

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 2612 of 2007 (J)

PETITIONER :

**AMALA CANCER HOSPITAL AND RESEARCH CENTRE
REPRESENTED BY ITS DIRECTOR
FR.GEORGE PIUS C.M.I., AMALA NAGAR, TRICHUR
KERALA - 680 553.**

BY ADV. SRI.R.RAMADAS

RESPONDENT(S) :

- 1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE PRINCIPAL SECRETARY (FINANCE),
DEPARTMENT OF FINANCE, GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF HEALTH, GOVERNMENT OF KERALA
SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. THE DISTRICT COLLECTOR,
TRICHUR.**
- 5. THE DIRECTOR OF NATIONAL SAVINGS,
FINANCE (NSD) DEPARTMENT, THIRUVANANTHAPURAM.**

R1 TO R5 BY GOVT. PLEADER SRI. P.V. LONACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-06-2015,
THE COURT ON 26-06-2015 DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE AUDIT CERTIFICATE FOR THE YEAR 90-91 TO 99-2000.
- EXT.P2 COPY OF THE PAMPHLET ISSUED BY THE DIRECTOR OF NATIONAL SAVINGS.
- EXT.P3 COPY OF THE GOVERNMENT ORDER G.O.(P) NO. 585/94/FIN DATED 20.10.1994.
- EXT.P4 COPY OF THE GOVERNMENT ORDER G.O.(P) NO. 1039/94/FIN DATED 31.12.1994.
- EXT.P5 COPY OF THE PROCEEDINGS NO. NS2.59868/94 DATED 1.9.1995 OF THE DISTRICT COLLECTOR.
- EXT.P6 COPY OF THE PROCEEDINGS NO. NS2.59868/94 DATED 1.9.1995 OF THE DISTRICT COLLECTOR.
- EXT.P7 COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DATED 19.7.1996.
- EXT.P8 COPY OF THE GOVERNMENT ORDER G.O.(P) NO. 4541/95/FIN DATED 24-10-1995.
- EXT.P9 COPY OF THE LETTER DATED 12.9.1997 FROM THE DISTRICT MEDICAL OFFICER TO THE PETITIONER.
- EXT.P10 COPY OF THE COMMUNICATION DATED 8.10.1997 FROM THE DISTRICT MEDICAL OFFICER, THRISSUR.
- EXT.P11 COPY OF THE GOVERNMENT ORDER G.O.(RT) NO. 1567/98/FIN DATED 19.3.1998.
- EXT.P12 COPY OF THE COMMUNICATION DATED 20.8.1998 FROM THE DISTRICT COLLECTOR, TRICHUR TO THE PETITIONER.

(Contd...)

- EXT.P13 COPY OF THE LETTER DATED 8.1.1998 FROM THE DIRECTOR OF NATIONAL SAVINGS.
- EXT.P14 COPY DATED 23.2.1999 FROM THE DIRECTOR OF NATIONAL SAVINGS.
- EXT.P15 COPY OF THE COMMUNICATION DATED 6.3.1999 FROM THE DISTRICT COLLECTOR, TRICHUR TO THE PETITIONER.
- EXT.P16 COPY OF THE COMMUNICATION DATED 17.4.1999 FROM MR. V.K. DAMODARAN, SPECIAL OFFICER, ENQUIRY COMMITTEE.
- EXT.P17 COPY OF THE COMMUNICATION DATED 5.5.1999 FROM MR. V.K. DAMODARAN, SPECIAL OFFICER, ENQUIRY COMMITTEE.
- EXT.P17(a) COPY OF THE UTILISATION SETTLEMENT SUBMITTED BY THE PETITIONER BEFORE HIGH LEVEL ENQUIRY COMMITTEE.
- EXT.P18 COPY OF NOTICE NO. 48578/AMN.A1/2000/FIN DATED 13.10.2000.
- EXT.P19 COPY OF THE REPORT OF THE ENQUIRY COMMISSION DATED 10.6.1999.
- EXT.P20 COPY OF THE JUDGMENT DATED 20.6.2006 IN OP NO. 32189/2000.
- EXT.P21 COPY OF THE PETITION DATED 15.7.2006 TOGETHER WITH THE COVERING LETTER.
- EXT.P22 COPY OF A NOTE OF ARGUMENT DATED 20.9.2006 BEFORE THE 2ND RESPONDENT.
- EXT.P23 COPY OF THE LETTER DATED 27.9.2006 BEFORE THE 2ND REPSONDENT.
- EXT.P24 COPY OF THE STATEMENT OF FREE TREATMENT AND CONCESSION GRANTED FOR THE PERIOD 2000-2001 TO 2004-2005 CERTIFIED BY THE CHARTERED ACCOUNTANT DATED 23.8.2006.

(Contd...)

WP(C).No. 2612 of 2007 (J)

EXT.P25 COPY OF ORDER G.O.(RT) NO. 8571/2006/FIN DATED 27.12.2006.

RESPONDENT'S EXHIBITS :

EXT.R2(a) : COPY OF G.O.(RT) NO. 279/99/FIN DT. 12.1.99.

EXT.R2(b) COPY OF STATEMENT PRODUCED BY SHRI. VASU.

EXT.R2(c) COPY OF THE CERTIFICATE OF UTILIZATION DT. 3.5.96.

EXT.R2(d) COPY OF THE CERTIFICATE OF UTILIZATION DT. 5.6.96.

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P(C). No.2612 of 2007-J

Dated this the 26th of June, 2015.

JUDGMENT

The petitioner is a charitable Hospital, of considerable repute, involved in the care and treatment of cancer. The dispute raised herein is with respect to the utilisation of a grant made, under a scheme devised at the aegis of the National Savings Scheme, termed the 'Savings For Cancer Care' [hereinafter called, 'the scheme']. Bereft of the details, the scheme intended generation of funds by issuance of 'Indira Vikas Pathras' and utilisation of 25% of the amounts so collected for the detection and treatment of cancer and research on cancer. It was implemented with the participation of public, voluntary organisations, agencies/organisations etc. working in the filed of public health and social services.

2. The scheme envisaged free cancer care for every person,

who invests a minimum of Rupees Ten thousand in 'Indira Vikas Pathras'. 20% of the amount collected under the scheme was to be placed at the disposal of the District, from where the collection was made. The utilisation of such amounts were specifically intended for cancer education, cancer detection and cancer control programmes. The overall supervision of the Scheme was entrusted with the District Collectors. 5% of the collection made through organisations/agencies and 25% of the investment directly in the Post Offices, was to be pooled and reserved by Government for providing assistance to special schemes. The petitioner was one such organisation, who had participated in the collection drive.

3. As is indicated in Ext.P5 proceeding of the District Collector, the petitioner collected a total amount of Rs.26.38 Crores. The petitioner hence was entitled to be granted 20% of the amount so collected, for carrying out the objectives of the Scheme, as a grant. The incentive eligible to be granted to the petitioner, comes to Rs.5.276 Crores. However, it is to be noticed

at the outset, that, the same is not in the nature of a commission for the collection made, but for the purpose of implementing the Scheme and to bring in the infrastructure, equipments and treatment facilities; in furtherance of cancer care alone. The petitioner and other similarly placed organisations would definitely get the enduring benefit of the infrastructure, equipments and facilities brought in under the Scheme. In return, the grantees were obliged to provide free cancer care to the patients referred from the Government Hospitals. In the case of the petitioner, those cases referred from the Medical College, Thrissur.

4. At the initial stage of the implementation of the project by Ext.P6, a grant of Rupees Two Crores was sanctioned for the specific purposes enumerated in Ext.P6, which are hereunder:

"1. Cobalt Teletherapy unit including source	:	Rs.1,89,20,000.00
Cost of building as per specification of BARC	:	Rs. 9,00,000.00
Cost of air conditioning	:	Rs. 80,000.00

		Rs.1,99,00,000.00

2. Treatment planning system

<i>cost of building</i>	:	<i>Rs. 1,00,000.00</i>
		<i>-----</i>
<i>Total</i>	:	<i>Rs.2,00,00,000.00"</i>

5. Subsequently, by Ext.P1 a further sum of Rs.90 lakhs was also disbursed. However, complaints were received that, the patients referred from the Medical College, Thrissur were denied free treatment. While, the implementation of the Scheme was continued as per Ext.P11 dated 19.03.1998, the District Collector, Thrissur was directed to keep the grant amount for the petitioner in TPA account until appropriate instructions. Thus started the enquiry into the utilisation of funds, which culminated in an order directing refund of certain amounts. That order was challenged before this Court in an earlier writ petition of 2000, which was disposed of by Ext.P20 in 2006. The directions in the judgment resulted in the impugned order in the instant writ petition of 2007.

6. On the complaints received, there was an initial inspection made by an expert committee, which is not available in the records of the present case nor in the records of the earlier

case, the Judge's papers of which were called for and perused. The same may not be of any relevance, since the present orders are on the basis of the further enquiry conducted. The fact remains that, at that point of time, based on the enquiry dated 01.09.1997, the Director of National Savings issued Ext.P13 communication, alleging mis-utilisation of Rs.1,25,43,812/-. The petitioner was offered an opportunity to reply to the allegations. A personal hearing was conducted, as is evidenced from Ext.P14 and by Ext.P15, the District Collector, on the basis of the report and the decision taken by the District Level Expert Committee, constituted to monitor and supervise the Scheme, confirmed the mis-utilisation of Rs.90,15,812/-. The petitioner, by Ext.P15, was directed to give a fresh proposal to make purchases in furtherance of the Scheme, to the extent of the amount found to have been mis-utilised. No further proceedings seems to have been taken either by the District Collector or by the petitioner, in pursuance to Ext.P15.

7. The petitioner also does not have a case that, any

response was made to Ext.P15 with a fresh proposal, as required thereunder. Presumably due to the inaction on the part of the petitioner, the Government constituted an Enquiry Committee to look into the allegations of mis-utilisation. The Special Officer of the National Savings Department, the Joint Secretary, Finance Department, the Medical Superintendent, Regional Cancer Centre and the Executive Engineer, Finance Department were the members of a harmoniously constituted Committee, with experts from each field, competent, to look into the allegations of mis-utilisation. The petitioner was afforded an opportunity and the petitioner is said to have furnished the details of utilisation of Rs.2,90,00,000/- to the Committee by Ext.P17.

8. The Committee, after detailed enquiry, submitted a report at Ext.P19, finding purchase of certain equipments to be not permissible under the scheme, for reason of the same being not intended for cancer care. A total of Rs.78,15,851/- was found to have been mis-utilised thus. Further, the Utilisation Certificate produced by the petitioner itself indicated Rs.97,41,089/- having

been spent on construction activities. The permissible cost for construction under the scheme out of the amounts disbursed to the petitioner, being only Rs.9,80,000/-, the balance Rs.87,61,689/- was disallowed. A total of Rs.1,65,76,940/- was found to have been mis-utilised.

9. The petitioner was directed to refund the said amounts by Ext.P18 dated 13.10.2000, which resulted in the earlier challenge before this Court. By Ext.P20 judgment, it was directed that Ext.P18 be treated as a notice and the Finance Secretary, Department of Finance, was directed to consider the objections of the petitioner, after affording an opportunity of hearing to the petitioner. Objections were filed as per Exts.P21 and P22 and the Finance Secretary, in compliance to the directions of this Court passed Ext.P25, which is impugned herein. Ext.P25 seeks refund of Rs.1,65,76,940/-, the amount found to have been mis-utilised by the Expert Committee in Ext.P19 report.

10. I have heard the learned Counsel for the petitioner and the learned Government Pleader.

11. The petitioner asserts that the petitioner has been providing free treatment to umpteen persons and that the petitioner is a charitable Hospital, established without any profit motive and the members of the petitioner Society do not share any income from the activities carried on by the Hospital. The Hospital has set apart, a percentage of its income for free treatment of poor patients, irrespective of caste and community and to that end is also set apart 120 beds. The audit certificate produced at Ext.P1 is relied on to assert the charitable activities carried on by the Hospital.

12. The petitioner's arguments are as follows: (i) Ext.P8 Government Order confers power on the District Collectors to draw and disburse the amount of grant. The District Collector also has the responsibility to watch over the proper utilisation of the grant amount by the institutions. Such power having been conferred on the District Collector, the 2nd disbursement of Rs.90 lakhs was made on being satisfied as to the utilisation of the initial grant. So much is evident from Ext.P7 also. This clinches

the issue with respect to the utilisation of the funds disbursed initially and there could be no enquiry conducted thereafter to ferret out any mis-utilisation. (ii) Serious discrepancies in the various enquiries conducted are projected, on the basis of the vast variation in the amounts found to have been mis-utilised, in each of the said enquiries. While Ext.P13 dated 08.01.1998, based on the report of an Expert Committee dated 01.09.1997, alleged mis-utilisation of Rs.1,25,43,812/-, at Ext.P15 dated 06.03.1999, the mis-utilisation alleged was Rs.90,15,812/-. This has further been enhanced in the present enquiry as per Ext.P19 to Rs.1,65,76,940/-. This simple fact would give lie to the claim of mis-utilisation made by the Government. No reliance could be placed on such specious enquiries. (iii) The objections as also the averments in the writ petition and the utilisation certificates produced by the petitioner clearly would show that there has been no mis-utilisation, is the factual point urged before this Court. (iv) The enquiry with respect to mis-utilisation is on the flimsy premise of free treatment having been denied to a solitary

patient. (v) As an alternate contention, the counsel also pleads that since Rs.5.276 Crores is due to the institute, if at all the impugned order is sustained, the amounts demanded should be deducted from such grant and the balance paid to the petitioner. The incentive grant entitlement of the petitioner, as per the scheme, is 20% of the amounts collected, coming to Rs.5.276 Crores, which has not been paid till now. Ext.P3 Government Order and Ext.P5 proceedings of the District Collector specifically refers to such eligibility.

13. The learned Government Pleader seeks to sustain the impugned order. The learned Government Pleader would urge that it may not be proper for this Court to look into the factual aspects, especially since this Court sits in judicial review, of the impugned order. The petitioner was granted every opportunity to put forth their contentions and prove the allegations to be wrong. Even an examination of the factual aspects would reveal that the petitioner had mis-utilised funds. There were also complaints received from many corners about the benefit of free treatment

being declined to persons referred by the Medical College Hospital, Thrissur. The petitioner is guilty of frustrating the objectives of the scheme, as also mis-utilising the funds disbursed under the grant. The petitioner has on their own showing, purchased equipments not relating to cancer care, from the grant amounts and carried on construction activities far in excess of those sanctioned. The petitioner having spent funds, for purposes not related with cancer care and totally different from the objective of the Scheme, for which alone the grant was made; is disentitled from claiming any further grant and is obliged to make good the mis-utilised funds, is the argument.

14. The first contention to be answered is with respect to the satisfaction allegedly arrived at by the District Collector, on the utilisation of Rupees Two Crores; the funds first disbursed under the scheme. The satisfaction is urged on the basis of the second disbursement made of Rs.90 lakhs, as allegedly revealed in Ext.P7. The argument is advanced, on the basis of the terms in Ext.P8 Government Order and the satisfaction of the District

Collector as recorded in Ext.P7 communication.

15. A reading of Ext.P8 will only indicate that the utilisation of funds under the scheme has to be decided by the Committee headed by the District Collector constituted in each District, with the District Medical Officers, Principals and Superintendent of Medical Colleges, District Officers of National Savings Department and Superintendent of District and Taluk Hospitals as per Clause 7 of Ext.P3. The Secretary, Health Department is to watch over the proper utilisation of funds as per Clause 8 of Ext.P8. Ext.P3 Government Order also, by Clause 11, constitutes a committee comprising of Secretary, Finance Department, Secretary, Health Department, Director of Health Services, Director of Medical Education, Director of Regional Cancer Centre, Director of Amala Cancer Hospital, Thrissur and Director of National Savings to evaluate the progress of implementation of the scheme and decide the quantum of funds to be provided for different Schemes/Projects. It is in accordance with the said procedure that the District Collector issued Ext.P6 intimating *inter alia* the

sanction of Rs.2 Crores to the petitioner. The petitioner as per Ext.P6 was required to furnish a proposal for utilisation certificate. Subsequently, the proposal of the petitioner to utilise the funds for the specific purpose of establishment of 'Cobalt Therapy Unit' was approved by the District Collector by Ext.P6. None of the Government Orders produced herein would indicate that the satisfaction recorded by the District Collector at Ext.P7 would interdict the Government from making any enquiry as to the utilisation of the first sanctioned amounts. It cannot at all be said that the second disbursement of Rs.90 lakhs would in fact prevent the Government from looking at the utilisation of the earlier amounts. The petitioner, who had voluntarily participated in the Scheme on the promise of the grant, had submitted a proposal for execution of specific work, which alone was sanctioned. The utilisation of the funds disbursed could only be for such work sanctioned, within the objectives of the Scheme. There can be no inference of a deemed utilisation, under the Scheme, on the recitals in Ext.P7, nor would the same be an

irrefutable conclusion on the disbursement of the second instalment.

16. The discrepancies in the enquiry report, seriously urged on behalf of the petitioner, are also of no consequence. On the basis of the report of the Expert Committee dated 01.09.1997, the petitioner was issued with Ext.P13 communication, alleging a mis-utilisation of Rs.1,25,43,812/-. After giving the petitioner an opportunity and after having placed the same before the District Level Committee constituted under the Scheme, wherein also, the petitioner's representative was heard, the mis-utilisation was restricted to Rs.90,15,812/-. The petitioner was then asked to submit a further proposal, for proper utilisation of the said amounts. Nothing was done on the part of the petitioner in response to such direction. It was then that the Government thought it fit to constitute another Expert Committee. The discrepancy projected had to be considered along with the factual aspects urged.

17. The controversy arose on complaints being received

about the denial of free treatment to patients referred from the Medical College Hospital. The petitioner's counsel would assert that the same is only with respect to one patient. True, only one patient, seems to have made a written complaint to the Medical College Hospital. Patients, who were affected with the debilitating illness of cancer and their families immersed in the throes of such terminal disease, would not often take the effort to make a complaint. Further, in any event, the complaints regarding denial of free treatment was a trigger and was not the eventual cause of the impugned demand. The enquiry triggered off by the complaint resulted in the findings of mis-utilisation.

18. The programme itself was designed in such a manner as to provide funds to establish better facilities for treatment of cancer and provide free treatment to one and all, especially those referred from the Medical College Hospital, Thrissur. It is to ensure such expert treatment to the marginalised sections of the society, that the Scheme was implemented, with the investors too getting such benefit. The free cancer care offered to the

investors was an incentive for such investment. The intention behind such scheme itself was to generate funds to bring modern and advanced medical facilities for treatment of cancer within the State and to provide such treatment, free of cost to the vast majority, who are unable to spend money for the same.

19. Again, in answer to the allegation of denial of free treatment to those persons referred from the Medical College, the petitioner's answer is only that the complaint is of only one patient and the petitioner had been providing free treatment to a number of persons. The audit report is relied on to indicate the large scale of charitable activities, the petitioner has been carrying on. Charity has to come from one's own pocket. None can put their hands into the coffers of the Government and disburse such public funds for avowed charitable purposes. No utilisation of public fund can be made for purposes other than that for which they have been earmarked, however commendable the purpose might be. A portion of the amount received from Indira Vikas Pathras was set apart for the Scheme, but the same

has to be returned to the investors, when the validity of the Indira Vikas Pathras expire. This is the liability of the State. The intention was specifically to provide cancer care and advance the cause of research on cancer treatment, by the funds generated through public investment. Merely because the petitioner asserts that, they have been indulging in charitable purposes, that cannot absolve the petitioner from putting on the table, specific instances of treatment given to patients referred from the Medical Colleges, which is the object behind the scheme. That is the bounden obligation of the petitioner, who has been granted funds under the scheme.

20. It is to be noticed that, none of the objections placed on record by the petitioner, speak of the specific instances in which such treatment was offered. The objection at Exts.P21 and P22, but for making bland assertions, does not at all provide the statistics, as to the persons given free treatment, as referred from the Medical College Hospital, Thrissur. The mere fact that the Hospital has been carrying on charitable activities by

providing treatment to thousands of persons does not absolve them from satisfying the specific obligations under the Scheme, which again is the utilisation of funds in setting up the infrastructure solely for cancer treatment and research and then to provide free medical care, ie. cancer care to those referred from Medical College Hospital, Thrissur.

21. Though factual aspects cannot be gone into in judicial review, this Court had looked into the report of the Enquiry Committee to understand the contentions with regard to the discrepancies put forth by the petitioner. Exts.P13 and P15 are at this point of time, no more of any consequence. In any event, the amounts alleged to have been mis-utilised in Ext.P15 was Rs.90,15,812/- and that is reduced considerably to Rs.78,15,851/- as per the present report. These amounts are determined, with respect to the mis-utilisation of funds in purchase of equipments. The escalation of the amount of mis-utilisation in the instant report is only on account of the Enquiry Committee finding more amounts used for construction, than that

was permitted and sanctioned.

22. The specific purpose for which Rs.2 Crores, the initial grant was disbursed is extracted above. The certificate of utilisation produced by the petitioner at Ext.P17(a) speaks of construction of buildings as detailed therein. The same indicates construction of Operation Theatre, 3 wards and I.C.U., as also the construction of cobalt unit and the erection of a lift in the building. The civil construction for the cobalt unit, which alone could be carried on from the grant made, comes to around Rs.3,29,301/-, as seen from the utilisation certificate. The total construction cost, incurred according to the Chartered Accountant, is much more than that sanctioned. The equipments said to have been purchased, as has been detailed in Ext.P17 (a), speaks of purchase of dental equipments, elevators, surgical equipments etc., which may not necessarily come under the specific purpose for which the amounts were disbursed. The Expert Committee constituted to enquire into the allegation of mis-utilisation had detailed the specific equipments, which cannot

be those used in the treatment of cancer and not at all related to Cobalt Therapy. It was such purchases which were found to be a mis-utilisation; in opposition of which no specific case is made out by the petitioner.

23. The petitioner does not have any case in the objections at Exts.P21 and P22 as to any of these equipments being necessary for cancer care and treatment. The petitioner merely asserts that the entire amounts were utilised in getting medical equipments and that the petitioner had been giving free treatment to thousands of people. That is not a discharge of the obligations under the scheme, under which huge amounts have been disbursed to the petitioner, the enduring benefit of the utilisation of which, would also go to the petitioner in the coming years. The Enquiry Report at Ext.P19 also specifically disallows Rs.87,61,089/- (Rupees Eighty seven lakhs sixty one thousand and eighty nine only) from the total construction cost of Rs.97,41,089/- (Rupees Ninety seven lakhs forty one thousand and eighty nine only) claimed by the petitioner. The grant was

not for the purpose of the construction of the Hospital of the petitioner, however honourable their charitable intentions be. The grant was for the specific purpose of purchasing equipments for the treatment of cancer and advancing research in such treatment, with a built-in obligation to provide free treatment to those members of the public referred to the petitioner from the Medical College Hospital at Thrissur. The petitioner has on their own showing, ie. the utilisation certificate, used the earmarked funds of the grant, in the construction of their Hospital and the purchase of medical equipments, many of which unrelated to cancer care and treatment. On the factual aspects too, this Court does not find any reason to interfere with the order passed.

24. The last contention is with respect to the disbursal of the balance grant after deducting the amounts found to have been mis-utilised. The petitioner has no vested right to the incentive amounts by reason only of the collection made. The grant has to be utilised in providing specifically the facilities for treatment and research in cancer. As a *quid pro quo*; for the

enduring benefit derived, of the facilities so brought in with the grant, the petitioner was obliged to provide free cancer care to those afflicted, from the marginalised sections, as referred by the Medical College Hospital, Thrissur. The grant is not in the nature of a commission for the deposit mobilisation made by the petitioner. The amounts collected through Indira Vikas Pathras definitely has to be paid over to the investors on its expiry, which is the obligation of the State. The mobilization of funds as per the scheme, was for the purpose of providing advanced care and treatment of cancer patients, free of cost, that too to those from the marginalised sections of society. The petitioner having mis-utilised the funds given to the petitioner, is disentitled from claiming any further grants. What remains with the Government in the TPA Account as has been directed in Ext.P11 should be either utilised for advancing the objectives of the Scheme, elsewhere in the District, if the Scheme is still in existence or should go back to the coffers of the Government for the purpose of repayment to the investors. That would be the fate, also of the

amounts now demanded by the impugned order. The aforesaid discussion can only lead to the irrefutable conclusion that the writ petition is devoid of merit. Ext.P25 is sustained.

The petitioner shall pay the amounts demanded within a period of three months from the date of receipt of a certified copy of this judgment, failing which, the petitioner would be liable to pay interest at the rate of 6% per annum. The writ petition stands dismissed with costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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