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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947

WP(C) NO. 7815 OF 2025

PETITIONER:

SUDHEER S. S
AGED 59 YEARS
S/O SURENDRAN S, ATHAM, TC 27/687, VANCHIYOOR P.O, THIRUVANANTHAPURAM, PIN - 695035

BY ADVS. SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN
SRI.R.ANANTHAPADMANABAN
SRI.PAUL BABY
SMT.SWATHY A.P.

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF SPORTS, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

2 **KERALA STATE SPORTS COUNCIL**
OFFICE OF THE KERALA STATE SPORTS COUNCIL, NEAR GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY., PIN - 695001

3 **A.M.K NIZAR**
VICE PRESIDENT, THIRUVANANTHAPURAM DISTRICT SPORTS COUNCIL, RESIDING AT T.C 20/1232, KARAMANA P.O., THIRUVANANTHAPURAM, PIN - 695002

BY ADV SMT.LATHA ANAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR HEARING ON 02.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

Dated this the 02nd day of April, 2025

The writ petition is filed to quash Exts.P1 and P2 orders and direct the 1st respondent to consider Ext.P3 representation submitted by the petitioner after affording him an opportunity of being heard.

2. The petitioner is functioning as the President of the Sports Council of Thiruvananthapuram District. By Exts.P1 and P2 orders, the respondents 2 and 1 have ordered the petitioner to be suspended. A reading of Ext.P2 order would show that the same has been issued on the direction of the President of the 2nd respondent. The contents of the order would reveal that the petitioner was ordered to be removed from the Office of the President of the District Sports Council. The proposed action against the petitioner is said to be taken by the Government in public interest. However,

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there is no allegation mentioned in Exts.P1 and P2. The action of the respondents 1 and 2 is arbitrary and illegal. The petitioner submitted Ext.P3 representation before the respondents 1 and 2 on 24.02.2025. However, no action has been taken in the matter. Hence, the writ petition.

3. The 2nd respondent has filed a counter affidavit denying the allegations in the writ petition. It is stated that, by Ext.P2 order, the Government has directed an enquiry to be conducted by a committee comprising of the President, the Vice President and one of the members of the Standing Committee of the 2nd respondent. Until such time the enquiry is completed, the petitioner is directed to be suspended from his responsibilities as the President of District Sports Council. Exts.P1 and P2 orders are temporary orders suspending the petitioner till the enquiry is completed. It is learnt that the petitioner is functioning in a manner violating his official position. Therefore, it is felt necessary to conduct an enquiry against him. There is

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no illegality or arbitrariness on the part of the respondents 1 and 2.

4. The petitioner has filed a reply affidavit denying the allegations in the counter affidavit filed by the 2nd respondent. The petitioner has prayed that the writ petition may be allowed.

5. Heard; Sri.Thomas Abraham, the learned counsel appearing for the petitioner, the learned Government Pleader and Sri.Anand, the learned Senior Counsel appearing for the 2nd respondent.

6. The learned counsel for the petitioner submitted that , the respondents 1 and 2 have no power to suspend the petitioner in view of the conspicuous absence of any substantial provision in the Kerala Sports Act, 2000 (for short 'the Act'). Therefore, Exts.P1 and P2 are liable to be quashed.

7. The above submission was refuted by the learned Government Pleader, who drew the attention of this Court to Section 9 of the Act and Rules 4 and 29 of the Kerala Sports Rules, 2008 (for short 'the Rules') to

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establish that the Government has the power to remove a member of the Sports Council. It is by invoking the said power, that an enquiry has been ordered. For a fair enquiry to be conducted, the petitioner has been suspended. The petitioner would be served with a show cause notice and be afforded an opportunity of being heard before the enquiry is finalised. There is no illegality or arbitrariness in the proceedings initiated against the petitioner. Hence, the writ petition may be dismissed.

8. Based on the report given by the President of the 2nd respondent, the 1st respondent had issued Ext.P2 on 22.02.2025 ordering the petitioner to be suspended pending enquiry.

9. The sheet anchor of the argument of the learned counsel for the petitioner was that, there is no substantive provision in the Act and the Rules for the respondents to suspend or remove the petitioner from the post of the President of the District Sports Council.

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10. In light of the above contention, it is apposite to refer Section 9 (4) of the Act which reads as follows:

> "9. District Sports Council:- xxxx
>
> xxxxx
>
> (4) There shall be a President and Vice President for every District Sports Council elected from among the members of that council as may be prescribed;"

11. Similarly it is also necessary to refer to Rules 4 and 29 of the Rules which reads as follows:

> **"4. Removal of members from office**.- Any member of the Council other than an ex-officio member may be removed from the office by an order of the Government, if he-
> (a) becomes an un-discharged insolvent;
> (b) is convicted and sentenced to imprisonment for an offence which involves moral turpitude:
> (c) is of unsound mind,
> (d) is absent from three consecutive meetings of the Council without obtaining leave of the Council;
> (e) in the opinion of the Government, so abused his position in the Council as to render his continuance of his service in office detrimental to public interest:
>
> Provided that a member shall not be removed under this rule without giving him an opportunity of being heard."

> **"29. Removal of members from office and resignation of President, Vice-President and Members.** The provisions in rule 4 and rule 5 of these rules, respectively, shall mutatis mutandis apply for the removal of members from office and resignation of President, Vice-President and the members of the District Sports Council."

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12. A reading of the above quoted provisions undoubtedly reveal that the President and the Vice President for every District Sports Council is elected by the members of the Council as may be prescribed. The prescription is categorically delineated in Chapter II of the Rules. Rule 4 deals with the removal of the members of the State Sports Council, which is mutatis mutandis made applicable to the removal of members of the District Sports Council. Therefore, in view of the explicit powers conferred by the Statute, there can be no doubt that the Government has the power to remove any member from the Office of the State Sports Council as well as the District Sports Council provided, the member is afforded an opportunity of being heard and the Government forms an opinion to remove delinquent member from the office.

13. In the case at hand, the petitioner has only been suspended pending enquiry. The Government has till date not issued a show cause notice to the petitioner as provided under the proviso to Rule 4 of the

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Rules. It is alleged that the petitioner has abused his position in the Council and his continuance in the office would be detrimental to the public interest.

14. In view of the above statutory provisions and the stand taken by the 1st respondent, I am of the view that the 1st respondent is to serve the petitioner with a show cause notice and afford him an opportunity of being heard before forming an opinion in the matter, which would be sufficient compliance of the provisions to the Act and the Rules framed thereunder.

In the above said circumstances, I dispose of the writ petition in the following manner:

1. The petitioner's prayer to quash Exts.P1 and P2 orders is rejected.

2. The 1st respondent shall issue a show cause notice to the petitioner as per the provisions of the Act and the Rules framed thereunder within four weeks from the date of receipt a certified copy of this judgment.

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3. The petitioner shall reply to the show cause notice within a further period of two weeks from the date of receipt the show cause notice.

4. On the receipt of the reply, the duly constituted committee shall afford the petitioner an opportunity of being heard, and then submit a report to the 1st respondent.

5. On receipt of the above report, the 1st respondent shall form an opinion and finalise the proceedings initiated against the petitioner, in accordance with law.

The writ petition is ordered accordingly.

Sd/-
C.S.DIAS, JUDGE

NAB

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APPENDIX OF WP(C) 7815/2025

PETITIONER EXHIBITS

EXHIBIT P1	**THE TRUE COPY OF THE SAID ORDER NO. KSSC/257/2025-AS(ADMIN) DATED 24.2.2025 ISSUED BY THE SECRETARY OF THE KERALA STATE SPORTS COUNCIL**
EXHIBIT P2	**THE TRUE COPY OF THE ORDER DATED 22.2.25 ISSUED BY THE PRINCIPAL SECRETARY OF THE SPORTS AND YOUTH DEPARTMENT OF THE GOVERNMENT OF KERALA**
EXHIBIT P3	**THE TRUE COPY OF THE REPRESENTATION BEFORE THE CONCERNED AUTHORITIES DATED 24/2/25**