-wheelers along with their parents and those travelling in educational institution buses got stuck in the traffic block. A car carrying a newborn baby with his/her mother also got stuck in the traffic block since the second track of the road alone was available for vehicular traffic and for the movement of pedestrians.

12. In the order dated 12.12.2024 this Court noticed the submission of the 4th respondent Circle Inspector of Police, Vanchiyoor Police Station, who was personally present in

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Court, that the stage where the Palayam Area Conference of the Communist Party of India (Marxist) was held on 05.12.2024 was put up on the right-of-way of Uppidamoodu-Vanchiyoor road, blocking the movement of pedestrians through the pedestrian crossing (zebra crossing) provided on that road. Though P. Babu, who is the General Convenor of the Palayam Area Committee of the Communist Party of India (Marxist), was asked to remove the stage put up on the right-of-way of Uppidamoodu-Vanchiyoor road, he refused to do so.

4. It is after considering the preliminary arguments of the petitioner, who appeared in person, and the learned Advocate General, this Court issued the order dated 09.01.2025 ordering notice to the respondents in terms of the provisions contained in Rule 9 of the Contempt of Courts (High Court of Kerala) Rules, under the Contempt of Courts Act, 1971 on being satisfied that the petitioner has made out a prima facie case for ordering notice to the respondents. Accordingly, by the said order, Registry was directed to issue notice to respondents 1 to 4 and also to additional respondents 5 to 19, in Form No.I, as provided under Rule 9(i)(b) of the Contempt of Courts (High Court of Kerala) Rules, under the Contempt of Courts Act, returnable by 10.02.2025, enclosing therewith a copy of the said order. By that order, personal appearance of the 2nd respondent State Police Chief and the 11th respondent Chief Secretary to Government was dispensed with.

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For the reason stated in paragraph 32 of the order dated 09.01.2025, this Court considered the request made by the learned Additional Advocate General to dispense with the personal appearance of the official respondents, 3, 4, 5, 9, 18 and 19 on 10.02.2025 as per the requirements of Rule 9(i)(b) of the Contempt of Courts (High Court of Kerala) Rules under the Contempt of Courts Act.

5. In view of the law laid down by a Division Bench of the Madras High Court in **C.S.S. Motor Service v. Madras State [AIR 1953 Madras 279]**, which stands approved by the Apex Court in **Saghir Ahmad v. State of UP and others [AIR 1954 SC 728]**, all public streets and roads vest in the State, but the State holds them as a trustee on behalf of the public. Therefore, the State and the concerned Local Self Government Institution, which hold public streets and roads as trustees, on behalf of the public, have a duty to ensure that the right-of-way and pedestrian facilities on such public streets and roads are maintained without any obstructions whatsoever. Further, the directions issued by this Court in Annexure A1 judgment, which was followed by Annexure A4 judgment were issued after considering the statutory requirements and the law on the point, in order to ensure the

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safety of the road users, which includes children of tender age, aged persons and also persons with disabilities.

6. In view of the provisions contained in Section 369 of the Kerala Municipality Act, 1994, which deals with prohibition of structures or fixtures which cause obstruction in public streets, read with Section 372 of the Act, which empowers the Secretary to remove certain encroachments without notice, the Secretary of the concerned Municipality has a statutory duty to remove any structures or fixtures, which causes any obstruction in public streets, even without notice. The said provisions in the Municipality Act cast a statutory duty on the concerned Municipality and its Secretary to ensure that any structures or fixtures, which cause obstruction in the public streets, either on the footpath or the right-of-way are removed even without any notice to the person who has put up such structures or fixtures posing serious threat to the safety of the road users including pedestrians.

7. In the order dated 09.01.2025, this Court noticed that the holding of agitations, demonstrations, etc. by political parties and other organisations, causing obstruction to the free movement of pedestrians through footpaths and vehicular traffic

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through the right-of-way of public roads takes place every day, which has gone to the extent of holding such agitations etc., after laying carpet and placing chairs on the footpath and the right-of-way of public roads, and even putting up stage and pandal on the footpath and the right-of-way of public roads, thereby forcing the pedestrians to walk through public roads, in unsafe circumstances.

8. As evident from the screenshots reproduced in paragraphs 9 and 10 of the order dated 09.01.2025, the stage where the Palayam Area Conference of the Communist Party of India (Marxist) was held on 05.12.2024 was put up on the right-of-way of Uppidamoodu-Vanchiyoor road, which is a public road in front of the District Court Complex and Vanchiyoor Police Station, completely blocking one track of the road. A large number of the public, including school children travelling in two-wheelers along with their parents and those travelling in educational institution buses got stuck in the traffic block. A car carrying a newborn baby with his/her mother also got stuck in the traffic block since the second track of the road alone was available for vehicular traffic and for the movement of pedestrians.

9. In the order dated 12.12.2024 this Court noticed the submission of the 4th respondent Circle Inspector of Police,

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Vanchiyoor Police Station, who was personally present in Court, that the stage where the Palayam Area Conference of the Communist Party of India (Marxist) was held on 05.12.2024 was put up on the right-of-way of Uppidamoodu-Vanchiyoor road, blocking the movement of pedestrians through the pedestrian crossing (zebra crossing) provided on that road. The 4th respondent submitted further that, though P. Babu, who is the General Convenor of the Palayam Area Committee of the Communist Party of India (Marxist), was asked to remove the stage put up on the right-of-way of Uppidamoodu-Vanchiyoor road, he refused to do so. As already noticed in the order dated 09.01.2025, in the stage put up on the right-of-way of the said public road, a drama by KPAC was performed in connection with Palayam Area Conference of the Communist Party of India (Marxist). The 1st respondent, who is the State Secretary of Communist Party of India (Marxist), is a person who was on the stage in the Palayam Area Conference held on 05.12.2024.

10. In the above circumstances, we find absolutely no grounds to dispense with the personal appearance of the 1st respondent in Court, as per the requirements of Rule 9(i)(b) of the Contempt of Courts (High Court of Kerala) Rules under the

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Contempt of Courts Act. Considering the facts stated in the affidavit filed in support of this interlocutory application, the personal appearance of the 1st respondent in Court on 10.02.2025 is dispensed with on condition that he shall personally present in Court on 12.02.2025 at 04.00 p.m.

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List on 10.02.2025 at 02.00 p.m. for appearance of respondents other than respondents 1, 2 and 11.



**Sd/-
ANIL K. NARENDRA, JUDGE**

**Sd/-
MURALEE KRISHNA S., JUDGE**

bkn/-

APPENDIX OF CON.CASE(C) 3252/2024

Annexure A1	CERTIFIED COPY OF THE JUDGMENT DATED 23.6.2010 IN W.P.(C)NO.19253 OF 2010
Annexure A2	TRUE COPY OF THE ORDER DATED 13.8.2010 IN R.P.NO.670 OF 2010
Annexure A4	TRUE COPY OF THE JUDGMENT DATED 22.3.2012 IN W.P.C.NOS.32428 AND 32429 OF 2011

