

(2025) 04 KL CK 1309

In the High Court Of Kerala

Case No : Writ Petition (C).NOS.6752, 7355, 7842, 9339, 9690, 10142, 10666, 10869, 11090, 11104, 11453, 12642, 12834, 12924, 13453, 13671, 16325, 16375, 16595, 16793, 16830, 16869, 17368, 17475, 17873, 18157, 18208, 18275, 18313, 18350, 18358, 18415, 18577, 18586, 18711, 18815, 18966, 18967, 19107, 19375, 19949, 19983, 20994, 21536, 21551, 23502, 23716, 23874, 26562, 42358, 43873 & 44089 Of 2023 & 548, 926, 11815, 12263, 12273, 13522 & 15912 Of 2024

Sainaba & Ors

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 10-04-2025

Acts Referred:

Constitution of India, 1950 — Article 19(1)(a), 51A(e), 51A(i)
Indian Penal Code, 1860 — Section 188

Citation : (2025) 04 KL CK 1309

Hon'ble Judges : Dr. A.K.Jayasankaran Nambiar, J;Mohammed Nias C.P., J

Bench : Division Bench

Advocate : Sajeev Kumar K.Gopal, N.Manoj Kumar, K.R.Ranjith,
P.D.Sarangadharan

Final Decision : Disposed Of

Judgement

Dr. A.K. Jayasankaran Nambiar, J

1. W.P.(C).Nos.222 and 244 of 2019 raise common issues pertaining to the legality of the call for hartals and general strikes by various persons including political parties in the State of Kerala. On 22.09.2022, a call for hartal was made by the Popular Front of India [PFI] and its State General Secretary Sri. A. Abdul Sathar scheduling the hartal on 23.09.2022. Since the said call or hartal was issued at a time when as early as on 07.01.2019 we had taken note of the peculiar circumstances in the State of Kerala where calls for hartal, which ordinarily would not be viewed as illegal, had over the years come to carry an implied suggestion that the general public, if they did not co-operate with those calling for the hartal, could face threats of violence or actual violence, and

passed the following order:

"7. We feel that directions have to be issued to ensure that a call for a hartal/general strike does not have the effect of affecting the fundamental rights of those who do not align with the cause of those calling for the hartal/general strike. Such directions which are necessitated on account of the State's experience with hartals/strikes in the last few years must also ensure that sufficient time is given to the State/District administration to put in place safeguard measures to avoid any harm to those who choose not to support a call for hartal/general strike. Taking cue from the provisions under the Industrial Law of this country, we feel that as an interim measure, and pending disposal of these writ petitions, a balance can be struck between the fundamental right of a person, including a political party, to call for a peaceful hartal or general strike, and the fundamental rights of those who choose not to align with the said persons. Our law contemplates that when there is a conflict of fundamental rights, the law must lean in favour of the paramount collective interest (See: *Mazdoor Kisan Shakthi Sangathan v. Union of India* – AIR 2018 SC 3476) . In the instant cases, the rights of the majority of private citizens, including students and daily wage workers to pursue their academic pursuits or earn their livelihood, would definitely outweigh the fundamental right of persons calling for the strike/hartal. We therefore direct that any person, including any political party or other Association of persons, that proposes to call for a general strike or hartal, shall give 7 clear days' public notice of its intention to do so. The said period of seven clear days will, in our view, enable citizens who are opposed to the call for hartal/strike to approach this Court with their apprehensions as regards such call, and this Court can then examine the legality of such call for hartal/strike. The said notice period would also, in our view, enable the State/District administration to take such measures as are necessary to safeguard the interests of the people of this State, in the event of any hartal/strike being permitted to be conducted in a lawful manner. We make it clear that hartals/strikes called without adhering to the above procedure, would be deemed illegal/unconstitutional, and while the same would entail adverse consequences to the person/party calling for the hartal, the said person/party would also be liable, on the principles of strict liability, for any loss/damage caused to citizens and government pursuant to the call for hartal/general strike."

Thereafter, noticing that the PFI had called for and implemented a flash hartal without following the procedure contemplated above, we issued the following directions in our order dated 23.09.2022:

? The police establishment in the State shall ensure that adequate measures are put in place to prevent any damage/destruction to public/private property of Government/citizens who do not support the call for hartal. In particular, the police shall also take steps to monitor any such activity by the supporters of the illegal hartal and shall place before this Court a report giving details of such instances and the extent of damage, if any, caused to public/private property.

The said details would be necessary for this Court to take remedial action to recover such losses from the perpetrators of the illegality.

? The police establishment shall also keep in mind the provisions of the relevant Penal Laws, including the provisions of the Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019 as also the provisions of Section 188 of the Indian Penal Code while registering cases against those found to be flouting the law. Adequate police protection shall also be granted to all public utility services that apprehend violence, at the hands of those supporting the illegal hartal. We take note of the submission of the learned Director General of Prosecution Sri.T.A.Shaji that Circulars/instructions to the above effect have already been issued by the State Police Chief last evening.

? We note with some concern, that in the Media reports about the flash hartal today, there is a mere mention of the call for a flash hartal, without mentioning the details of the interim order passed by this Court, which has the effect of rendering such calls for hartal without seven days public notice, as illegal. We, therefore, deem it necessary to once again request the Media to ensure that whenever such illegal flash hartals are called for, and it is apparent that the said hartal called is in violation of the orders passed by this Court, the public be duly informed of the said fact. This, in our view, would suffice to a large extent, in allaying the apprehensions of the general public as regards the legality of the call for hartal and also dissuade providers of public utility services from heeding to such calls for illegal hartals in future.

We had also, vide the same order, initiated separate action for contempt of the Court's order dated 07.01.2019 against the PFI and its State General Secretary.

2. By our order dated 29.09.2022, we took note of the reports submitted before us of the estimated loss suffered by members of the public as also by the KSRTC on account of the violence unleashed during the PFI hartal. Taking note of the same, we issued the following directions:

? We are of the firm view that the 12th and 13th respondents are wholly and directly responsible for the injuries inflicted on the members of our citizenry by their supporters, as also for the damage/destruction caused to public/private property by the said persons. We are justified in drawing this conclusion based on the judgments of the Supreme Court in *Re: Destruction of Public and Private Properties v. State of Andhra Pradesh* – [2009 (2) KHC 374]; *Tehseen S Poonawalla v. Union of India* – [2018 KHC 6513] and *Kodungallur Film Society and Another v. Union of India and Others* – [2018 (5) KHC 297]. The tenor of our earlier order of 2019 was unambiguous when it stated that calls for flash hartals would be viewed as illegal and unconstitutional acts, irrespective of the person, political party or association of persons which called for the same, and that those who violated the said order would be liable for the consequences that flowed from their illegal acts.

? It is of some concern that notwithstanding our declaration that the very calling

of a flash hartal was an illegal and unconstitutional act, the State Administration did virtually nothing to prevent the hartal organizers from going ahead with their illegal demonstrations and incidental road blockages on 23.09.2022. The media reports also reveal that the police force played only a passive role in dealing with the situation till we pronounced our order dated 23.09.2022, and began taking effective steps only thereafter. An effective compliance with our earlier order dated 7.1.2019 would have necessitated the State administration to ensure that no public procession, gathering or demonstration took place in the State if the same was in connection with a call for a flash hartal.

? We once again re-iterate that our declaration and directions in the order dated 7.1.2019 were solely in connection with flash hartals and not in relation to general strikes or demonstrations that do not call for the participation of the general public or intend to disrupt the free movement of people and vehicles, or to peaceful hartals/demonstrations conducted after due public notice. While the very call for a flash hartal is illegal and unconstitutional, as it is not preceded by adequate public notice, the holding of peaceful demonstrations of the nature described above is one that can be justified as traceable to the fundamental rights of the demonstrators under Article 19 (1)(a). It must be borne in mind, however, that even the latter right is not an absolute one and, on every occasion where a demonstration takes place, a balancing exercise has to be carried out between the rights of the demonstrators under Article 19 (1)(a) and those of the general public under Article 21 and if the said rights come into conflict with each other, the former must give way to the latter (See: *Mazdoor Kisan Shakti Sangathan v. Union of India* – AIR 2018 SC 3476)).

? Citizens of the State cannot be made to live in fear solely because they do not have the organized might of the persons or political parties at whose instance such violent acts are perpetrated. Our constitution guarantees to each individual in society certain fundamental rights, and the said rights are to be respected and guaranteed not only by the State as a governing body but also by fellow citizens who must view such respect for others' rights as part of their fundamental duties under the constitution. It might be apposite to emphasise at this juncture that Article 51-A (e) in Part IV-A of our Constitution, obliges every citizen to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women, while Article 51-A (i) obliges every citizen to safeguard public property and to abjure violence. A citizen of our country cannot therefore, either individually or collectively, ignore the above constitutional mandate. It is the rule of law, and not the rule of men or mobs that legitimises governance under our democratic Constitution.

? The additional 12th and 13th respondents herein cannot feign ignorance of the above constitutional obligations more so when they claim to be representing members of a pluralistic society. Their action of inciting their supporters and goading them into the violent acts that were witnessed across the State on

23.09.2022 cannot be legally countenanced. They must be held responsible and made accountable for their illegal actions. We therefore deem it appropriate to issue the following directions:

? The additional 12th and 13th respondents shall, within two weeks from today deposit an amount of Rs.5.20 crores with the Additional Chief Secretary, Home Department, towards the damages estimated by the State Government as well as the KSRTC as arising from the destruction/damage caused to public/private property in the State.

? If the said amount is not deposited by the additional 12th and 13th respondents within the above period of two weeks, the State Government, through the Additional Chief Secretary, Home Department shall take immediate steps, inter alia by invoking the provisions of the Revenue Recovery Act, to proceed against the assets/properties of the additional 12th respondent organization, as well as the personal assets of its office bearers including the Secretary, the additional 13th respondent herein, for realisation of the aforesaid deposit amount.

? The amounts so realized shall be purely provisional, and shall be duly accounted for and held by the State Government in a separate and dedicated account, for disbursal to those claimants who are identified by the Claims Commissioner as entitled to such amounts. The respondents shall also be liable to such further amounts as are found to be payable to the claimants in the adjudication proceedings before the Claims Commissioner.

? The State Government shall also ensure that in all the cases filed before the various Magistrates/Sessions Courts in the State in connection with offences committed during the flash hartal called on 23.09.2022, the 13th respondent herein is arrayed as an additional accused.

? The Magistrates/Sessions courts in the State, while considering the bail applications of those persons against whom cases have been registered by the Police in connection with the flash hartal that was called on 23.09.2022, shall ensure that payment of any amount quantified towards damage/destruction of property by any of the accused, is insisted from the accused concerned as a condition for the grant of bail to him.

? The State Government shall take immediate steps to ensure that secretarial assistance, including office space/infrastructure, is provided to Sri.P.D.Sarangadharan, the Claims Commissioner identified by this Court, so that the office of the Claims Commissioner is rendered fully functional within three weeks from today and the claims instituted in connection with the hartal that was called on 23.09.2022 can be adjudicated without delay.

3. Vide order dated 08.11.2022, we took note of the Government Order dated 01.11.2022 that formally appointed the Claims Commissioner [Sri.P.D.Sarangadharan, Retired District Judge] and sanctioned the sitting fee of

Rs.4,000/- for each sitting. The said Government Order also indicated that an approved panel of assessors consisting of Chartered Engineers and Chartered Accountants had also been made available to assist the Claims Commissioner, and further that necessary directions had been given to the Revenue Department for initiating revenue recovery proceedings after receipt of details regarding the assessment of value of the properties/assets of the PFI and its State General Secretary.

4. Finding that the State Government was dragging its feet in the matter of pursuing the revenue recovery actions that it had undertaken to pursue with immediate effect, this Court was constrained to pass an order dated 19.12.2022 on the following lines:

? Despite the peremptory directions issued by us in the past, directing the State Government through the Additional Chief Secretary to take immediate steps, inter alia, by invoking the provisions of the Revenue Recovery Act to proceed against the assets/properties of the additional 12th respondent Organization as well as the personal assets of its office bearers including the Secretary, the additional 13th respondent in these writ petitions, for realisation of the amount of Rs. 5.20 crores, we find that nothing substantial has been done by the State Government towards complying with the said directions.

? As a matter of fact, on the last occasion when these cases came up before us on 8-11-2022 the assurance of the Government, was that proper directions had been given to the Revenue Department for initiating recovery proceedings after receipt of the assessment of properties/assets of respondent Nos.12 and 13. We were also assured that recovery action would be proceeded and taken to fruition within a month from that date. It is thereafter, and despite the further assurance that a Claims Commissioner had already been appointed through the Government Order dated 1-11-2022, and that the District Collectors concerned of the various districts in the State had been duly instructed to provide assistance to the Claims Commissioner, that an affidavit has today been filed before us by the State Government through the Additional Secretary to the Government, Home Department which reads as follows:-

"The Revenue Department has already issued directions to all 14 district collectors to identity the movable and immovable properties of the 12th and 13th respondents urgently. Further, a requisition authority has to be appointed, and the requisition authority thus appointed has to submit requisitions to the District Collectors. On the basis of the requisitions the District Collectors have to serve notice to the arrear parties through the Revenue Officials as per Kerala Revenue Recovery Act. 7 days prior notice has to be given to the defaulting party for payment of the arrears under Section 7 & 34 of the Revenue Recovery Act and if the dues are not paid within 7 days after serving the notices, then a forfeiture notice under Section 36 has to be issued to the defaulting parties. If the defaulting party does not pay the amount, a notice of auction should be given as per Section 49 (2) which should be duly served and advertised at least

30 days before the date of auction. Therefore, the Revenue Department has informed that it is unfeasible to complete the above procedure within a short period of one month. 7. Even though direction was given to the District Collector, Ernakulam to ensure Secretarial assistance, including office space/infrastructure to the claims Commissioner, the District Collector has now informed their inability to give assistance in Collectorate due to insufficiency of staff and lack of office space for accommodating the Claims Commissioner. Alternate arrangements are being taken to provide support for the same, in consultation with the District Collector, Ernakulam."

? We find the attitude of the State Government, as discernible from the averments in the paragraphs of the affidavit extracted above, to be wholly unacceptable, and per se disrespectful to the directions of this Court. The State Government cannot adopt such a callous attitude when called upon to implement the directions of this Court especially in matters of public interest and involving destruction of public property. We, therefore, direct the Additional Chief Secretary, Home Department to be personally present before this Court on Friday, the 23rd day of December 2022, along with an affidavit sworn to by him detailing the time frame within which the directions issued by us towards recovery of the amount of Rs. 5.20 crores will be completed.

? We make it clear that under no circumstances will the time granted for compliance with the earlier directions be extended beyond 31.01 2023.

5. In response to the directions in our order dated 19.12.2022 above, the Additional Chief Secretary, Home Department appeared before us and filed an affidavit undertaking to complete the recovery proceedings without undue delay. The text of our order dated 23.12.2022 reads as follows:

? Pursuant to our last order dated 19.12.2022 the Additional Chief Secretary, Home Department, Dr.Venu.V., is before us today. He has also filed an affidavit, the relevant portion of which reads as follows:-

"3. In this regard, it is humbly submitted that, necessary arrangement will be made for the sitting of the Claims Commissioner, in the Government Guest House, Ernakulam by the District Collector, Ernakulam. The District Collector, Ernakulam has been strictly directed to provide infrastructure and other facilities to the Claims Commissioner as directed by this Hon'ble Court and report compliance to Government vide D.O. Letter No.M2/108/2019/Home dated 20.12.2022. The Additional Chief Secretary, Revenue Department has been authorized to instruct the District Collectors concerned of the various Districts in the State to provide assistance to the Claims Commissioner, whenever necessary. Hence it is respectfully submitted that there will not be any impediment for the Claims Commissioner to conduct sittings.

4. The Inspector General, registration has furnished the details of the Assets and properties of the additional 12th and 13th respondents, and it is produced herewith and marked as Annexure R2(a). In accordance with the order dated

29.09.2022 of this Hon'ble Court, the Additional Chief Secretary shall be the Requisition Authority for the Revenue Recovery proceedings to be initiated from the additional 12th and 13th respondents. Accordingly the Land Revenue Commissioner has been directed to make all steps to authorize Additional Chief Secretary, Home as the requisitioning authority. It is submitted that, all earnest efforts are being taken to comply with the directions of this Hon'ble Court. There is no wilful disobedience or laches either from the part of this respondent or from the part of other respondents in complying with the directions of this Hon'ble Court. It is most respectfully submitted that, the directions issued by this Hon'ble Court will be complied without fail. It is also respectfully submitted that attachment of the properties identified by the Registration Department will be completed by 15.01.2023. Thereafter a further period of one month will be required to complete the recovery proceedings in compliance of the directions of this Hon'ble Court.

5. As pointed out above, all the earnest efforts are being taken to complete the proceedings and comply with the directions of this Hon'ble Court. This respondent tenders unconditional apology for the delay caused in this regard, and also submits that same is not wilful or deliberate and occurred for the reasons stated above. This respondent once again submit that all earnest steps will be taken to comply with all the directions issued by this Hon'be Court without any delay."

? Dr.Venu.V. has also assured us that clear instructions will be issued to the authorities for the purposes of ensuring that directions issued by this Court including in matters involving public interest, are promptly complied with and acted upon so that expediency in justice dispensation is achieved in the State through the collaborative efforts of the Executive and the Judiciary in the State. We take note of this assurance given to us by Dr.Venu.V. , and direct the posting of these cases to 18.1.2023 for the state to file an action-taken report."

Thereafter on 18.01.2023, we recorded the contents of the memo filed by the State Attorney as regards the action taken with regard to the attachment of properties of the Organisation and its State General Secretary. The said order reads as follows:

? Through a memo filed by the State Attorney today, the action taken report with regard to the attachment of the properties of the additional 12th and 13th respondents as also the properties of the office bearers of the organisation reads as follows:

"8. The State Police Chief has furnished the details of the office bearers of the organization. The said details was forwarded to the IG Registration for identifying their assets/properties which includes the name, address, Aadhaar number, registered year and survey number of the property. The IG Registration has furnished the property details of the organization as well as the office bearers of the PFI authorities which were identified in the 14 Districts. Revenue Recovery

Procedure is initiated by the Requisition Authority and notice is issued to Shri. Abdul Sathar, Secretary, PFI. The Land Revenue Commissioner has informed that based on the requisition given in the name of Sri. Abdul Sathar, S/o. Alikunju, Secretary Popular Front, Vathorayath veedu, Punnakkulam, Aadinad, Notice under 7, 34 was served to Sri. Alikunju, father of Abdul Sathar on 31.12.2022.

9. Earnest efforts are taken by Government to complete all the procedures for uploading the details of the office bearers identified for the Revenue Recovery Proceeding, with the coordination of the State Police Chief, the Land Revenue Commissioner, IG Registration. The Additional Chief Secretary, who is the Requisitioning authority is undergoing treatment in hospital due to an accident which happened on 08.01.2023. As per the order dated 23.12.2022 adequate directions were issued to all the authorities concerned for prompt discharge of the Revenue Recovery proceedings. It is submitted that there is no wilful negligence or laches on or part in complying with the directions of this Hon'ble Court."

? In response to a query from the Bench as regards why there was a need to serve a notice under Sections 7 and 34 of the Revenue Recovery Act to the persons whose property was directed to be attached by this court, the response of the learned State Attorney is that inasmuch as the Court had directed the recovery proceedings to be initiated by invoking the provisions of the Revenue Recovery Act, a compliance with the said procedure was also felt necessary by the State. Taking note of the erroneous appreciation by the State of the directions issued by us on 23.12.2022, we clarify that our direction to the State was to proceed against the properties of the additional 12th and 13th respondents, as also the properties of the office bearers of the organisation concerned, after finding that they had not complied with our earlier direction to deposit the amount of Rs.5.20 crores. Under the said circumstances, a further notice asking the said persons to show cause as to why their properties should not be attached was wholly unnecessary. We are of the view that the Government should have straight away proceeded to attach the properties and bring the same to sale for realisation of the aforesaid amount of Rs.5.20 crores by following the procedure under Section 35 of the Revenue Recovery Act which would squarely apply in the instant case. In other words, the reference to the provisions of the Revenue Recovery Act in our earlier orders has to be taken as a reference to those provisions under that Act as are applicable on the facts in the instant case, and which would enable the State government to promptly effect a sale of the properties belonging to the persons aforementioned for realisation of the amount aforementioned. Accordingly, those procedures under the said Act such as Sections 7 and 34 that are designed to protect the owners of the properties need not be invoked in the case of the additional 12th and 13th respondents as also the office bearers of the organisation concerned since they are admittedly defaulters of the directions issued by us.

? We, therefore, post these cases on 24.01.2023 for the State government to

report the attachment of the properties that have already been identified as belonging to the additional respondents mentioned above and the office bearers of the organisation concerned. The report of the State shall be filed before this Court by 23.01.2023 and shall contain the District-wise details of the properties attached."

By our order dated 24.01.2023, we took note of the allegations brought before us regarding attachments of properties belonging to persons who were neither office bearers nor had any relationship with the Organisation concerned. We therefore clarified the scope of our earlier orders as follows:

"We had by our earlier orders specifically directed the properties of the 12th respondent and the office bearers of the 13th respondent Organization to be attached since they failed to deposit Rs.5.20 crores directed by us. In otherwords, what we directed was the attachment of the properties belonging to the 12th respondent as well as the office bearers of the 13th respondent Organization who gave the call for the illegal flash Hartal on 23.9.2022, during which there was widespread destruction of the properties belonging to the Government, KSRTC as well as the private citizens. It was to recover the loss from those respondents that the earlier directions were issued. No properties other than the above could have been proceeded much less attached under the cover of the earlier orders. Under such circumstances, we direct the Additional Secretary to Government, Home Department who has filed the above memo to furnish details showing the link of the persons, whose properties were attached, with the 13th respondent Organization. The affidavit shall also show the valuation of the properties attached. We also direct the Claim Commissioner to commence proceedings for quantification of the loss caused on account of the overt acts on 23.9.2022 from next week onwards and the State of Kerala and its officials are hereby directed to afford such assistance required to the Claim Commissioner for commencing the proceedings, as directed above. An affidavit containing the above details shall be filed before this Court on or before 02.02.2023. The Claims Commissioner is requested to be present before this Court through video conferencing on the next posting date."

By our order dated 02.02.2023, we considered the affidavit filed by the State detailing the steps taken for attachment of properties and directed as follows:

? Pursuant to our earlier order dated 24.1.2023, when the matter was taken up for orders today, an affidavit has been filed on behalf of the 2nd respondent stating as follows in paragraphs 3, 4, 5, 6 and 7:

"3. It is submitted that on receipt of the order dated 08.11.2022 of this Hon'ble Court, the State Police Chief was directed to furnish the details of the Office bearers of the 10th respondent. In response to the same, the District Police Chief concerned has furnished the list of the office bearers of the organisation. The list thus obtained was forwarded to the Inspector General, Registration for assessing the details of the properties of the office bearers. In the meantime as per order

dated 18.01.2023, this Hon'ble Court directed that the Government should have straight away proceeded to attach the properties and bring the same to sale for realisation of the aforesaid amount of Rs.5.20 crore by following the procedure under section 35 of the Revenue Recovery Act in the instant case. Hence in compliance to the order, the details of the properties identified by the IG, Registration was forwarded to the Land Revenue Commissioner for initiating attachment procedure. Since all these procedures were initiated in a limited time period some mistakes crept in due to some similarity in the name, address, survey number, etc. of the properties identified. Hence this resulted in erroneous attachment of some properties of persons who were not associated with the organization. When it came to the notice of Government that some mistakes had occurred in the attachment, direction was given to the Land Revenue Commissioner and the State Police Chief to stop further proceedings in respect of these properties which were erroneously identified. In accordance with the directions of this Hon'ble Court dated 24.01.2023, the State Police Chief has furnished the detailed list of the persons whose properties were attached and their link with the 10th respondent organization. True copy of the detailed list furnished by the State Police Chief along with covering letter dated 01.02.2023 is produced herewith and marked as Annexure R2(b).

4. In compliance to the directions in the order dated 18.01.2023, requisition in respect of the properties of 209 persons related to PFI was forwarded to the District Collectors for effecting attachment. The Land Revenue Commissioner has informed that out of them valuation report in respect of 177 properties were prepared by the District Collectors concerned. In view of the disputes raised regarding the attachment proceedings, the valuation of the remaining properties could not be completed. A true copy of the valuation statement of the properties furnished by the Land Revenue Commissioner along with covering letter dated 31.01.2023 is produced herewith and marked as Annexure R2(c).

5. As submitted in the Action Taken Report dated 17.01.2023, office space of 300 Sq. Ft was allotted to the Claims Commissioner in the 1st floor of Revenue Tower at Ernakulam. The Executive Engineer, Kerala State Housing Board had submitted an estimate of Rs.6,05,000/- for furnishing the office space especially for partition and providing office furniture to the Claims Commissioner. The District Collector, Ernakulam had requested the Home Department to give administrative sanction of Rs.6,05,000/- for furnishing the office space. Accordingly as per G.O. (Rt) No.254/2023/Home dated 31.01.2023, the Government have issued administrative sanction amounting to Rs.6,05,000/- for providing infrastructure facilities to the Claims Commissioner. Sanction was also accorded to the District Collector, Ernakulam to draw an amount to Rs.6,05,000/- for the above purpose.

6. It is respectfully submitted that in order to commence the functioning of the Claims Commissioner, the District Collector as per order dated 25.01.2023 had also allotted a room for the Claims Commissioner in the Rest House, Ernakulam till the furnishing work of the office in the Revenue Tower is completed. A true

copy of the order dated 25.01.2023 of the District Collector, Ernakulam is produced herewith and marked as Annexure R2(d).

7. Based on the above said order of the District Collector, letter dated 27.01.2023 was addressed to the Claims Commissioner Sri. P.D. Sarangadharan, intimating him that a room has been allotted temporarily in the Rest House, Ernakulam for commencing the work of the Commission, pending completion of the furnishing work in the room allotted in the Revenue Tower, Ernakulam. Necessary staff have already been deputed to assist the Claims Commissioner and they had reported to the Claims Commissioner."

? In the report submitted before us by the Claims Commissioner, he submits that, while the District Collector has, through a communication dated 25.1.2023, informed him of the allotment of a room in the PWD Rest House, Ernakulam, for his functioning pending the repair works to be carried out at the premises in the Revenue Tower Building near Boat Jetty, Ernakulam, he feels that the space allotted to him at the PWD Rest House will not be an appropriate place to function for a public office as the amenities there are relatively poor. He prays that he may be permitted to function from his Chambers at the High Court Chamber Complex for the period of one month from today, by which time, it is expected that the space in the Revenue Tower Building will be made available for his use by the District Administration. He also prays that suitable directions be issued for empowering him to summon existing video and other recordings from the Police Department and other public and private sources to pinpoint the damage and establish nexus with the perpetrators of the damage caused during the Hartal, to call for the copies of all FIR's registered and the mahazars prepared in connection with the incident during the Hartal and to call for the copy of records showing all details of damage caused to the KSRTC.

? Taking note of the affidavit filed on behalf of the 2nd respondent and the report submitted by the Claims Commissioner, we deem it appropriate to issue the following directions:

(i) The 2nd respondent, Additional Secretary shall forthwith ensure that the properties of those persons who have no connection with the additional 13th respondent Organisation, which have been erroneously attached by the Revenue Recovery authorities of the State Government, are released by lifting the attachment on the said properties. The lifting of the attachment shall be evidenced by appropriate orders issued in that regard which are communicated to the persons concerned.

(ii) We make it clear that the Claims Commissioner appointed by this Court, to adjudicate on the claims of the persons who have suffered damage to their properties during the Hartal, shall have all the powers of a Civil Court to summon any person/document as also any witness for the purposes of the enquiry. He may accordingly seek the production of any material required for the purposes of the enquiry from the Departments of the Government, Public/Private sources as

also the KSRTC using the said powers conferred on him through this order.

(iii) The State Government shall ensure that the support staff allotted to the Office of the Claims Commissioner are made available to the Claims Commissioner at the temporary premises that he has chosen to function from, till such time as the premises allotted in the Revenue Tower Building is made available for his functioning. (iv) The District Collector, who is present before us through video conferencing, shall also ensure that the work of furnishing the premises at the Revenue Tower Building, for the functioning of the Office of the Claims Commissioner, is complete in all respects within a period of one month from today."

6. Through various orders passed thereafter, we had also made it clear that till such time as the Claims Commissioner appointed by us, completed the exercise of quantifying the damage occasioned during the hartal, no sale of the attached properties would be conducted by the State Government. In the meanwhile, we were given to understand that a Special Leave Petition was preferred before the Supreme Court [S.L.P. (Civil) No.10350/2023] impugning the orders dated 23.09.2022, 29.09.2022 and 08.11.2022 passed by us. By an order dated 17.04.2023, however the said S.L.P. was dismissed as withdrawn with liberty to the petitioner therein to file a Review Petition before this Court. In the Review Petition that was thereafter filed before us, we heard the Review Petitioner, but found that the contentions in the Review Petition as supplemented by the submissions made during the course of the hearing, could not be accepted. We therefore dismissed the Review Petition with the following observations:

? Having considered the rival contentions, we are not in a position to accept the contentions raised on behalf of the review petitioners for more reasons than one. The orders that were passed on 23.9.2022, 29.9.2022, and 8.11.2022 were all in continuation of the orders passed by this Court dated 07.01.2019, finding that the actions of the review petitioners were in gross violation of the same. The contention that the petitioner was not heard before quantification or directing to deposit is again wrong as this Court had only taken note of the estimate prepared by the State Government/KSRTC and directed deposit more like a provisional/conditional attachment, pending the final adjudication. The correctness of the estimate/quantum assessed by the State Government/KSRTC is yet to be decided, and the petitioner will be free to point out his contentions and resist the quantification. What was ordered initially was only a deposit subject to the quantification of actual liability. Quantification must follow the procedure stipulated in the decision, particularly the one reported in *In Re: Destruction of Public & Private Properties v. State of Andhra Pradesh and Others* [(2009) 5 SCC 212]. On the argument that the petitioner was not heard, it is relevant to note that notice was issued in the writ petition and in the contempt case, and it could not be served only on account of the reason already stated. Even otherwise, we do not think that the lack of notice has prejudiced the petitioner in any manner, as we had made it clear that the deposit was subject to

the final adjudication, and the same was warranted on account of the undisputed fact that the petitioner gave the call for a hartal and that the damages/destruction was wholly and directly due to the call for hartal.

? We note from para-4 of the review petition that, following the nationwide raid of the office of the PFI and the arrest of its office bearers, distressed by the same, a press conference was held at 10 a.m. on 22.9.2022 and announced the decision to hold a hartal on 23.9.2022. In view of the admission by the petitioners themselves, there cannot be any doubt that the call was illegal and against the order passed by this Court on 7-1-2019 and therefore, the responsibility for the acts of damage/destruction on account of the said illegal call had to be fastened on the review petitioners. We do not find anything in the decisions the learned Senior Counsel relied on to support his contentions on the lack of notice, as in both cases considered by the Apex Court, final judgment was pronounced without the affected party concerned being served with a notice. For these reasons, we reject the contention as regards lack of notice.

? The further contention of the learned Senior Counsel that the cases were posted contrary to the roster allocation also cannot be accepted as the Contempt of Court case was initiated after getting permission from the Chief Justice, and the premise on which this Contempt of Court case was initiated was the violation of the orders passed in the same writ petition mentioned above. The writ petitions were also transferred to this Bench with the consent of the Chief Justice. The contention in this regard made by the learned Senior Counsel is only to be rejected.

? We also note that pursuant to the orders impugned in these review petitions, steps have been taken in furtherance of those orders, and quantification is nearly complete. At this distance of time, when the Claims Commissioner is almost nearing completion of the adjudication process, there is no scope for a review of the impugned orders so as to put the clock back or undo the actions taken to date. We, however, note the contention of the learned Senior Counsel, as stated in the review petitions, that respondent No.13 and his family were dispossessed from their house. We hold that there was no direction in any of the orders to dispossess any person. The learned State Attorney fairly concurs with this by stating that immediate steps will be taken to restore the possession of respondent No.13. We record this, and there will be a direction to do the same without any further delay if it has not been done so far.

? We find no error apparent on the face of the record or any analogous ground to entertain these review petitions. Accordingly, we do not find any merit in the review petitions, which are dismissed.

7. The Claims Commissioner has now filed his report after adjudicating 98 claim petitions. 60 of those petitions related to damage caused to KSRTC buses and 38 claims were in respect of private properties. As part of the enquiry, the Claims Commissioner collected and considered 862 documents and recorded statements

from 194 persons. A total figure of Rs.3,94,97,445.26 was arrived at as compensation payable in respect of the damages caused to property. Rs.10,72,761/- is quantified as compensation to private property that includes Rs.1,25,525/- for personal injury and Rs.9,47,236/- as damages to property. Rs.3,84,24,684.26 is the total compensation determined as payable to KSRTC which includes Rs.3,74,77,448.26 as damage to property, Rs.62,540/- for personal injury and Rs.2,42,58,376.26 towards revenue loss. Although by our order dated 19.03.2025, we had granted the parties two weeks' time to file their response to the reports filed by the Claims Commissioner, no such response was received when the case was called up for hearing on 03.04.2025 and 09.04.2025.

8. Since the Claims Commissioner has arrived at the final amount regarding the compensation payable, and the total amount is less than the amount that we had initially directed to be deposited by the PFI and its State General Secretary and further, the attachment of properties was ordered as security for recovery of the said amount, we are of the view that the compensation amount determined by the Claims Commissioner can be realised by continuing the attachment in respect of only some of the properties, and selling only such of the properties as are necessary for the realisation of the amount determined by the Claims Commissioner. Further, with a view to ensure that the State does not arbitrarily pick and choose among the attached properties, for the purpose of bringing them to sale, we must also formulate an appropriate criteria that would inform such a selection. We must also bear in mind that writ petitions have been filed by various persons, whose properties had been attached pending quantification of the damages by the Claims Commissioner, seeking a lifting of the attachment over their properties.

9. Towards the above end, we issue the following directions which shall operate as interim directions in W.P.(C).Nos.222 and 244 of 2019, but shall operate as final directions to dispose the other writ petitions:

i. The State Government shall identify properties sufficient to recover the amount of compensation determined as damages by the Claims Commissioner [Rs.3,94,97,445.26].

ii. Towards this ends, the State Government shall first arrange the attached properties in the following order:

(a) Properties standing in the name of the PFI.

(b) Properties standing in the name of the office bearers of the Front at the National Level.

(c) Properties standing in the name of the office bearers of the Front at the State Level.

(d) Properties standing in the name of the office bearers of the Front at the District Level and

(e) Properties standing in the name of the office bearers of the Front at the Local Area Level.

iii. After arranging the attached properties as above, the State shall identify such of the properties beginning from the top of the list, the sale of which would fetch the amount of damages quantified by the Claims Commissioner, within an outer time limit of six weeks from the date of receipt of a copy of this judgment.

iv. After identifying such properties as have to be sold for realisation of the compensation amount, the remaining attached properties shall be freed from their attachments by lifting the attachments that are in vogue over the said properties with due intimation to the respective owners.

The State Government shall do this exercise immediately on expiry of six weeks period mentioned in (iii) above.

In the light of the directions (i) to (iv) above, the writ petitions other than W.P.(C).Nos.222 and 244 of 2019 shall stand disposed without prejudice to the right of any of those writ petitioners to approach this Court with a fresh writ petition in the event of the State Government deciding to continue the attachment in respect of their properties even after completion of the exercise directed above. As regards W.P.(C).Nos.222 and 244 of 2019, the above directions shall operate only as interim directions.