

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 21699 of 2012 (S)

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PETITIONER(S) :

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K.B. JOY,  
AGED 46 YEARS, S/O.BALAKRISHNAN, KAITHAKKATTU  
EDAVILANGU P.O., KODUNGALLOOR, TRICHUR DISTRICT.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENT(S) :

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1. THE STATE OF KERALA,  
REP. BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695 001.

2. THE UNION OF INDIA,  
REP. BY THE SECRETARY,  
MINISTRY OF PETROLEUM & NATURAL GAS, SASTRY BHAVAN  
NEW DELHI - 110 001.

3. THE INDIAN OIL CORPORATION,  
REP. BY THE GENERAL MANAGER, PANAMPILLY AVENUE,  
PANAMPILLY NAGAR, COCHIN - 682 036.

R1 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

R2 BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA

SRI.N.NAGARESH, ASG OF INDIA

R3 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR

SRI.P.GOPINATH

SRI.P.BENNY THOMAS

SRI.K.JOHN MATHAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1        THE TRUE COPY OF THE INDIAN EXPRESS NEWS PAPER REPORT  
                 DATED 28/8/2012.
- EXT.P2        THE TRUE COPY OF THE TIMES OF INDIA REPORT PUBLISHED  
                 ON 4/9/2012.

RESPONDENTS' EXHIBITS

- EXT.R1 (A)    THE TRUE COPY OF G.O. (MS) .NO.333/2012/RD DATED 06.09.2012
- EXT.R1 (B)    THE TRUE COPY OF G.O. (MS) .NO.353/2012/RD DATED 17.09.2012
- EXT.R1 (C)    THE TRUE COPY OF G.O. (MS) .NO.363/2012/RD DATED 27.09.2012
- EXT.R1 (D)    THE TRUE COPY OF G.O. (MS) .NO.437/2012/RD DATED 20.11.2012
- EXT.R1 (E)    THE TRUE COPY OF THE COMMUNICATION DATED 28.02.2013  
                 ISSUED FROM THE OFFICE OF THE CHIEF LPG MANAGER, INDIAN  
                 OIL CORPORATION.

/TRUE COPY/

P. A. TO JUDGE

**ASHOK BHUSHAN, C.J.**  
**&**  
**P.R. RAMACHANDRA MENON, J.**  
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**W.P.(C). No. 21699 of 2012**  
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**Dated this the 16<sup>th</sup> day of June, 2015**

**J U D G M E N T**

**Ashok Bhushan, C.J.**

Heard the learned counsel for the petitioner, the learned Special Government Pleader and the learned counsel appearing for the IOC.

2. This Public Interest Litigation was filed by the petitioner with the following relies:

- "1. To issue appropriate direction to 2<sup>nd</sup> respondent to order a judicial probe to the 'Chala disaster' on 27.08.2012.*
- 2. To issue appropriate direction to the 2<sup>nd</sup> respondent to release compensation and also directed to the 3<sup>rd</sup> respondent to extend employment package to the victims or relatives of the persons involved in Chala disaster."*

3. The petition highlights an oil tanker accident which took place on 27.08.2012 near Chala in Kannur District. Met with the accident, more than 17 persons died and 42 were injured. The tragedy is described as a national tragedy. The tanker lorry was filled with Petroleum gas (LPG) owned by Indian Oil Corporation. It is stated that as the inflammable gas

started leaking, the driver realised the danger and alerted the people living nearby on the impending disaster. Thereafter there has been 3 explosions spreading panic in the area and causing destruction of fire. This Court entertained the writ petition and issued an interim direction on 20.09.2012, whereby this Court expressed opinion that the best solution would be to arrange for transport of hazardous and explosive materials like LPG through rail and to arrange for establishment of bottling units near railway tracks for transportation of LPG.

4. The principal prayer in the writ petition is to give direction to the 1<sup>st</sup> & 2<sup>nd</sup> respondents to compel the 3<sup>rd</sup> respondent to compensate all the expenses including compensation of family members of the victims and further to issue appropriate directions to make appropriate guidelines/regulations. Judicial probe was also sought for with regard to the Chala tanker disaster. The IOC as well as the State Government has filed counter affidavit. Ext.R1(a) is the Government Order dated 06.09.2012, whereby Government has approved financial assistance of ₹10 lakhs (per deceased person) to the family of the deceased; ₹5 lakhs each to persons who sustained 40% or more burns and for those below 40% burns, it was ₹2 lakhs, as decided by the District Collector. Indian Oil Corporation was also directed to bear the expenses

for treatment related to the blast and some other benefits were also indicated in the order. It has been further stated in the affidavit that after the interim order of this Court, the State Government had a consultation with the Oil Company to explore the feasibility of carrying LPG through railways. Paragraph 8 of the counter affidavit reads as follows:

*“8. It is respectively submitted that in the light of the Interim Order dated 20.09.2012 issued by this Honourable Court, the State Government had a consultation with the Oil Company, to explore the feasibility of the possibility of carrying LPG through railways. However, by way of communication dated 28.02.2013 issued by the Chief LPG Manager to the Additional Chief Secretary, Transport (D) Department, Government of Kerala, it is informed that the present railway infrastructure in Kerala is not compatible with the Roll On Roll Off (RORO) system due to various obstructions like height of electric lines and over bridges etc. A true copy of the communication dated 28.02.2013 issued from the office of the Chief LPG Manager, Indian Oil Corporation is produced herewith and marked as Exhibit R1(e). In Exhibit R1(e), it is also informed that the damage potential of carrying LPG through railway is also extremely high.”*

In the counter affidavit it is further stated that, appropriate steps and immediate action have been taken and the investigation is also under progress, details of which have been mentioned in the counter affidavit.

5. In so far as the substantial prayer of the petitioner is

concerned, it is not disputed that financial assistance as envisaged in the Government Order has already been given. Coming to the first prayer for a judicial probe, we are of the view that investigation had commenced immediately on registration of the case on 28.08.2012 and there is no useful purpose for directing any judicial enquiry in the matter, when more than 2 ½ years have already elapsed.

6. In view of the pleadings which have been brought on record by the State as well as the IOC, we are of the view that, no useful purpose shall be served in proceeding further with this public interest litigation. However, the 3<sup>rd</sup> respondent who is engaged in transportation of LPG through tanker lorries has to take extra care while transporting such inflammable materials and an expert body has to find out the ways and means to ensure the safety of the people and property.

With the above observation, the writ petition is disposed of.

Sd/-

**ASHOK BHUSHAN, Chief Justice.**

Sd/-

**P.R. RAMACHANDRA MENON, Judge.**