



E-IA NO : IA-202328039

E-FILING NO : EF-HCK-2022-015281

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

I.A No. of 2023

&

I.A. No.

of 2023

in

**Cont. Case (C) No. 771 of 2022**

(In the judgment dated 02.02.2022 in W.P.(C).No.25197/2021 of this Hon'ble Court)

Baby Thomas	::	Petitioner / 2 <sup>nd</sup> Petitioner
	Vs	
Smt. Mini Antony IAS and another	::	Respondents/Respondents 1 and 2

**-PETITION FOR IMPEADING &**

**PETITION FOR ACCEPTING DOCUMENTS**

**UNDER SECTION 11 & 12 OF THE CONTEMPT OF COURTS ACT READ WITH  
RULE 148 OF THE HIGH COURT RULES**

FEES PAID & STATUS - 20 (Success)

Sd/-  
E-VERIFIED  
M.U.VIJAYALAKSHMI  
K/160/1985



BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

IA No \_\_\_\_\_ Of Year 2023

In

Con.Case(C) No 771 Of Year 2022

**Shri. BABY THOMAS** : Petitioner

V/S

**Smt. MINI ANTONY IASShri. DR.:** Respondent

**D. SAJITH BABU IASShri.**

**P.M.ALI ASGAR PASHA IAS** Party

has chosen to be impleaded as

respondent, Age and father's

name not known to the petitioner

Secretary to the Government,

Department of Food, Civil Supplies

and Consumer Affairs, Government

Secretariat, Thiruvananthapuram

695001. , PIN - 695001



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Sd/-  
E-VERIFIED  
M.U.VIJAYALAKSHMI  
K/160/1985

**BEFORE THE HON'BLE HIGH COURT OF KERALA**  
**AT ERNAKULAM**

I.A. No. \_\_\_\_\_ of 2023

in

**Cont. Case (C) No. 771 of 2022**

(In the judgment dated 02.02.2022 in W.P.(C).No.25197/2021 of  
this Hon'ble Court)

Baby Thomas	::	Petitioner / Petitioner
	Vs	
Smt. Mini Antony IAS and another	::	Respondents/Respondents 1 and 2

**AFFIDAVIT**

I, Baby Thomas, aged 59 years, S/o. Thomas, ARD.No.213, Thripunithura, Ernakulam 682301, Residing at Naduvila Veetil, Thekkumbhagam, Market Road, Thripunithura- 682 301, do hereby solemnly affirm and state as follows:-

1. I am the petitioner herein and petitioner in the above Contempt of Court Case. I am conversant with the facts of the case.

2. Against the judgment dated 2.02.2022 in W.P.(C).No.25197/2021, State and others filed WA.No1975 of 2022 which was disposed of as per judgment dated 31.01.2023. The matter was taken in SLP Nos. 11538 to 11541 of 2023 before the Hon'ble Supreme Court. The SLPs are dismissed by the Hon'ble Supreme Court on 14.07.2023. Copy of the judgments of the Division Bench and the Hon'ble Supreme Court dated 31.01.2023 and 14.07.2023 is produced herewith and marked as **Annexure.F** and **Annexure.G**.

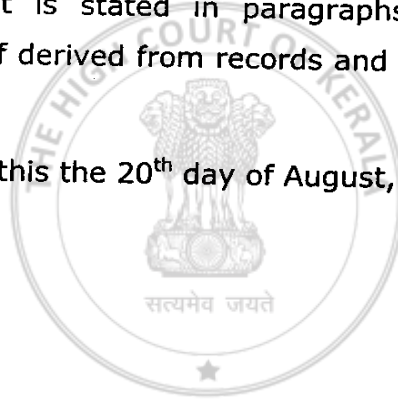
*[Signature]*

*[Signature]*

3. In view of Annexures.F and G the contempt committed by the in the respondents is perpetuated, Sri. P.M.Ali Asgar Pasha IAS is the present Secretary to the Government, Department of Food Civil Supplies and Consumer Affairs is also a necessary party to the above Contempt Case. Hence the accompanying applications for accepting Annexures.F and G as well as impleading Sri. P.M.Ali Asgar Pasha IAS, the present Secretary to the Government, Department of Food, Civil Supplies and Consumer Affairs, Government Secretariat, Thiruvananthapuram 695001 as addl. 3<sup>rd</sup> respondent. Fresh memo of charges is also filed along with the impleading petition.

What is stated above in paragraphs 1 to 3 are true to my knowledge and what is stated in paragraphs 1 to 3 stated on information and belief derived from records and I believe the same to be true.

Dated this the 20<sup>th</sup> day of August, 2023.



*[Handwritten signature]*

Deponent.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 20<sup>th</sup> day of August, 2023 in my office at Ernakulam.

*[Handwritten signature]*  
M.U.Vijayalakshmi  
Advocate.



**BEFORE THE HON'BLE HIGH COURT OF KERALA**  
**AT ERNAKULAM**

I.A. No.

of 2023

in

**Cont. Case (C) No. 771 of 2022**

(In the judgment dated 02.02.2022 in W.P.(C).No.25197/2021 of this Hon'ble Court)

**Petitioner/ Petitioner**

Baby Thomas  
Aged 58 years, S/o. Thomas  
ARD.No.213, Thripunithura  
Ernakulam 682301  
(also the Organizing Secretary-  
All Kerala Retail Ration Dealer's Association)  
Residing at Naduvila Veetil  
Thekkumbhagam, Market Road  
Thripunithura- 682 301.

Vs

**Respondents/ Respondents 1 & 2 :**

1. Smt. Mini Antony IAS,  
Age and Father's name not known to the petitioner,  
Secretary to Government,  
Food and Civil Supplies Department  
Government Secretariat,  
Thiruvananthapuram-695 001.
2. Dr.D.Sajith Babu IAS  
Age and Father's name not known to the petitioner,  
Director of Civil Supplies  
Office of the Commissioner of Civil Supplies  
Public Office Complex,  
Thiruvananthapuram- 695 033

**Addl. 03<sup>rd</sup> Respondent sought to be impleaded:**

Sri. P.M.Ali Asgar Pasha IAS,  
Age and father's name not known to the petitioner  
Secretary to the Government, Department of Food, Civil  
Supplies and Consumer Affairs, Government Secretariat,  
Thiruvananthapuram 695001.

*CV/1/2023*

**PETITION FILED UNDER SECTION 11 & 12 OF THE CONTEMPT  
OF COURTS ACT READ WITH RULE 148 OF THE HIGH COURT  
RULES**

For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to implead 3<sup>rd</sup> respondent herein as additional 3<sup>rd</sup> respondent in the above Contempt of Court Case.

Dated this the 20<sup>th</sup> day of August, 2023

*Arjun Singh*

Counsel for the Petitioner/Petitioner



**BEFORE THE HON'BLE HIGH COURT OF KERALA**  
**AT ERNAKULAM**

I.A. No. \_\_\_\_\_ of 2023

in

**Cont. Case (C) No. 771 of 2022**

(In the judgment dated 02.02.2022 in W.P.(C).No.25197/2021 of  
this Hon'ble Court)

**Petitioner/Petitioner**

Baby Thomas  
Aged 58 years, S/o. Thomas  
ARD.No.213, Thripunithura  
Ernakulam 682301  
(also the Organizing Secretary-  
All Kerala Retail Ration Dealer's Association)  
Residing at Naduvila Veetil  
Thekkumbhagam, Market Road  
Thripunithura- 682 301.

Vs

**Respondents/Respondents 1 & 2 :**

1. Smt. Mini Antony IAS,  
Age and Father's name not known to the petitioner,  
Secretary to Government,  
Food and Civil Supplies Department  
Government Secretariat,  
Thiruvananthapuram-695 001.
2. Dr.D.Sajith Babu IAS  
Age and Father's name not known to the petitioner,  
Director of Civil Supplies  
Office of the Commissioner of Civil Supplies  
Public Office Complex,  
Thiruvananthapuram- 695 033

**Addl. 03<sup>rd</sup> Respondent sought to be impleaded:**

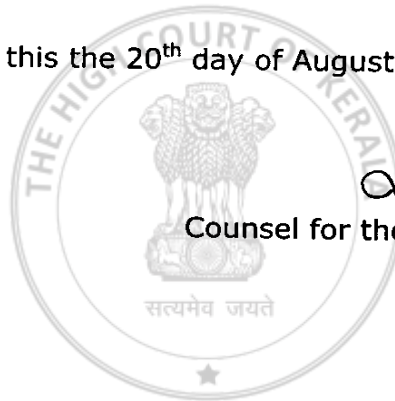
Sri. P.M.Ali Asgar Pasha IAS,  
Age and father's name not known to the petitioner  
Secretary to the Government, Department of Food, Civil  
Supplies and Consumer Affairs, Government Secretariat,  
Thiruvananthapuram 695001.

*Alijydeh*

**PETITION FILED UNDER SECTION 10 & 12 OF THE  
CONTEMPT OF COURTS ACT R/W RULE 154 OF THE HIGH  
COURT RULES.**

For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to accept the affidavit and Annexure.F and Annexure.G on the side of the petitioner herein in the above Contempt of Court Case.

Dated this the 20<sup>th</sup> day of August, 2023



*Ajith K P*  
Counsel for the Petitioner/Petitioner



**BEFORE THE HON'BLE HIGH COURT OF KERALA**  
**AT ERNAKULAM**

I.A. No. \_\_\_\_\_ of 2023  
in  
Cont. Case (C) No. **771** of 2022

(In the judgment dated 02.02.2022 in W.P.(C).No.25197/2021 of  
this Hon'ble Court)

**Petitioner/ Petitioner**

Baby Thomas  
Aged 58 years, S/o. Thomas  
ARD.No.213, Thripunithura  
Ernakulam 682301  
(also the Organizing Secretary-  
All Kerala Retail Ration Dealer's Association)-  
Residing at Naduvila Veetil  
Thekkumbhagam, Market Road  
Thripunithura- 682 301.

Vs

**Respondents/Respondents 1 & 2 :**

1. Smt. Mini Antony IAS,  
Age and Father's name not known to the petitioner,  
Secretary to Government,  
Food and Civil Supplies Department  
Government Secretariat,  
Thiruvananthapuram-695 001.
2. Dr.D.Sajith Babu IAS  
Age and Father's name not known to the petitioner,  
Director of Civil Supplies  
Office of the Commissioner of Civil Supplies  
Public Office Complex,  
Thiruvananthapuram- 695 033

*Vijayadev*

*Am*

**Addl. 03<sup>rd</sup> Respondent sought to be impleaded:**

Sri. P.M.Ali Asgar Pasha IAS,  
Age and father's name not known to the petitioner  
Secretary to the Government, Department of Food, Civil  
Supplies and Consumer Affairs, Government Secretariat,  
Thiruvananthapuram 695001.

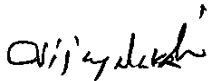
**MEMO OF CHARGES**

1. That you, (Addl.R3) Sri. P.M.Ali Asgar Pasha IAS, age and father's name not known to the petitioner, Secretary to the Government, Department of Food, Civil Supplies and Consumer Affairs, Government Secretariat, Thiruvananthapuram 695001, have willfully and deliberately disobeyed the direction of this Hon'ble Court in Annexure-A judgment of this Hon'ble Court.
2. You have thus violated, defied and flouted Annexure-A judgment of this Hon'ble Court in the above Contempt Case which amounts to committing willful and deliberate Contempt of Court and thereby rendered yourself liable to be proceeded against and punished U/S. 12 of the Contempt of Courts Act, 1971.
3. You have besides refused to comply with the directions given by this Hon'ble Court and acted in a manner lowering the authority and dignity of this Hon'ble Court, rendered yourself liable to be proceeded against and punished U/s. 12 of the Contempt of Courts Act, 1971.


Dated this the 20<sup>th</sup> day of August, 2023



Petitioner



Counsel for the Petitioner

Annexure-F   
2023:KER:9429

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

TUESDAY, THE 31<sup>ST</sup> DAY OF JANUARY 2023 / 11TH MAGHA, 1944

WA NO. 1975 OF 2022

AGAINST THE JUDGMENTWP(C) 25197/2021 OF HIGH COURT OF KERALA

APPELLANT/S:

- 1 STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT  
FOOD & CIVIL SUPPLIES DEPARTMENT, THIRUVANANTHAPURAM.,  
PIN - 695001
  - 2 THE DIRECTOR OF CIVIL SUPPLIES  
OFFICE OF THE COMMISSIONER OF CIVIL SUPPLIES, PUBLIC  
OFFICE COMPLEX, THIRUVANANTHAPURAM., PIN - 695033
- BY ADVS.  
ADVOCATE GENERAL OFFICE KERALA  
SHRI.K.P.JAYACHANDRAN, ADDL. ADVOCATE GENERAL()  
SPL GOVERNMENT PLEADER SHRI RANJITH S.

RESPONDENT/S:

- 1 T MUHAMMED ALI  
ARD NO. 143, PALANGAD, KANNIPPARAMBU, MAVOOR, KOZHIKODE  
(ALSO THE GENERAL SECRETARY, ALL KERALA RETAIL RATION  
DEALERS ASSOCIATION), RESIDING AT NOUFAL NIVAS,  
CHEROOPPA, KOZHIKODE., PIN - 673661
- 2 BABY THOMAS  
ARD NO. 213, THRIPUNITHURA, ERNAKULAM - 682 301, (ALSO  
THE ORGANIZING SECRETARY ALL KERALA RETAILS RATION  
DEALERS ASSOCIATION) RESIDING AT  
NADUVILAVEETILTHEKKUMBHAGAM, MARKET ROAD,  
THRIPUNITHURA., PIN - 682301



2023:KER:9429

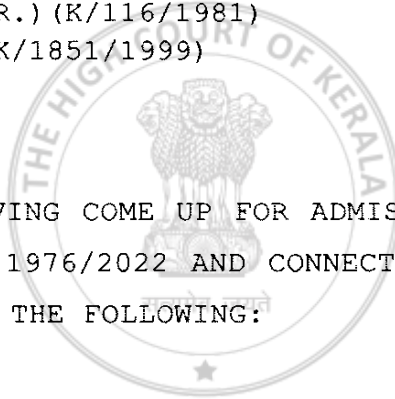
**WA NO. 1975 OF 2022**

-2-

- 3 KERALA STATE CIVIL SUPPLIES CORPORATION (SUPPLYCO)  
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR  
MAVELIBHAVAN, MAVELI ROAD, GANDHI NAGAR, COCHIN,, PIN -  
682020
- 4 UNION OF INDIA REPRESENTED BY SECRETARY TO GOVERNMENT  
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC  
DISTRIBUTION, NEW DELHI., PIN - 110006

BY ADVS.  
M.U.VIJAYALAKSHMI  
SMT.MOLLY JACOB,SC,SUPPLYCO  
ASSISTANT SOLICITOR GENERAL  
K.JAJU BABU (SR.) (K/116/1981)  
BRIJESH MOHAN(K/1851/1999)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 31.01.2023,  
ALONG WITH WA.1965/2022, 1976/2022 AND CONNECTED CASES, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:





2023:KER:9429

**A.MUHAMED MUSTAQUE & SHOBA ANNAMMA EAPEN, JJ.**

-----  
**W.A.Nos.1965, 1975, 1976 & 2002 of 2022**  
-----

**Dated this the 31<sup>st</sup> day of January, 2023**

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

**A.Muhamed Mustaque, J.**

This appeal by the State arises out of a writ petition filed by Authorised Retail Distributors (ARDs) claiming commission charges for the free food-kit supplied by the State during the pandemic period. The learned Single Judge who heard the matter allowed the claim.सत्यमेव जयते

2. The Government in the wake of the covid pandemic in the State decided to distribute a few free food-kits through ARDs as per its order dated 6/4/2020. The Government also cautioned ARDs on 8/4/2020 that any lethargy and laches on the part of ARDs in distributing free food-kits would face adverse consequences. The individual petitioners,



2023:KER:9429

W.A.Nos.1965, 1975, 1976 & 2002 of 2022

-2:-

who are ARDs appointed under the Kerala Rationing Order, 1966 admittedly distributed free food-kits pursuant to the Government Order dated 6/4/2020, even though this distribution is not the one contemplated under the Kerala Rationing Order. On 23/7/2020, the Government proposed ARD commission at the rate of Rs.5/- per free food-kit. Consequent upon the demand raised by the All Kerala Retail Ration Dealers Association, the commissioned rate was revised to Rs.7/- per food-kit on 30/7/2020. Again, the Government revised and reduced the rate of Rs.7/- to Rs.5/- per food-kit on 19/2/2021.

3. The Government paid commission rate, at the rate of Rs.5/- per food-kit only during the month of August 2020. The Government, however, did not stop the distribution of free food-kits and decided to continue distribution of food-kits as per its order dated 17/5/2021.



2023:KER:9429

W.A.Nos.1965, 1975, 1976 & 2002 of 2022

-:3:-

4. ARDs demanded commission from September 2020, totalling 11 months; there is no dispute as to the distribution of food-kits for 11 months from September 2020 and non payment of commission.

5. The Government takes the stand that ARDs are not entitled to claim commission charges as a matter of right and they cannot claim commission charges for humanitarian service rendered by them during the pandemic. Further, it is claimed that initial charges were paid by the Government based on the Government orders and those Government orders do not cover the distribution made during subsequent periods.

6. Distribution of free food-kits was not based on any written contract nor was it based on any rationing order. Nobody has a case that ARDs have agreed to distribute without any compensation or payment. It is to be noted that the Government threatened ARDs with severe consequences if they failed to distribute food-kits in a proper manner.



2023:KER:9429

W.A.Nos.1965, 1975, 1976 & 2002 of 2022

-4:-

Quasi contract is not alien to our laws. Section 70 of the Indian Contract Act, 1872 states as follows:

**70. Obligation of person enjoying benefit of non-gratuitous act.**  
—Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

7. This is not a case where the State Government had not fixed any rate at all as a commission for distribution of food-kits. If the Government had not fixed any rate, the proper remedy of ARDs would have been before the civil court. The Government having fixed a rate initially, it cannot wriggle out from the promise made from paying the commission. This aspect can be dealt in a writ jurisdiction. The denial can be classified as an arbitrary action. The learned Single Judge only allowed the claim for commission at the rate of Rs.5/- per food-kit.





W.A.Nos.1965, 1975, 1976 & 2002 of 2022

2023:KER:9429

-5:-

8. In **State of West v. M/s. B. K. Mondal And Sons [1962 AIR 779]**, the Apex Court held that if the State Government enjoyed the benefit of gratuitous work, it is bound to pay compensation.

In the above circumstances, we do not find any reason to interfere with the impugned judgment. However, we make it clear that only those ARDs who have approached this Court alone can demand the claim for commission as above. We also grant the Government time to comply with the directions of the learned Single Judge, till 31/3/2023. With the observation as above, the writ appeals are dismissed. No costs.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

Sd/-

**SHOBA ANNAMMA EAPEN, JUDGE**

ms

Annexure - G

ITEM NO.19

COURT NO.15

SECTION XI-A

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos. 11538-11541/2023

(Arising out of impugned final judgment and order dated 31-01-2023 in WA No. 1965/2022 31-01-2023 in WA No. 1975/2022 31-01-2023 in WA No. 1976/2022 31-01-2023 in WA No. 2002/2022 passed by the High Court Of Kerala At Ernakulam)

THE STATE OF KERALA &amp; ORS. ETC.

Petitioner(s)

VERSUS

170570

P.G. RAGHAVAN PILLAI &amp; PRIYANKUMAR ETC.

Respondent(s)

( IA No.108855/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT )

Date : 14-07-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRAFor Petitioner(s) Mr. Jayanth Muth Raj, Sr. Adv.  
Mr. C. K. Sasi, AOR  
Ms. Meena K Poullose, Adv.For Respondent(s) Mr. M. T. George, AOR  
Mrs. Susy Abraham, Adv.  
Mr. Johns George, Adv.Certified to be true Copy  
for Assistant Registrar (Judt.)  
17-7-23 2020  
Supreme Court of IndiaUPON hearing the counsel the Court made the following  
O R D E R

We do not find any merit in the Special Leave Petitions.

The Special Leave Petitions are dismissed.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)  
ASST. REGISTRAR-cum-PS(MALEKAR NAGARAJ)  
COURT MASTER (NSH)