
(2016) 07 KL CK 0089

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24499 of 2016

Suo motu

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 25-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 KHC 966

Hon'ble Judges : Mr. Thottathil B. Radhakrishnan, ACJ. and Mrs. Anu Sivaraman, J.

Bench : Division Bench

Advocate : Ranjith Thampan, Additional Advocate General, for the Respondent

Final Decision : Disposed Off

Judgement

Thottathil B. Radhakrishnan, A.C.J. - This is a suo motu proceedings initiated under Article 226 of the Constitution of India, taking note of the immense public importance and public interest, having regard to the needs of the people to have the functioning of judicial institutions, including the High Court of Kerala to be carried in the manner in which it is envisaged under the Constitution of India.

2. We pass this order in the presence of Additional Advocate General Shri Ranjith Thampan. The State of Kerala, represented by the Chief Secretary to Government of Kerala and the State Police Chief shall be the respondents in these proceedings for the time being, it would be open to necessary and appropriate parties to seek impleadment, if it becomes necessary to further carry forward the proceedings initiated hereby.

3. The pivotal functioning of judicial institutions includes the enforcement of the regime of fundamental rights and other legal rights, including statutory and non-statutory rights of citizens as well as different stakeholders in the process of governance of this Nation. The dignity doctrine, which is seminal even among the prescriptions in the Preamble to the Constitution, read in conjunction with the

equality doctrine and the guaranteed right of equal treatment in the matter of governance of institutions, stands to advise that access to justice is an indefeasible component of collective existence of any society. This can, in no manner, be belittled by any act, individually or collectively, impairing or tending to impair the appropriate functioning of judicial institutions; the Courts.

4. The maintenance of law and order and the requirement to extend support by the limbs of governance in any situation of challenge to access to justice in the physical sense have to be rendered as one of the primary duties of the Police Wing of the State. The Police have the constitutional and statutory duties and also the public duty in terms of the Constitution and the laws to ensure that there is no impairment whatsoever to the smooth conduct of Court proceedings and facilities for access to justice, including physical access by the citizens to the seats of justice, namely, the Courts. Therefore, it is imperative that every seat of the judiciary has to be insulated from any manner of intrusion, by whomsoever it may be, when such intrusion itself becomes a situation which would be inversely proportional to the progression of the constitutional and societal goals sought to be achieved in an orderly society by the existence of judicial systems.

5. Taking all the aforesaid legal factors into consideration, this Court is of the firm view that time has come for the judiciary of the State of Kerala to speak through its sole mouthpiece, i.e., the judgments delivered by it.

6. The High Court of Kerala is housed in an edifice which has been brought up by the sweat of the brow of the people; by spending funds from the Exchequer. The structural edifice is not a mere monument, it reverberates the aspirations of the People. The establishment of the High Court of Kerala now operates within the area that is identified as Court premises which includes the new Court building complex and the land on which it stands, the adjoining lands which, among different other buildings, carry with it the Ram Mohan Palace, as also, the Advocate General's office, buildings which are utilised by the advocates, housed and retained in land under judicial control. All these buildings and land have roads on almost all sides around them. The conducive manner in which the people can have fearless access to this highest seat of judicial authority in the State of Kerala is to ensure that there is no semblance of unlawful intrusion or brow-beating, by any individual or groups; whether organized or not. It is within the police power of the State to ensure such protective measures which may require from time to time.

7. Therefore, as a first measure, we hereby order that the Government of Kerala, the State Police Chief and the Police Officers under his command will ensure that there is no assembly or demonstration or collective expression of opinion in the Court premises and also in the roads and streets which surround them. The restriction that we impose is a reasonable one in terms of the Constitution, balancing the larger need of the people to use the judicial institution which contains none other than the servants of the Sovereign, "We, the People of India". It is directed that the restrictions we hereby impose will include use of

public announcement systems as well. All such restrictions as are imposed by this Court shall be operated as regards all roads which surround the buildings of the High Court of Kerala as noted above and also all leading roads to a distance of 200 meters from the roads that encircle the High Court buildings.

The Registrar General is directed to take steps for publication of the gist of this order in at least two English newspapers and vernacular dailies, six in number, having circulation throughout the State of Kerala. The publication will be at State expenses without depending on funds allotted for the requirements of the judiciary.

Issue copy to the learned Senior Government Pleader to be communicated to the respondents.