

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

Friday, the 3rd day of November 2023 / 12th Karthika, 1945
WP(C) NO. 36379 OF 2023 (V)

PETITIONERS:

1. FATHIMATHU SUHARA, [REDACTED]

2. MUHAMMED SHAH K. A., [REDACTED]

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY DEPARTMENT OF HEALTH AND FAMILY WELFARE GOVERNMENT OF INDIA NIRMAN BHAWAN, NEW DELHI, PIN - 110011
2. COCHIN BIRTH VILLAGE PVT. LTD., REPRESENTED BY ITS MANAGING DIRECTOR [REDACTED]
3. PRIYANKA IDICULA DIRECTOR OF OPERATIONS COCHIN BIRTH VILLAGE PVT. [REDACTED]
4. STATION HOUSE OFFICER, KALAMASSERRY POLICE STATION 3RD FLOOR, MANATH TOWER, TOG RD, SOUTH KALAMASSERY, ERNAKULAM, PIN - 682033
5. GOVERNMENT MEDICAL COLLEGE AND HOSPITAL, REPRESENTED BY ITS MEDICAL SUPERINTENDENT HMT COLONY P.O., KALAMASSERY ERNAKULAM, PIN - 683503
6. REGIONAL CHEMICAL EXAMINER'S LABORATORY, ERNAKULAM REPRESENTED BY JOINT CHEMICAL EXAMINER REGIONAL CHEMICAL EXAMINERS LABORATORY THRIKKAKKARA P.O. ERNAKULAM, PIN - 682030
7. KIZHAKKAMBALAM GRAMA PANCHAYAT, REPRESENTED BY ITS SECRETARY KIZHAKKAMBALAM BYPASS RD, KIZHAKKAMBALAM, ERNAKULAM, PIN - 683562
8. ADDL.R8 THE DISTRICT POLICE CHIEF (RURAL) ERNAKULAM, OFFICE OF THE DISTRICT POLICE CHIEF, ALUVA, KERALA [ADDL.R8 IS SUO MOTU IMPLEADED AS PER ORDER DATED 03.11.2023 IN WP(C) 36379/2023]

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

i. Issue a writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the 1st Respondent to bring in regulations invoking powers under S.51 of the National Nursing and Midwifery Commission Act, to comprehensively deal with birth centres following midwifery model for birth and regulate them to maintain high standards;

ii. Issue a writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the 5th Respondent to reissue a post mortem certificate after ascertaining the proper cause of death of the child of the petitioners, within a time frame to be fixed by this Hon'ble Court;

iii. Issue a writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the 4th Respondent to investigate the death of the child of the petitioners and take action in accordance with law; and

iv. Pass such other Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.RAGHUL SUDHEESH, J.LAKSHMI, BINI DAS, ELIZABETH MATHEW & DHARSANA A. Advocates for the petitioners, SMT.MINI GOPINATH, CENTRAL GOVERNMENT COUNSEL for R1 (By Order), SMT.VIDYA KURIAKOSE, GOVERNMENT PLEADER for R4, R5 and R6 (By Order) and of SRI.ABRAHAM P. MEACHINKARA, STANDING COUNSEL for R7 (By Order), the Court passed the following:



DEVAN RAMACHANDRAN, J.

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Dated this the 3rd day of November, 2023

ORDER

Smt.Mini Gopinath - learned Central Government Counsel, takes notice for respondent No.1; Smt.Vidya Kuriakose - learned Government Pleader, for respondent Nos.4, 5 and 6 and Sri.Abraham P. Meachinkara - learned Standing Counsel for respondent No.7.

2. *Prima facie*, the allegation of the petitioners is serious, to merit the immediate attention of the competent Authorities.

3. Sri.Raghul Sudheesh - learned counsel for the petitioners, informs this Court that respondents 2 and 3 are still operating and that many mothers are still being lured into their net by fanciful public relations clips and misleading advertisements.

4. A question, therefore, immediately arises whether the 7th respondent - Grama Panchayat, had given any licence to respondents 2 and 3 to conduct the procedure they are engaging in; and if they had the clearances and licences from the competent Authorities, under the applicable statutory scheme, to do so.

5. Even though I notice that Ext.P7 FIR has been registered, the petitioners say that even the post-mortum report of their child has not been received by them.

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6. Obviously, the matter is now very serious and will require to be dealt with strictly and quickly.

7. Taking note of the seriousness of the issues impelled, I *suo motu* implead the District Police Chief (Rural) Ernakulam, Office of the District Police Chief, Aluva, Kerala, as an additional respondent and direct the learned Government Pleader to obtain specific instructions from the said Authority, as to what action has been taken or is proposed against the 2nd respondent and such other institutions.

List, for further consideration on 09.11.2023.

H/o.

anm



**Sd/-
DEVAN RAMACHANDRAN
JUDGE**

APPENDIX OF WP(C) 36379/2023

Exhibit P7

**TRUE COPY OF FIR IN CRIME NO. 180/2023 OF KALAMASSERY
POLICE STATION**

