IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 13TH DAY OF FEBRUARY 2023 / 24TH MAGHA, 1944

WP(C) NO. 12431 OF 2016

PETITIONER/S:

**INDIAN ASSOCIATION OF LAWYERS,
KERALA STATE COMMITTEE
REPRESENTED BY ITS GENERAL
SECRETARY,A.JAYASANKAR, ADVOCATE, AGED 53
YEARS,S/O.VASUDEVAN PILLAI, VELLAYIKODATH
DESOM,ALUA-683 002.**

BY ADV K.SANDESH RAJA

RESPONDENT/S:

1. **UNION OF INDIA
REPRESENTED BY ITS PRINCIPAL SECRETARY,DEPARTMENT
OF PERSONNEL AND TRAINING,MINISTRY OF PERSONNEL
PUBLIC GRIEVANCES AND PENSIONS,5TH FLOOR, SARDAR
PATEL BHAVAN,NORTH BLOCK, NEW DELHI-110 001.**
2. **STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,GOVERNMENT OF
KERALA, SECRETARIAT,THIRUVANANTHAPURAM-695 001.**
3. **PRINCIPAL SECRETARY
GENERAL ADMINISTRATION[CO-
ORDINATION]DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
4. **ADDITIONAL CHIEF SECRETARY
HOME-VIGILANCE DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
5. **THE DIRECTOR
VIGILANCE AND ANTI CORRUPTION BUREAU,DIRECTORATE
& VIGILANCE ANTI CORRUPTION
BUREAU,THIRUVANANTHAPURAM-695 033.**
6. **THE STATE INFORMATION COMMISSION
REPRESENTED BY ITS SECRETARY,THIRUVANANTHAPURAM-
685001A PARTY**

BY ADVS SRI. A.R. GANGADAS, CGC
SRI. V. TEKCHAND, SR. GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.02.2023, ALONG WITH WP(C).12824/2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

MONDAY, THE 13TH DAY OF FEBRUARY 2023 / 24TH MAGHA, 1944

WP(C) NO. 12824 OF 2016

PETITIONER/S:

AAM AADMI PARTY
KERALA STATE COMMITTEE, GROUND FLOOR, MARVEL PLAZA, OPP. GOVT.ITI, HMT ROAD, KALAMASSERY, ERNAKULAM-683104, REPRESENTED BY ITS CONVENOR, SHRI.C.R.NEELAKANDAN.
BY ADV SRI.K.K.ASHKAR

RESPONDENT/S:

1. **GOVERNMENT OF KERALA**
   REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. **GENERAL ADMINISTRATION DEPARTMENT**
   GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001.REPRESENTED BY ITS SECRETARY
3. **THE DIRECTOR**
   VIGILANCE AND ANTI CORRUPTION BUREAU, PMG, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN-695033.
   BY ADV. SRI. V. TEKCHAND, SR. GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.02.2023, ALONG WITH WP(C).12431/2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

S. Manikumar, C. J.

Captioned writ petitions are filed challenging the Government Order G. O. (P) No. 7/2016/GAD dated 27.01.2016, exempting State Vigilance and Anti-Corruption Bureau "T" Branch from the purview of the Right to Information Act, 2005, by exercising Section 24(4) of the Act.

2. Separate narration of facts are not required since the facts and circumstances in the captioned writ petitions are similar in nature. Therefore, we propose to dispose of the writ petitions by this common judgment. The pleadings and documents as referred to in W. P. (C) No. 12431 of 2016 are relied upon for disposal of the writ petitions.

3. Relief sought for in W. P. (C) No. 12431 of 2016 is as follows:-

> "To issue a writ of certiorari or any other appropriate writ, order or direction quashing Exhibit P2 and P3."

4. Short facts leading to the filing of W. P. (C) No. 12431 of

2016 are as under:-

4.1. Petitioner, claiming to be a registered organization of practicing lawyers, has filed the instant writ petition, challenging the issuance of Ext. P2 Government Order dated 27.01.2016, excluding the “T” Branch of the State Vigilance and Anti-Corruption Bureau from the purview of the Right to Information Act, 2005.

4.2. Petitioner has submitted that the Director of the Vigilance Department has issued Ext. P3 Office Order dated 09.02.2016, restricting the officers of the Vigilance Department from issuing any information regarding the case investigated by the T Branch. The T Branch [Top Secret Branch] is investigating the cases and corruption charges / allegation / complaints against the Chief Minister, Ministers, MPs, MLAs, top IAS/IPS officers etc.

4.3. Petitioner has further submitted that the impugned orders are issued without any jurisdiction or authority as the proviso under Section 24[4] of the Right To Information Act, 2005, expressly prohibits such exclusion. In addition to that State Vigilance and Anti-Corruption Bureau is not a Security Organization or Intelligence

Agency, and it is purely an investigation agency, for investigating corruption cases against public servants. The real intention of the State Government is to prevent the public from getting information regarding cases investigated by the State Vigilance and Anti-Corruption Bureau against its own Ministers and officials.

4.4. That apart, it is submitted that the impugned notification is against the object and goal of the Act 2005 itself, which was enacted by the Parliament to provide information to the General Public regarding the information under the control of public authorities in order to promote transparency and accountability in the working of every public authority. Hence the impugned notifications are against the parent statute itself and also violative of the Fundamental Rights guaranteed under Article 14 of the Constitution of India.

5. Record of proceedings shows that while entertaining the writ petition, a Hon'ble Division Bench of this Court by the order in W. P. (C) No. 12431 of 2016 dated 29.04.2016, has granted interim stay of operation and implementation of Ext. P2 G. O. (P) No. 7/2016/GAD dated 27.01.2016.

6. On this day, when the matter came up for hearing, by inviting the attention of this Court to a notification issued in G. O. (P) No. 01/2022/GAD dated 09.01.2022, Mr. V. Tekchand, learned Senior Government Pleader, submitted that Ext. P2 stated supra stands rescinded. Submission of the learned Senior Government Pleader is placed on record.

7. Notification issued in G. O. (P) No. 01/2022/GAD dated 09.01.2022 reads thus:-

"GOVERNMENT OF KERALA

General Administration (Co-ordination) Department

NOTIFICATION

G. O. (P) No. 01/2022/GAD Dated, Thiruvananthapuram, 9th January, 2022

S.R.O. No. 90/2022

In exercise of the powers conferred under sub-section (4) of section 24 of the Right to Information Act, 2005 (Central Act 22 of 2005), the Government of Kerala have issued notification under G. O. (P) No. 7/2016/GAD dated 27th January, 2016 and published as S.RO. No. 187/2016 in the Kerala Gazette Extraordinary No.482 dated 26th February, 2016 specifying the State Vigilance and Anti-Corruption Bureau "T" Branch, the Intelligence and Security Organisation, being Organisation established by the State Government to which the said Act shall

not apply, subject to the provisions contained in the proviso to that section. Now, the Government of Kerala hereby rescind the said notification issued under G.O. (P) No. 7/2016/GAD dated 27th January, 2016 and published as S.R.O. No. 187/2016 in the Kerala Gazette Extraordinary No. 482 dated 26th February, 2016.

By order of the Governor,

K. R. Jyothilal,

Principal Secretary to Government"

8. The above Government Order would be treated as part of records.

Placing on record the submission of the learned Senior Government Pleader, there is no need to delve into the merits of the writ petitions.

Accordingly, the writ petitions are closed.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
MURALI PURUSHOTHAMAN
JUDGE

Eb

///TRUE COPY///
P. A. TO JUDGE

APPENDIX OF WP(C) 12431/2016

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE ORDER IN G.O.[MS] NO.5525/64/HOME DATED 21.12.1964.**
EXHIBIT P1[A]	**TRUE COPY OF THE RELEVANT PAGE OF THE OFFICE ORDER NO.2/2016 DT. 18.1.2016.**
EXHIBIT P2	**TRUE COPY OF THE ORDER IN G.O.[P] NO.7/2016/GAD DATED 27.1.2016.**
EXHIBIT P3	**TRUE COPY OF THE LETTER DATED 09.02.2016 WITH ENGLISH TRANSLATION.**

APPENDIX OF WP(C) 12824/2016

PETITIONER EXHIBITS

EXHIBIT P1	**TRUE COPY OF EXT.P1 GOVERNMENT ORDER DATED 07/01/2016.**