

N.D.O.H:09/12/2024

SECTION: PIL

IN THE SUPREME COURT OF INDIA

INHERENT JURISDICTION

CONTEMPT PETITION (DIARY) NO.36812 OF 2024

IN

W.P.(C) No. 1040 OF 2019

IN THE MATTER OF:

ANUJ NAKADE

... Petitioner

Versus

DR. POONAM MALAKONDAIAH GOVT.
OF ANDHRA PRADESH & ORS.

.. Respondents

INDEX

SL NO.	PARTICULARS	COPY	COURT FEE
1.	Counter Affidavit on behalf of the Respondent No.20 (State of Kerala)	1+3	20/-
2.	<u>ANNEXURE-A/1:</u>	1+3	
	TOTAL		20/-

MR. NISHE RAJEN SHONKER.

ADVOCATE FOR THE Respondents No.20

MOB: [REDACTED], CODE: [REDACTED]

Filed on: 05.12.2024

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INHERENT JURISDICTION
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COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT
NO.20 (STATE OF KERALA)

PAPER BOOK
[FOR INDEX KINDLY SEE INSIDE]

ADVOCATE FOR THE RESPONDENT: NISHE RAJEN SHONKER
STATE OF KERALA

INDEX

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IN THE SUPREME COURT OF INDIA
(INHERENT JURISDICTION)
CONTEMPT PETITION (CIVIL) DIARY No. 36812 OF 2024

IN

WRIT PETITION (C) No. 1040 OF 2019

IN THE MATTER OF:

ANUJ NAKADE

... CONTEMPT PETITIONER

Versus

DR. POONAM MALAKONDAIAH
GOVT. OF ANDHRA PRADESH ...

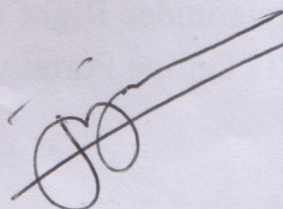
RESPONDNET/
ALLEGED CONTEMNOR

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT No.20
/CONTEMNOR

I, **K.R.JYOTHILAL**, Additional Chief Secretary to Government, General Administration (Co-ordination) Department, Government Secretariat, Thiruvananthapuram Kerala, District: Thiruvananthapuram, Kerala do hereby solemnly affirm and state as under:

1. That I am the Additional Chief Secretary to Government of State of Kerala. I am well conversant with the facts of the case and as such, I am competent to swear this affidavit on behalf of other alleged contemnors.

2. I have gone through the entire Contempt Petition and I have understood the contentions raised therein. All the allegations which are not specifically admitted hereunder are denied as being contrary to facts and law. The inadvertent omission to advert to any contention or submission of the petitioner may not be treated as admission of the same and may be permitted to be controverted by way of oral submissions.



3. Paragraphwise reply to the contempt petition:

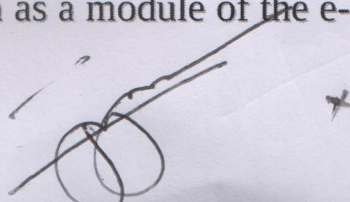
1. Para-1.

The Pravasi Legal Cell had filed WP(C) No. 1040/2019 before the Hon'ble Supreme Court of India praying to pass on appropriate writ order to all State Governments to establish an online Right to Information (RTI) Portal to enable the citizens to file online applications for information from any department of State Governments under RTI Act, 2005. In the said WP(C) the Hon'ble Supreme Court in its order dated 20/3/2023 had directed all State Governments/ Union Territories to set up and operationalize online web portals so that information sought under the Right to Information Act, 2005 is made available in respect of all public authorities falling within their jurisdiction, within a period of three months.

Para-2,

In compliance to the order of the Hon'ble Supreme Court the National Informatics Centre was entrusted to develop the online portal and they developed the portal linked with e-office and the same has been implemented in Government Departments where e-office facility is available. In the case of institutions where e office facility is not available strict instruction has been given to implement e office facility with RTI Online Portal or to develop their own RTI online facility, failing which Government will initiate disciplinary action against Institution Head concerned. A True copy of the instructions given to various departments for adopting e-office RTI portal or by developing their own portal is marked as **Annexure A1 (Pg.No.8-17)**.

The payment for the fees in the RTI Online Portal will be through e-Treasury Portal. For this, the State Information Commission has been mapped in e- Treasury with Department code 670 and office code 01116700005 . The Head of Account "0070-60-118-99-00 (Head ID-41783) Receipts under Right to Information Act 2005" has also been added. The RTI Online Portal will function as a module of the e-Office.



In the Government Secretariat, the Superintendents, Office sections have been assigned as Nodal Officers for the respective departments in the RTI Online Portal. For other Government Offices in the State, the Officers in charge of the Section that receives and distributes the Tappals will be designated as the Nodal Officer. The Nodal Officers mapped in the Portal will be responsible for receiving the applications under Right to Information Act, 2005 and distributing them to the State Public Information Officers concerned. They will monitor the RTI Online Portal on a daily basis and ensure that the applications received are distributed within the time limit stipulated as per the Right to Information Act, 2005.

Para-3.

Not disputed

Para-4-8

No Comments

Para-9

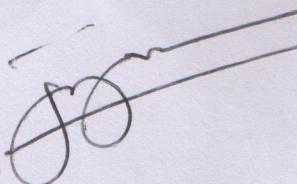
It is respectfully submitted that the 20th respondent (Government of Kerala) has implemented RTI online portal within the time limit prescribed by the Hon'ble Supreme Court. Accordingly, the Government of Kerala has complied with the directions of the Hon'ble Supreme Court.

Para-10

Not disputed

Para-10-15

No Comments

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line and a small flourish.

Para-16. A(a)

As far as the Government of Kerala is concerned, out of the 14 District Magistrates/District Collectors offices in the State, all District Magistrates/ District Collectors offices have implemented RTI portal.

Para-16. A(b)

Government of Kerala have implemented RTI portal in all departments where e-office is implemented. Since another software is being used for processing files in Police department, E-office was not implemented in that office which caused delay in establishing RTI portal in Police Department. Strict directions have already been given to the Police department to implement e-office or alternate arrangement to setup RTI portal. The RTI portal in Police department will be implemented within period of one-month.

Para-16. B(a)

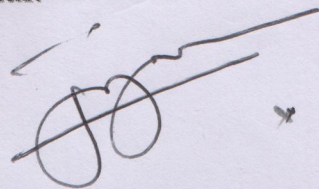
State Government have issued strict direction to the Kerala State Human Rights Commission to implement RTI portal within a month without fail.

Para-16. B(b)

State Government have issued strict direction to the Kerala State Pollution Control Board to implement RTI portal within a month without fail. Accordingly they have implemented RTI portal on 12.11.2024.

Para-16. B(c)

It is respectfully submitted that the Directorate of Higher Secondary Education had already implemented RTI online portal.



Para-16. B(d)

The 20th respondent have issued strict direction to the State Medical Councils to implement RTI portal within a period of one month without fail.

Para-16. B(e)

State Government have issued strict direction to the State Electricity Regulatory Commission to implement RTI portal within a period of one month without fail.

Para-16. C(a) & (b)

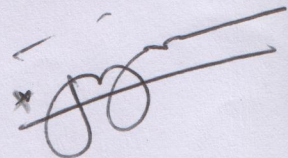
Since another software is being used for processing files in Urban and Rural Local Self Government bodies, E-office was not implemented in those offices which caused delay in establishing RTI portal. Necessary direction have already been given to the Director of Panchayats (Rural) and Director(Urban) to implement RTI portal in Urban and Rural Local Self Government bodies, within a period of one month without fail.

Para-16.D

The Government of Kerala have issued strict direction to the State PSUs to implement RTI portal within a period of one month.

Para-17

In order to make the RTI portal user friendly, Government of Kerala have constituted a support cell for clearing the doubts and helping the individuals handling/using the RTI portal. The suggestions and complaints received in the Cell are examined and accordingly doubts with regard to RTI portal are being cleared regularly. Updations suggested from public and officials are being done in consultation with NIC. As such, the Government of Kerala is regularly monitoring the RTI portal right from its inception to make it public friendly.



Para-18

The RTI Online Portal has been made available in public domain on 19.06.2023. The citizens can access the portal through the web address "rtiportal.kerala.gov.in". However the Public Authorities still choose to accept physical applications along with online applications. Physical applications from the public are being received and processed. The order of the Hon'ble Supreme Court of India has thus been complied with.

Para-19-20

No Comments

Para-21

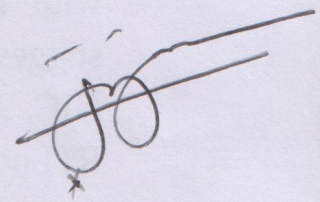
No Comments

Para-22

It is submitted that the RTI portal of the Government of Kerala is developed by the NIC. Earnest efforts are being taken to upgrade the Portal to make it useful for the public.

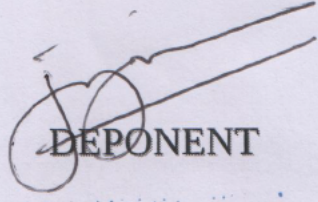
Para-23-25

It is humbly submitted that, Government of Kerala has already implemented RTI portal in compliance to the directions of the hon'ble Supreme Court. The 20th respondent has not disobeyed the directions of the Hon'ble Supreme Court in WP(C) No. 1040/2019.

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line and a small 'x' mark.

4. In the above circumstances, it is humbly prayed that the present contempt petition may be dismissed and further action in these cases may be dropped.

5. The facts stated above are true to the best of my knowledge, belief and information.


DEPONENT

K.R. JYOTHILAL IAS
PEN: 325167
Additional Chief Secretary
Dept. of General Administration,
Forest & Wildlife and Power
Govt. of Kerala, Thiruvananthapuram
Ph: 0471 2518669

VERIFICATION

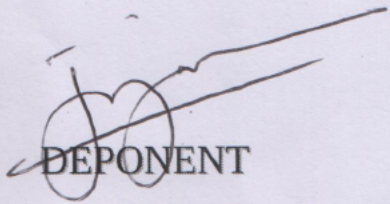
I, K.R Jyothilal respondent do hereby verify that the facts stated in the above counter affidavit are true and correct to the best of my knowledge and belief concealed therefrom.

Verified on this 25th day of November, 2024 at Govt.Secretariat, Thiruvananthapuram.

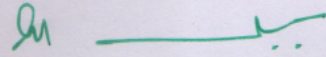


NOTARIAL REGISTER

Vol No... IPage No... 53
SI No... 388Date... 30/11/24


DEPONENT

K.R. JYOTHILAL IAS
PEN: 325167
Additional Chief Secretary
Dept. of General Administration,
Forest & Wildlife and Power
Govt. of Kerala, Thiruvananthapuram
Ph: 0471 2518669


Dr. T. GEENA KUMARY
ADVOCATE & NOTARY

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY



ANNEXURE-A/1

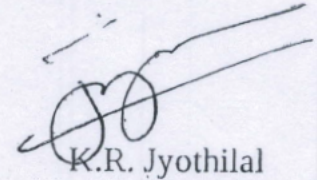
General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

D.O. Letter No.Cdn5/186/2024, Dated, 21.10.2024.

Dear

Several officers have failed to comply with the Hon'ble Supreme Court orders regarding online RTI portal implementation. Hence you are requested to comply with the court order by adopting e-office RTI portal or by developing your own portal Immediately and report compliance. Chief Secretary is also requested to convene a meeting of the Secretary/HoDs concerned to ensure compliance and for taking disciplinary action for Contempt of the Hon'ble Supreme Court order even after several reminders from GAD (Co-ordination). A copy of the earlier letters sent to your department/agency is attached herewith,

Dr. Shaik Darvesh Saheb IPS
State Police Chief


K.R. Jyothilal

o/c

Vineeth
22/10/24
A:10pm

GOVERNMENT OF KERALA
General Administration
Govt. Secretariat
Thiruvananthapuram
No. 2512404

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

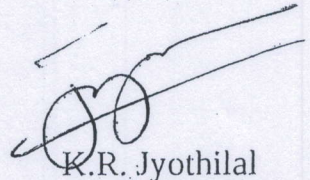


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

D.O. Letter No.Cdn5/186/2024, Dated, 21.10.2024.

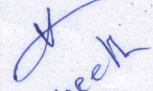
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K.R. Jyothilal

Shri. N S K Umesh IAS
District Collector
Ernakulam

%C


Vineeth
22/10/24
4:10 pm

OFFICE OF THE
General Admin (ISMO) Unit
Govt. Secretariat
Thiruvananthapuram
21.10.2024

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

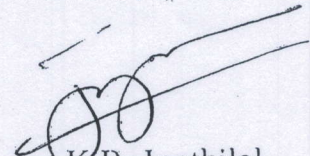


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

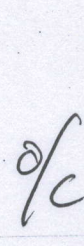
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K.R. Jyothilal

Shri. Arun K Vijayan IAS
District Collector
Kannur


Jyothilal
22/10/24
A: 10 pm

Govt. Secretariat
Thiruvananthapuram
No. 1518408

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

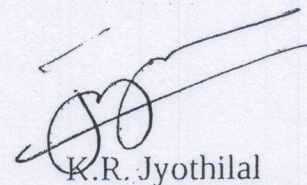


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

D.O. Letter No.Cdn5/186/2024, Dated, 21.10.2024.

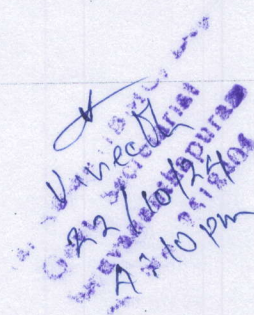
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K.R. Jyothilal

Smt. V. Vigneshwari IAS
District Collector
Idukki

o/c



K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

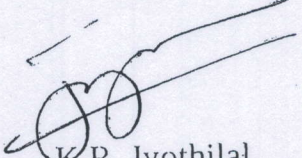


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

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K.R. Jyothilal

Shri. R. Suresh Babu
Registrar
Kerala State Medical Councils
Vanchiyoor P. O., Thiruvananthapuram-695 035

9/c

Vineeth
22/10/24
A. 10 pm

General Administration
Govt. Secretariat
Thiruvananthapuram
22.10.2024

13

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

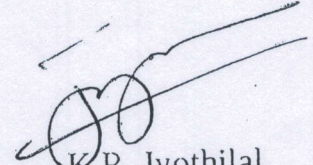


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

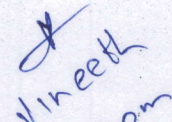
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K.R. Jyothilal

Shri. Alex Varghese IAS
Director (Urban)IAS
Local Self Government Department
Principal Directorate, Swaraj Bhavan,
Nanthencode, Thiruvananthapuram-695 003


Vineeth
A:10pm

o/c

RECEIVED
General Administration
Govt. Secretariat
Thiruvananthapuram
No. 18/2024

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY



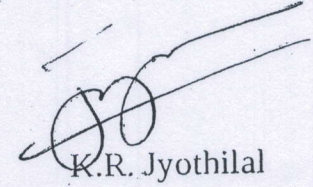
13/16

General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

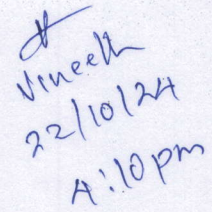
D.O. Letter No.Cdn5/186/2024, Dated, 21.10.2024.

Dear

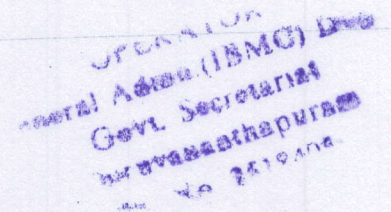
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K.R. Jyothilal

Shri. Prem Kumar V. R. IAS
Director (Rural)
Local Self Government Department
Principal Directorate, Swaraj Bhavan,
Nanthencode, Thiruvananthapuram-695 003


Vineeth
22/10/24
A:10pm




OFFICE OF THE
General Admin. (ISMO) Dept
Govt. Secretariat
Thiruvananthapuram
No. 2419/2024

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

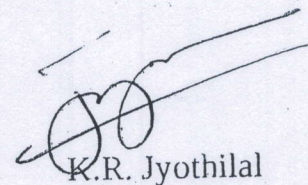


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

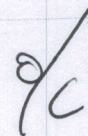
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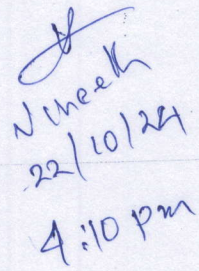
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K.R. Jyothilal

Smt. Sreekala S
Chairperson
Kerala State Pollution Control Board




22/10/24
4:10 pm

Govt. Secretariat
Thiruvananthapuram
No. 25124/24

K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

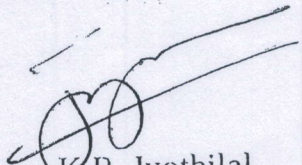


General Administration
Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

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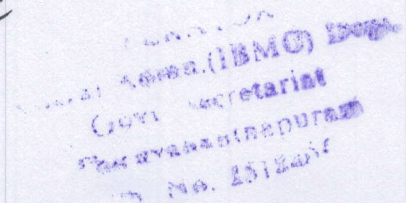
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K.R. Jyothilal

Shri. T. K. Jose IAS (Rtd.)
Chairman
Kerala State Electricity Regulatory Commission

o/c


Vineeth
22/10/24
4:10pm



K.R. JYOTHILAL I.A.S.
ADDITIONAL CHIEF SECRETARY

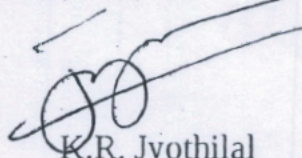


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Forest & Wild Life and Power Department
Government of Kerala, Secretariat
Thiruvananthapuram-695 001

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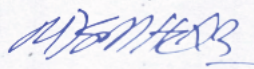
Dear

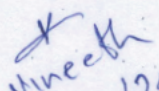
Several officers have failed to comply with the Hon'ble Supreme Court orders regarding online RTI portal implementation. Hence you are requested to comply with the court order by adopting e-office RTI portal or by developing your own portal Immediately and report compliance. Chief Secretary is also requested to convene a meeting of the Secretary/HoDs concerned to ensure compliance and for taking disciplinary action for Contempt of the Hon'ble Supreme Court order even after several reminders from GAD (Co-ordination). A copy of the earlier letters sent to your department/agency is attached herewith,


K.R. Jyothilal

All Heads of PSUs

o/c


TRUE COPY


22/10/24
4:10 pm
Genl Admin. (BMO) Dept.
Govt. Secretariat
Thiruvananthapuram
1512401