



W.P.Nos.3404 of 2021 and 26154 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
29.11.2022	02.01.2023

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)Nos.3404 of 2021 & 26154 of 2022

W.P.(MD)No.3404 of 2021

Sermathurai

.. Petitioner

Versus

1.The State of Tamil Nadu,
Secretary to Government,
Tourism Cultural and Endowment Department,
Secretariat,
St. George Fort,
Chennai - 600 009.

2.The Director,
Directorate of Art & Culture,
2nd Floor, Tamil Development Campus,
Egmore, Chennai.

3. The Member Secretary,
Tamil Nadu Eyal Isai Nataga Mandram,
Raja Annamalaipuram,
Chennai - 28.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to fix the criteria for presenting Kalaimamani Award presented by the Tamil Nadu Eyal Isai Nataka Mandram by



W.P.Nos.3404 of 2021 and 26154 of 2022

constituting an Expert Committee of the said field and the award should be presented in the recommendation of the committee to the eminent person by considering the petitioner's representation dated 15.12.2020, within a time to be stipulated by this Court.

W.P.(MD)No.26154 of 2022

Samuthiram

.. Petitioner

Versus

1.The State of Tamil Nadu,
Secretary to Government,
Tourism Cultural and Endowment Department,
Secretariat,
St. George Fort,
Chennai - 600 009.

2.The Director,
Directorate of Art & Culture,
2nd Floor, Tamil Development Campus,
Egmore, Chennai.

3.The President,
Tamil Nadu Eyal Isai Nataga Mandram,
No.32, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai - 28.

4. The Member Secretary,
Tamil Nadu Eyal Isai Nataga Mandram,
Raja Annamalaipuram,
Chennai - 28.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 4 to withdraw the awards which were given to ineligible awardees for the year 2019-2020 on 20.02.2021 and reconsidering the same by fixing the criteria for presenting Kalaimamani Award presented by the



W.P.Nos.3404 of 2021 and 26154 of 2022

Tamil Nadu Eyal Isai Nataka Mandram by considering petitioner's representation dated 17.06.2022, within a time to be stipulated by this Court.

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For Petitioner in
both writ petitions : Mr.D.Balamurugapandi

For Respondents in
both writ petitions : Mr.P.Thilak Kumar
Government Pleader

COMMON ORDER

R. MAHADEVAN, J.

WP.(MD)No.3404 of 2021 has been filed to issue a writ of mandamus, directing the respondents to fix the criteria for conferring Kalaimamani Award by the Tamil Nadu Eyal Isai Nataka Mandram, on the basis of the recommendation made by the eminent persons of the Expert Committee to be constituted, by considering the petitioner's representation dated 15.12.2020, within a time to be stipulated by this court.

W.P.No.26154 of 2022 has been filed to issue a writ of mandamus, directing the respondents to withdraw the awards which were given to ineligible awardees for the year 2019-2020 on 20.02.2021 and reconsider the same by fixing the criteria for presenting Kalaimamani Award by the Tamil Nadu Eyal Isai Nataka Mandram by considering the petitioner's representation dated 17.06.2022, within a time to be stipulated by this Court.

2.Since common issue is involved in both the writ petitions, they were heard together and are disposed of by this order.



3.1. According to the petitioner in W.P.(MD)No.3404 of 2021, he is a Villupattu artiste (Folk music) and his sister by name Velkani received the Kalaimamani Award in the year 1994 and they have been performing various programmes at the state and national level. The petitioner further averred that every year, the Government of Tamil Nadu and the Tamil Nadu Eyal Isai Nataka Manram confer the Kalaimamani Award to the persons, who are eminent in the realm of culture. However, without following any norms and procedure, they have selected the awardees, on their own and at the instance of influential persons. It is also stated that in order to encourage the artistes, the Department of Art and Culture formulated a scheme of awards to the eminent artistes in each District from the year 2002-2003 according to their age and eminence in arts. But, no such guidelines were formulated insofar as the Kalaimamani Award is concerned. Further, by order dated 09.08.2019 in WP(MD) No.17120 of 2019, a learned Judge of this court has observed that at least in future, the Tamil Nadu Eyal Isai Nataka Manram consider the applications received by them from artistes of various art fields for conferment of Kalaimamani Award with due deliberations and discussions and make recommendations on time, so as to avoid the burden of considering 100s' of Artistes for such awards at one stretch by the Manram and the State Government. Even thereafter, the said order was not considered by the respondent authorities and they selected the persons from different cultural fields in a hurried manner and attempted to award them, without adhering to the eligibility criteria. Though the petitioner sent a representation dated 15.12.2020 requesting the respondent authorities to constitute an Expert Committee and fix the



criteria for selection and presentation of the award to the deserving Artistes, till date, no steps have been taken on the same. Therefore, this writ petition viz., WP(MD).No. 3404 of 2021.

3.2. According to the petitioner in WP(MD)No.26154 of 2022, he is a Naiyandi Mela Nathaswara Artist and his grandfather and father were also the practitioners of this art, entertaining the public for the past 50 years. In recognition of his service to the society, the Government of Tamil Nadu conferred the Kalaimamani Award to the petitioner in the year 2017 and he is also a General Body Member of the Tamil Nadu Eyal Isai Nataka Manram from the year 2020. While so, the fourth respondent sent a letter bearing No.0275/A3/2021 dated 11.02.2021 to its members including the petitioner, informing them that a general body meeting of Tamil Nadu Eyal Isai Nataka Manram was to be held on 15.02.2021 and instructions were given to participate in the same. However, without proper enquiry and without providing any opportunity to the petitioner and other members to have their say in the general body meeting of the Tamil Nadu Eyal Isai Nataka Manram, G.O.Ms.No.34, Tourism Cultural Endowment Department, dated 17.02.2021, came to be passed, releasing the names of the awardees who were ineligible for the Awards. Subsequently, G.O.Ms.No.41, Tourism Cultural Endowment Department, dated 20.02.2021 also came to be passed, by adding one more awardee. Thereafter, the awards were presented to the ineligible candidates on 20.02.2021. Pointing out the irregularities in selecting the awardees for Kalaimamani Award for the year 2019-20, the petitioner sent a letter to the fourth



respondent on 05.03.2021, to which, he received a reply on 01.04.2021 stating that the issue will be discussed at the next general body meeting. However, no meeting was held. Therefore, the petitioner made a representation dated 17.06.2022 to the respondents to take necessary action for withdrawing the awards which were given to the ineligible awardees on 20.02.2021, without following due procedure. But, no action has been taken on the same, till date. Hence, this writ petition viz., WP(MD)No. 26154 of 2022.

4.1. Upon notice, the respondents filed a detailed counter affidavit in WP(MD)No.3404 of 2021, wherein, it is *inter alia* stated that the Tamil Nadu Eyal Isai Nataka Manram was established in the year 1956, concomitant to the Government of India resolution urging the State Governments to establish regional academies in affiliation to the national academy, called Sangita Nataka Academy (in short, "SNA") and thereby the Manram was registered under the Societies Registration Act, 1860 (Central Act 21 of 1860) with a view to foster and develop Cinema, Dance, Drama and Music and to promote them through the cultural unity of the Country. The Manram has its own constitution and bye-laws; and it cannot adopt the norms of the SNA relating to conferment of awards, as there are as many as 100 categories of folk arts viz., Thappattam, Karagattam, Villupattu, Kavidiatam etc., identified by the Government of Tamil Nadu to recognize and revive the arts of ancient Tamil culture and to uplift the livelihood of the artistes depending on these arts.



4.2. The counter affidavit filed by the respondents further proceeds to state that the Kalaimamani Award was instituted in the year 1959-1960 and every year, the same is being given to the artistes of outstanding merit in different fields of arts like music, dance, drama, films, etc. There has been interruption in 1988-89 and 1997 and the award could not be distributed from 2011 to 2018, due to various reasons. However, the applications have been received from the artistes in different fields for all these years and the same have been duly processed by the Manram and the selection committee constituted for the same, short listed the eligible and prudent artistes for Kalaimamani Award and other awards, which were duly approved by the Government vide G.O.Ms.No.31, Tourism, Culture and Religious Endowments (C2) Department, dated 28.02.2019. During the years 2011-18, totally 201 Kalaimamani awards were conferred to eligible outstanding artistes. According to the respondents, the Executive Board of the Manram is the selection committee for Kalaimamani and other awards for the years 2019 and 2020 and the resolution was unanimously passed by the newly constituted Executive Board and General Council of the Manram during the meeting held on 18.12.2020. Subsequently, the Executive Board in the meeting held on 11.02.2021, made threadbare deliberations and discussions of all the applications and nominations and short listed the names of artistes for consideration of awards, which were again placed before the Executive Board and General Council of the Manram during the meeting held on 15.02.2021, in which, again threadbare deliberations and discussions took place as per the order dated 09.08.2019 in WP. (MD)No.17120 of 2019 as reiterated by this court in WA.(MD)No.729 of 2020 vide



judgment dated 10.09.2020. Thereafter, the General Council approved the list of Awardees and recommended the same to the Government via Manram's letter No. 6949/A5/2021, 15.02.2021, which resulted in the publication of G.O.(Ms) No.34, Tourism, Culture and Religious Endowments (C-2) Department, dated 17.2.2021. Thus, it is imperative that there is no compromise in the selection process and the direction of this court has been strictly adhered to. It is also stated that out of the 128 Kalaimamani Awardees for the years 2019 and 2020, 26 of them belonged to the Folk Art community, which shows that the selection process was free from any kind of manipulation.

4.3. The respondents further stated in the counter affidavit that the District Arts Awards are in no way connected with the schemes of the Manram and as regards the Kalaimamani Award, an expert committee is already in existence in the form of Executive Board, in which each eminent member is included from respective fields of art, such as Eyal, Music, Dance, Drama, Cinema, Television and Proponents of Art and Culture and they selected the awardees based on merit, experience, seniority, competence, achievement and contribution to the respective art fields, that too, after due deliberations and discussions. Therefore, the allegation made by the writ petitioner is utterly false and baseless and he preferred this public interest litigation on personal motive, as his name was not short listed for the Kalaimamani Award. Stating so, the respondents prayed for dismissal of this writ petition.



5.Heard the learned counsel appearing for both sides and also perused the materials available on record.

WP.(MD)No.3404 of 2021

6.It is alleged by the petitioner that while conferring the Kalaimamani Award, no guidelines / rules / procedure have been followed and the awardees have been selected hurriedly, without considering the eligibility criteria and hence, it is just and necessary to constitute an Expert Committee and fix the criteria for selection and presentation of the award to the eminent persons in the fields of art and culture.

7.On the other hand, it is categorically stated in the counter affidavit filed by the respondents that already there exists an expert committee in the form of Executive Board of the Tamil Nadu Eyal Isai Nataka Manram, in which, each eminent member is drawn from respective fields of art, such as Eyal, Music, Dance, Drama, Cinema, Television and Proponents of Art and culture. As it is a time honoured practice to afford an opportunity to the aspiring artistes to submit their desire in writing, whereby they can enlist their achievement / contribution to the respective art fields, with certificates of merits, footages, etc., besides, they can project their research in the art and submit their ambition for future, there is no prescribed application form for Kalaimamani Award. The selection committee will take into account all these factors, before shortlisting the awardees. For better understanding, the process of selection of the awardees as stated in the counter affidavit, is



reproduced below:

(i) All the tabulated applications / nominations pertaining to respective art fields, shall be made ready by the Manram

(ii) An Expert Committee shall be constituted in which each Member shall be drawn from the respective art fields consisting of Eyal, Music, Dance, Drama, Cinema, Television and Proponents of Art and culture.

(iii) Such formation of Expert Selection Committee shall be approved by the Executive Board and the General Council of the Manram. For the years 2019 and 2020, the Executive Board itself has been designated as Expert Selection Committee.

(iv) All the applications received year wise, category wise of art fields etc, and nominations shall be placed before the Expert Committee.

(v) After due deliberations / discussions, the Expert Committee shall short list the applications / nominations in accordance with merit, experience, seniority, competence, achievement and ever lasting contribution to the respective art fields.

(vi) Short listed applications / nominations shall be placed before the Executive Board and General Council of the Manram for thorough deliberations and threadbare discussions and to recommend the final list of applications / nominations for Kalaimamani and other awards to the Government through Art and Culture Department.

(vii) Having perused the recommendation and having stood upon for consideration, the Government of Tamil Nadu is the final authority to decide the list of artistes for conferment of Kalaimamani and other Awards. In its wisdom, the



Government may decide the number of awardees, date and place of the award distribution function and also considering the financial implications, etc.

(viii) Upon finalization of the list of awardees, the Government may seek to verify the credentials and bonafides of the proposed recipients of awards, including their involvement, if any, in criminal cases, through confidential police/ intelligent report.

(ix) Final list of awardees is published by the Government by way of a proper Government order with details of Awardees names, art fields, etc.

Thus, according to the respondents, there is no irregularity or procedural defects in the selection of the awardees and the Kalaimamani Awards have been conferred to the deserving meritorious candidates, after satisfying the eligibility criteria.

8. Before appreciating the rival submissions, it is but necessary to look into the Manual published by the Department of Art and Culture under the Right to Information Act, 2005, relating to the scheme for conferring Kalaimamani Award, which is reproduced below for the sake of convenience:

Name of the scheme	Conferring 'Kalaimamani' Award
Institution implementing the Scheme	Tamil Nadu Eyal Isai Nataka Mandram Ponni, No.31, P.S.Kumarasamy Raja Salai, Chennai-600 028. Telephone: 2493 7471
Benefit of the Scheme	At the Kalaimamani Award Investiture Function, the Kalaimamani Awardee Artistes are felicitated with investituring Gold Pendant of three sovereign Ponnadai and Citation.



Eligibility for
Kalaimamani

Awarding

The artiste should be popular and famous for having professionally rendered yeomen services for the enrichment to the traditional arts.

The Kalaimamani Award is conferred on the performing artistes with lasting contribution, popularity and merit of the art disciplines of Tamil Literature, Music, Bharathanatyam, Drama, Film, Folk arts, Painting, Sculptures, Vigadam etc. Even if the artiste is popular in various art disciplines, he will be conferred Kalaimamani for one time only. If more than one artistes are jointly engaged in artistic pursuit in any of the art discipline, the award will be given to them jointly.

This award is conferred regardless of Caste, Religion, race and age. Individual work of art or single achievement will not be considered for conferring this award.

If the artiste expires after the announcement of the award to him/her but before the investiture function, the award will be given to his/her dependent.

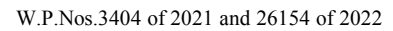
Procedure for the
selection of artiste for
the award.

The individual representations received from the artistes requesting for the award of Kalaimamani; Recommendations received from the senior artistes, Requests received from the Voluntary Cultural Organisations and also representations received from the experts belonging to various art disciplines are placed before the General Council of the Manram for consideration and deserving artistes are selected and recommended to Government. The list of artistes approved by the Government are conferred with Kalaimamani award.

From the above, it is clear that the Tamil Nadu Eyal Isai Nataka Manram is responsible for selection and conferment of Kalaimamani Award; and there is no procedure and eligibility criteria prescribed for the same.



9.As revealed, the Tamil Nadu Sangeetha Nataka Sangam was established by the State Government in the year 1955 to achieve the objectives of the Central Sangeet Natak Akademi at State level and foster traditional Tamil arts. It was renamed as 'Tamil Nadu Eyal Isai Nataka Manram' in the year 1973, to recognize the three forms of Tamil art - Eyal, Isai and Natakam. It has its own constitution and bye-laws. It is an organisation for fostering and developing the fine arts of music, dance, drama and films and for promoting through them, the cultural unity of the country. It has been actively involved in the development of Tamil language and culture since its inception and has been successful in creating a platform for the preservation and promotion of Tamil culture in the State. It organizes several music and dance festivals, theatre productions, and other cultural activities for the promotion of Tamil culture. It also organizes seminars, workshops and other programs for the preservation of Tamil culture. It has also partnered with the University Grants Commission (UGC) to promote research and study in the field of Tamil language and culture. The organization also conducts workshops and other activities to promote traditional forms of Tamil art and music. It also provides guidance and support to the artistes by providing them with resources and infrastructure. Thus, the Manram, a non-profit organisation, works closely with the Government to promote Tamil culture. It has partnered with the Central Government to promote the culture of Tamil Nadu in different parts of India.



11. Unlike the awards conferred by Sangeetha Nadaka Academy, in the name of 'Ustad Bismillah Khan Yuva Puraskar Awards', 'Akademi Puraskar Awards', and 'Akademi Ratna Awards', there is no age limit prescribed for the artistes to be eligible for the Kalaimamani Award. There are instances of historical significance that many younger artistes in various art fields below the age of 40 years, have received the award. The judgment of this court dated 10.09.2020 in WA(MD)No.729 of 2020, would lend support to this aspect and the relevant passage of the same may be usefully extracted below:

14/21



of its jurisdiction under Article 226 of the Constitution of India, cannot prescribe any age limit for conferment of the said Award. Sometimes persons with high IQ/prodigious may also born and they excel in the relevant field even at an young age and they should also be encouraged by conferment of Awards, titles etc.

14. Therefore, there may not be any prescription of age limit for conferment of Kalaimamani Award in the light of the reasons above. "

12. However, a comparative study of the other awards conferred by the Central Government in the cultural field, with that of the Kalaimamani Award by the State Government through Tamil Nadu Eyal Isai Nataka Manram, would reveal that there are certain guidelines framed *qua* eligibility and procedure for nomination, selection and shortlisting of the persons; and that, time limit is also prescribed. Whereas, there are no proper guidelines / norms / procedures formulated in respect of experience, seniority, competence, achievement, etc, as far as Kalaimamani Award is concerned. In the counter affidavit, it was stated by the respondents that they are selecting the awardees based on merits, achievements, contributions, etc., but, no concrete material has been produced before this court to substantiate the same. On the contrary, the petitioner pointed out the instances where the Awards were given to ineligible awardees. Thus, it is manifest that the procedure and the eligibility criteria for this award are vague and there is non-guided discretion on the Mandram to select the awardees and recommend the same to the Government. The representations and recommendations received as applicants are placed before the General Council of the Manram for consideration and without detailed analysis, the artistes are selected and



recommended to the Government and the list of artistes approved by the Government are conferred with the award.

13.Thus, having regard to the admitted fact that the Kalaimamani Award is a prestigious State award given to the artistes in different fields, for their skill, hard work and dedication towards art and culture, this court is of the opinion that it has to be conferred only to those, who truly deserve it, upon complying with all the eligibility criteria, regardless of any factors such as their race, gender, religion, or any other personal characteristics, and the selection process should be transparent, open and unbiased, so as to enable the people from all walks of life to participate. At this stage, the learned Government Pleader appearing for the respondents, on instructions, submitted that the Manram, on perusing the information and feedback received from the various sectors, has made recommendations to the Government to formulate guidelines and the same is under process; and that, as soon as the same is completed, the Manram would duly publish and bring that into force as early as possible. Thus, considering the petitioner's specific allegation against the manner in which the selection has been done by the Expert Committee and also taking note of the submission now made by the learned Government Pleader appearing for the respondents, this court deems it fit and appropriate to issue certain directions to the respondent authorities, to ensure that the selection process is fair, transparent and unbiased and the award is conferred to those, who truly deserve it, based on achievement, contribution, experience, etc., by reconstituting the Expert Committee.



W.P.Nos.3404 of 2021 and 26154 of 2022

WP(MD)No.26154 of 2022

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14.The petitioner's grievance is that for the year 2019-20, the Kalaimamani Awards were given to the ineligible persons on 20.02.2021 and hence, the same have to be withdrawn and reconsidered by fixing criteria for the purpose of presenting the same afresh by the Tamil Nadu Eyal Isai Nataka Manram. In this connection, the learned Government Pleader appearing for the respondents drew the attention of this court to the status report filed by the fourth respondent and submitted that the usual procedure for selection of awardees is that the Manram will convene the sub committee and discuss the credentials of each applicant, shortlist and place the same before the General Council. However, in view of the paucity of time to conduct the award function, the Executive Board was convened on 11.02.2021 which selected the awardees and thereafter vide letter No.0275/A3/2021 dated 11.02.2021, the same was placed before the General Council Meeting on 15.02.2021 and an unanimous resolution was passed and all the members of the General Council had signed in the consolidated agenda and minutes about Kalaimamani Awardees. It is further submitted by the learned Government Pleader that an Expert committee would be formed at the earliest, so as to decide whether the awardees who obtained the Kalaimamani Award on 20.02.2021 are ineligible persons, as contended by the writ petitioner; and thereafter, after providing sufficient opportunity to the said awardees and upon perusal of their qualification / service/ artistic stand, etc, as well as verification of the documents, further proceedings would be taken. It is also



submitted that based on the recommendations of the Expert committee, those awardees who are eligible alone, would be allowed to retain their awards, while the awards of those awardees, who are ineligible / not genuine, would be cancelled.

15.At this juncture, it would be relevant to refer to the decision of the Orissa High Court in ***Surmani Raghunath Panigrahi and others v. Orissa Sangeet Natak Akademi and others, [MANU/OR/0123/2003]***, wherein, the issue involved was, whether the declaration of results by Orissa Sangeet Natak Akademi for the category of Odissa Dance and Sugam Sangeet is illegal, as the same was done without following due process of law. The Orissa High Court, upon perusal of the records, has quashed the selection of awardees and directed to reconsider the awards in accordance with the constitution and earlier practice, after having found that out of nine members, only seven were present in the meeting and the names of the awardees were mentioned on a single piece of paper and only two members have signed; that, it was not clear whether the President and Secretary have signed the list of awardees; and that, most of the members did not agree with the selection of awardees and there was no resolution to indicate the manner of selection or different disciplines under which awardees have been selected.

16.Therefore, in the light of the above submissions made by the learned Government Pleader, referring to the status report filed by the fourth respondent, which has addressed the petitioner's grievance, this court, while recording the same,



W.P.Nos.3404 of 2021 and 26154 of 2022

has to necessarily direct the respondent authorities to pass orders after completion of enquiry by the Expert Committee to be constituted in this regard.

17.1. In the result, WP.(MD)No.3404 of 2021 is disposed of, with the following directions to the respondent concerned:

(i)To reconstitute the Expert Committee for discharging the duties and responsibilities assigned by the Tamil Nadu Eyal Isai Nataka Manram, especially, conferment of Awards, promptly and effectively. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

(ii)To formulate the guidelines relating to eligibility criteria, qualification, method of selection of the awardees, etc., and duly incorporate in the bye-laws and notify the same in the Manram website, so as to make it available for everyone's access.

(iii)to ensure that the selection process is fair, transparent and unbiased and the award should be conferred to those, who truly deserve it; and that the selection should adhere to the procedure and guidelines prescribed.

No costs.

17.2. WP.(MD)No.26154 of 2022, is disposed of, by directing the respondent authorities to expedite the process of constitution of Expert Committee as affirmed in the status report, examine the awardees for the year 2019-20, who obtained the Kalaimamani Award on 20.02.2021, after affording reasonable opportunity to all the



W.P.Nos.3404 of 2021 and 26154 of 2022

necessary parties, and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible, preferably, not later than three months from the date of receipt of a copy of this order. No costs.

[R.M.D., J.]

[J.S.N.P., J.]

02.01.2023

Speaking Order /Non-speaking order

Internet : Yes /No

Index : Yes/No

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To

1.The State of Tamil Nadu,
Secretary to Government,
Tourism Cultural and Endowment Department,
Secretariat,
St. George Fort,
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2.The Director,
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W.P.Nos.3404 of 2021 and 26154 of 2022

R. MAHADEVAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

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Pre -Delivery Order made in
W.P.(MD)Nos.3404 of 2021 and 26154 of 2022

02/01/2023