

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 21034 of 2009 (S)

PETITIONER :

UDYOGAMANDAL SASI, T.M. DANCE ACADEMY,
REG.NO.797/81, TC.27/525(2), VANCHIYOOR P.O.
THAMBURANMUKKU, TRIVANDRUM-35.

BY ADVS.SRI.K.SANEESH KUMAR
SMT.V.B.SANTHINI

RESPONDENTS :

1. UNION OF INDIA, SECRETARY TO GOVT. OF INDIA, MINISTRY OF CULTURE
SASTHRI BHAVAN, RAJENDRAPRASAD ROAD, SASTRI BHAVAN
NEW DELHI-1.
2. STATE OF KERALA REPRESENTED BY ITS
SECRETARY TO GOVERNMENT, DEPARTMENT OF CULTURAL
AFFAIRS, GOVERNMENT SECRETARIAT, TRIVANDRUM.
3. KENDRA SANGEETHA NATAKA ACADEMY,
RAVEENDRA BHAVAN, FIROSSHA ROAD, NEW DELHI-110 001.
4. KERALA SANGEETHA NATAKA ACADEMY, THRISSUR.
5. SANDARSAN KATHAKALI VIDYALAYAM,
SOUTHERN GATE, AMBALAPUZHA EAST P.O., ALAPPUZHA DISTRICT
REP. BY ITS SECRETARY, E.GIRIJA SANKAR.
6. MARGI, NEAR FORT HIGH SCHOOL, FORT P.O.,
THIRUVANANTHAPURAM-695 023, REP. BY ITS
SECRETARY S.SRINIVASAN, I.A.S (RETIRED).
7. DRISYAVEDI, SREENIVAS,CHERUVAIKKAL,
SREEKARYAM, TRIVANDRUM, REP. BY ITS SECRETARY
S.SRINIVASAN, I.A.S (RETIRED).
8. SWARALAYA, TC.9/1859 K132,KOCHAR ROAD,
SASTHAMANGALAM P.O., TRIVANDRUM, REP. BY
ITS CHAIRMAN, MR.RAJMOHAN.
9. CHALACHITHRA FILIM SOCIETY,
TC NO.15/436, MENAKA, VELLAYAMBALAM
TRIVANDRUM, REP. BY ITS CHAIRMAN, MR.RAJMOHAN.
10. SOORYA STAGE AND FILIM SOCIETY,
CHAITHANYA, NEAR GOVERNMENT GUEST HOUSE, THYCAUD P.O.,
THIRUVANANTHAPURAM 695 014, REPRESENTED BY ITS
SECRETARY @ SOORYA KRISHNAMOORTHY.

11. SOPANAM INSTITUTE OF PERFORMING ARTS AND RESEARCH, THRIKANNAPURAM, ARAMADA P.O. THIRUVANANTHAPURAM , REPRESENTED BY ITS SECRETARY HARIKRISHNAN N.
 12. KOODIYATTAM CENTRE, SPONANAM INSTITUTE OF PERFORMING ARTS AND RESEARCH, THRIKANNAPURAM ARAMADA P.O., THIRUVANANTHAPURAM-695 032 REPRESENTED BY ITS SECRETARY HARIKRISHNAN N.
 13. SANGEETHA BHARATHY, TC 24/282, THYCAUD, TRIVANDRUM-14 REP. BY ITS SECRETARY PROF.OMANAKUTTY.
 14. THUNCHAN SMARAKA SAMITHY, REG. NO.218/1975, AYIRANIMUTTAM, MANACADU TRIVANDRUM REPRESENTED BY ITS SECRETARY.
 15. TRIVANDRUM ARTS SCIETY, MAYFAIR STATUS, PUNNEN ROAD, TRIVANDRUM.
 16. VEDA REKSHYA SAMITHI, 50772-8-773, RAMANATHAPURAM, AGRAHARAM, PALGHAT 670 001 REP. BY IS SECRETARY.
 17. THONNAKKAL ASAN SMARAKAM, THONNAKKAL, TRIVANDRUM, REP. BY IS SECRETARY.
- ADDL. 18. ACCOUNTANT GENERAL KERALA, THIRUVANANTHAPURAM.
(IMPLEADED AS PER ORDER IN I.A. No.9475/2012 DATED 27.11.2012)
- R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 & R18 BY SPL. GOVERNMENT PLEADER, SMT. GIRIJA GOPAL.
R3 BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN
R5, R6 & R7 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR
R8 BY ADV. SRI.M.K.CHANDRA MOHANDAS
R10 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR
SMT.SUSHYA RAJAN
R11 BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN
R13 BY ADV. SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR
R14 BY ADV. SRI.C.J.JOY
R16 BY ADV. SRI.K.JAYAKUMAR (SR.)
SRI.P.B.KRISHNAN
SMT.GEETHA P.MENON
SRI.P.M.NEELAKANDAN
R17 BY ADV. SRI.K.V.SOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE PAMPHLET CONTAINING THE BRIEF DESCRIPTION OF THE ACTIVITIES OF THAT INSTITUTION.

EXT.P2 : TRUE COPY OF THE JUDGMENT DATED 18.11.1991 IN O.P. NO.11380/90.

EXT.P3 : TRUE COPY OF THE REPRESENTATION DATED 25.02.2007 SUBMITTED BY THE PETITIONER.

EXT.P3(A) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P3.

EXT.P4 : TRUE COPY OF REPRESENTATION DATED 01.02.2008 SUBMITTED BY THE PETITIONER.

EXT.P5 : TRUE COPY OF THE AMUSEMENT OF WEALTH BY 13 INFLUENTIAL ORGANIZATION FROM THE CENTRAL AND STATE EXCHEQUER FUNCTIONING IN TRIVANDRUM DISTRICT.

EXT.P6 : TRUE COPY OF THE INFORMATION IS AVAILABLE FROM THE WEB SITE.

EXT.P7 : TRUE COPY OF COMMUNICATION DATED 26.03.2008.

EXT.P8 : TRUE COPY OF THE ORGANISATION FOR ART AND CULTURE BYE-LAWS.

EXT.P9 : TRUE COPY OF PROJECT GIVING SPECIFIC DETAILS OF THE PROGRAMME AND THE ESTIMATED EXPENDITURE ALONG WITH THAT APPLICATION.

EXT.P10 : TRUE COPY OF THE LETTER DATED 09-05-2002 ISSUED BY THE CENTRAL GOVERNMENT.

EXT.P11 : TRUE COPY OF THE APPLICATION FOR A BUILDING GRANT WITH ALL PARAMETER OF SUCH PROGRAMME WAS SUBMITTED BY THE PETITIONER ON 16.01.2008.

EXT.P12 : TRUE COPY OF THE PERMIT DATED 25.02.2008 ISSUED BY THE CORPORATION.

EXT.P13 : TRUE COPY OF RECOMMENDATION DATED 29.01.2008 MADE BY THE STATE GOVERNMENT TO CENTRAL GOVERNMENT.

EXT.P14 : TRUE COPY OF THE REPRESENTATION DATED 23.04.2008.

EXT.P15 : TRUE COPY OF THE LETTER ALONG WITH PROJECT SUBMITTED BY THE PETITIONER BEFORE THE CENTRAL GOVERNMENT DATED 15.09.2008.

EXT.P16 : TRUE COPY OF THE RECOMMENDATION DATED 15.10.2008 ISSUED BY THE STATE GOVERNMENT.

EXT.P17 : TRUE COPY OF THE LETTER DATED 05.02.2009 BY THE PETITIONER.

EXT.P18 : TRUE COPY OF THE LETTER DATED 16.06.2009 BY THE PETITIONER.

EXT.P19 : TRUE COPY OF THE RECOMMENDATION DATED 10.06.2007.

EXT.P20 : TRUE COPY OF THE JUDGMENT DATED 08.01.2009 IN W.P.(C) No.31000/08.

EXT.P21 : TRUE COPY OF THE ORDER DATED 02.07.2009 IN RP No.352/2009.

EXT.P22 : TRUE COPY OF THE INFORMATION DATED 09.04.2009 ISSUED BY THE DISTRICT REGISTRAR.

EXT.P22(A) : TRUE ENGLISH TRANSLATION OF EXT.P22.

EXT.P23 : TRUE COPY OF THE INFORMATION DATED 09.04.2009 ISSUED BY THE DISTRICT REGISTRAR.

EXT.P24 : TRUE COPY OF LETTER DATED 15.12.2006 ISSUED BY THE KERALA STATE FILM DEVELOPMENT CORPORATION LTD.

EXT.P24(A) : TRUE COPY OF ENGLISH TRANSLATION OF EXT.P24.

EXT.P25 : TRUE COPY OF THE CERTIFICATE RECEIVED BY THE PETITIONER DATED 06.03.2007.

EXT.P25(A) : TRUE COPY OF ENGLISH TRANSLATION OF EXT.P25.

EXT.P26 : TRUE COPY OF THE DETAILS OF SOME GRANTS RECEIVED BY RESPONDENTS 5 TO 17 COLLECTED BY THE PETITIONER.

EXT.P27-A : TRUE COPY OF THE TRANSLATED EXTRACT OF GO(MS) No.23/99/CAD ISSUED BY KERALA CULTURAL DEPARTMENT.

EXT.P28-A : TRUE COPY OF THE REPLY DATED 04.04.2012 GIVEN TO THE APPLICATION UNDER RTI ACT AND ITS TRANSLATION.

EXT.R29-A : TRUE COPY OF THE INFORMATION ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF CULTURE DATED 01.05.2007 REGARDING THE FINANCIAL ASSISTANCE GIVEN TO DIFFERENT ARTS & CULTURAL ORGANISATIONS IN KERALA DURING THE PERIOD FROM 1990 TO 2006.

EXT.P30 : COPY OF ANNUAL REPORT IN 07 PAGES FOR THE YEAR ENDING 31.03.2007 CONTAINING THE DETAILS OF PROGRAMMES CONDUCTED DURING THE YEAR.

EXT.P31 : A TRUE COPY OF THE PROCEEDINGS OF THE APPELLATE AUTHORITY DATED 18.10.2007.

EXT.P32 : A TRUE COPY OF THE RESUME SUBMITTED BY THE 10TH RESPONDENT.

EXT.P33A : TRUE COPY OF THE INFORMATION DATED 01.05.2007.

EXT.P34 : TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT IS ALSO NOT REFLECTED IN THE ACCOUNTS.

RESPONDENTS' EXHIBITS :

EXT.R2(A) : TRUE COPY OF THE GO(MS) No.23/09/CAD DATED 01.06.1999 (MALAYALAM & ITS ENGLISH TRANSLATION).

EXT.R5(A) : TRUE COPY OF THE ANNUAL REPORT OF SANDARSAN KATHAKALI VIDYALAYAM FOR THE YEAR 2006-07.

EXT.R5(B) : TRUE COPY OF THE ANNUAL REPORT FOR 2007-08.

EXT.R5(C) : TRUE COPY OF THE UTILIZATION CERTIFICATE DATED 05.11.2008.

EXT.R6(A) : TRUE COPY OF GO(Rt) No.126/95/CAD DATED 29.03.1995.

EXT.R10(A) : TRUE COPY OF THE RESUME OF SOORYA KRISHNAMOORTHY.

EXT.R11(A) : TRUE COPY OF LIST OF AWARDS AND FELLOWSHIPS RECEIVED
BY SRI.KAVALAM NARAYANA PANICKER.

EXT.R11(B) : TRUE COPY OF LIST OF PLAYS WRITTEN OR DIRECTED BY
SRI.KAVALAM NARAYANA PANICKER.

EXT.R13(A) : TRUE COPY OF THE UTILISATION CERTIFICATE DATED 30.11.2007.

EXT.R13(B) : TRUE COPY OF THE ORDER, GO(Rt) No.389/2006/CAD DATED 13.11.2006.

EXT.R13(C) : TRUE COPY OF THE TUILISATION CERTIFICATE DATED 23.10.2007.

EXT.R13(D) : TRUE COPY OF THE BOND DATED 12.02.2007.

EXT.R16(A) : TRUE COPY OF THE 14TH ANNUAL REPORT OF RESPONDENT
NO.16 SAMITHI DATED NIL.

EXT.P17(A) : TRUE COPY OF THE ORDER GO(MS) No.20/66/EDN. DATED 30.04.1966.

EXT.P17(B) : TRUE COPY OF THE ORDER GO(MS) No.24/87/CAD. DATED 18.09.1987.

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 21034 OF 2009

Dated this the 8th day of September, 2015

JUDGMENT

Shaffique, J.

This Public Interest Litigation has been filed by the petitioner narrating the manner in which the funds provided by the Ministry of Culture, Government of India is being utilised in the State of Kerala. Petitioner claims to be a person dedicated to the genuine cause of the preservation and advancement of classical dance forms. According to him, though Government of India and the State of Kerala have taken various measures to provide funds to various cultural organizations through out the country for uplifting the cultural field as such, on account of absence of appropriate guidelines in the matter relating to identifying and providing grant to such cultural organizations, funds are being mis-utilised and mis-appropriated by various parties.

2. It is pointed out that though the petitioner had sought for several reliefs in the above Public Interest Litigation,

on account of lapse of time and on account of the averments in counter affidavits, learned counsel for the petitioner submits that the only relief now sought for is relief No.(b), which is to the following effect:

“B) To issue a writ of mandamus directing the 2nd respondent to prepare norms and scheme for the distribution of the grants/financial assistance in line with that of the Kerala Grandhasala Sangham for cultural societies and that of Kerala Educational Rule for training institutions.”

3. In the counter affidavit filed by the State of Kerala, they have produced Ext.R2(a) which according to them is the basis on which funds received are being allocated to different organizations. In the counter affidavit dated 05.01.2010 it is stated that there are well defined norms for selection of cultural organizations to receive the financial assistance from the Government. Guidelines have been prescribed in terms Government Order G.O.(MS) No.23/99/CAD. It is further stated that in the Government Order to release the grant to the cultural organizations, the beneficiaries are directed to produce Utilization certificates in respect of the said grant to the Government as well

as to the Accountant General within two months from the date of release of the said grant. The income and expenditure of the organizations receiving annual grant are examined by the Local Fund Department annually. Applications for non-recurring grant are usually accompanied by the recommendations from the Local Self Government Bodies or Member of the Legislative Assembly of the area. It is further submitted that Government had examined Ext.P3 representation submitted by the petitioner and the same was forwarded to Sri.P.K. Pokker, Member of Ravindranath Committee for placing the same before the committee which was constituted to study and report on the review of grants given to cultural organizations. The committee has submitted its report and the same is under consideration of the Government.

4. Counter affidavit dated 19.10.2012 has been filed by the 2nd respondent wherein it is stated that guidelines have been prescribed in terms of G.O.(MS) No.23/99/CAD dated 01.06.1999. It is also stated that the recommendation of the State Government is necessary to get financial assistance from the Central Government. Applications in this regard are examined

on its merits and applications submitted for genuine purpose along with relevant documents are forwarded with recommendation to the Ministry of Culture for consideration. The application put in by individuals for fellowship and for financial assistance is routed through State Government and it is not practical to make follow up action in all these cases. Further it is stated that the Government has appointed a new committee chaired by Sri.P.T. Thomas, to renew and formulate policies and procedures followed for selecting cultural organization for grant. The Committee has to make recommendations which is expected to enable a review and rectify any short coming in the procedures followed at present.

5. Having regard to these factual circumstances it is clear that the Government is presently following a procedure which is being continued and timely action has been taken in terms of Ext.P3 representation given to the Government. Further new Committee has also been constituted to consider all the relevant suggestions and complaints raised by organizations and individuals while they formulate their final recommendation.

6. Learned counsel Sri. N. Nandakumara Menon appearing for respondent Nos.5, 6, 7, 10 and 13 and Sri. P.B. Krishnan appearing for 16th respondent submit that the petitioner has made some reckless allegations against the beneficiaries who are representing the organizations. It is also argued that several issues which have no connection whatsoever has been pleaded. Since the Government is taking all steps before recommending the names of persons for the purpose of allotment of funds from the Central Government and other agencies, there is no reason for the petitioner to have any complaint. If at all there is any deficiency, petitioner can point out the same, which has to be considered by the Government.

7. From the facts available on record and after hearing learned counsel on either side it is clear that the Government is intending to make changes if necessary in the matter relating to the modalities to be considered for effecting proper funding arrangements for the cultural organizations. Under such circumstances we do not think that any further direction as sought for in relief No.(b) is to be issued as the Government has

already followed the procedure which has been accepted by all concerned. Having regard to these factual circumstances we do not think that any further direction is necessary to be issued. However, we only observe that it is open for the petitioner to bring to the notice of the Government, deficiencies if any in the system provided by Government and it is for the Government to take necessary action in accordance with the procedure prescribed.

The Writ Petition is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**