



2024:KER:70739

WP(C) NO. 33350 OF 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 23<sup>RD</sup> DAY OF SEPTEMBER 2024 / 1ST ASWINA, 1946

WP(C) NO. 33350 OF 2024

PETITIONER:

ASHA LAWRENCE,  
AGED 54 YEARS,  
D/O M.M.LAWRENCE, RESIDING AT FLAT NO.41, NARMADA  
APARTMENTS, DR.B.D.MARG, NEW DELHI, PIN - 110001

BY ADVS.  
R.KRISHNA RAJ  
R.PRATHEESH (ARANMULA)  
E.S.SONI  
SREERAJA V.  
LAXMI PRIYAA N.P.

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO  
GOVERNMENT DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT  
THIRUVANATHAPURAM, PIN - 695001
- 2 D.I.G AND COMMISSIONER OF POLICE  
POLICE COMMISSIONERATE, ERNAKULAM, PIN - 682017
- 3 STATION HOUSE OFFICER,  
ERNAKUALAM KAZABA POLICE STATION KACHERIPPADI  
ERNAKUALAM NORTH, PIN - 682026



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- 4 GOVERNMENT MEDICAL COLLEGE, KALAMASSERY  
REPRESENTED BY ITS PRINCIPAL H.M.T.COLONY, NORTH  
KALAMASSERY, PIN - 683503
- 5 M.L.SAJEEVAN  
S/O.M.M.LAWRENCE, RESIDING AT BETHEL, ST.SEBSTIAN ROAD  
ELAMKULAM, COCHIN, PIN - 682020
- 6 SUJATHA BOBAN  
D/O M. M. LAWRENCE HEBRON, VAKKATTU ROAD NEAR HOLIDAY  
INN HOTEL, CHAKKARAPARAMBU, ERNAKULAM, PIN - 682032
- 7 VICAR  
ST.FRANCIS XAVIERS CHURCH, KATHRIKADAVU, KALOOR,  
ERNAKULAM, PIN - 682017
- 8 COMMUNIST PARTY OF INDIA (MARXIST)  
REPRESENTED BY ITS DISTRICT SECRETARY, LENIN CENTER,  
BANERJEE ROAD, KALOOR, KOCHI, PIN - 682017
- STATE ATTORNEY N. MANOJ KUMAR  
SPL.GP.K.R.RANJITH  
SR.ADV.V.V.SIDHARTHAN - R5, R6

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
23.09.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



### JUDGMENT

The petitioner is the daughter of M.M.Lawrence, a veteran Communist Leader, who passed away on 21.09.2024. Her grievance is regarding the decision to hand over the body of her father to the Government Medical College, Ernakulam, which according to respondents 5 and 6, the petitioner's siblings, was the wish of their father.

2. The learned counsel for the petitioner contends that, in the absence of any documentary evidence and in the light of the fact that the deceased continued to be a member of the parish of the 7<sup>th</sup> respondent church, there cannot be an assumption that the wish of the deceased was to hand over his body to the Medical College.

3. Learned Senior Counsel appearing for



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respondents 5 and 6 asserts that the deceased had expressed his desire to the children and also to his colleagues and followers. It is submitted that respondents 5 and 6 have filed an affidavit before the authorised officer, vouching that their father had expressed such a desire.

4. Learned State Attorney drew attention to Section 4A of the Kerala Anatomy Act, 1957, to point out that the written consent of the deceased is not mandatory.

5. In reply, learned counsel for the petitioner submitted that the petitioner has already filed her objection and therefore, before taking a decision in the matter, the objection should be considered.

6. Being contextually relevant, Subsection (1) of Section 4A of the Kerala Anatomy Act is extracted hereunder.

*“[4A. Taking possession of dead bodies with the prior consent of deceased persons.- (1) If any person, either in writing at any time or orally in the presence of two or more persons during his last illness, has expressed an unequivocal request that his body be used for the purpose of conducting anatomical examination and*



*dissection after his death the party lawfully in possession of his body after his death, may, unless, the said party has reason to believe that the request was subsequently withdrawn, report the fact to the authorised officer and permit the said officer to take possession of the body and hand it over to the authority in charge of a teaching medical institution if it is required by that authority.”*

It is therefore evident that the consent of the deceased need not necessarily be in writing and can even be orally expressed in the presence of two or more persons. From the submissions made at the Bar, it has come out that respondents 5 and 6 have filed an affidavit stating that their father had expressed an unequivocal desire that his body be handed over and used for the purposes mentioned in Section 4A(1)

7. In view of the submissions above, the writ petition is disposed of, directing the 4<sup>th</sup> respondent to consider the objection raised by the petitioner before taking a decision on the consent alleged to have been given by the deceased and reported by respondents 5



and 6.

8. Taking into account, the submission of the learned State Attorney that, after taking possession of the body, it will be preserved for some time, the authorised officer is permitted to take possession of the body, subject to the decision to be taken after considering the petitioner's objection.

The Writ Petition is disposed of accordingly.

**Sd/-**

**V. G. ARUN**

**JUDGE**



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APPENDIX OF WP(C) 33350/2024

PETITIONER EXHIBITS

Exhibit P- 1                    TRUE COPY OF THE COMPLAINT FILED BY THE  
   PETITIONER BEFORE THE 2ND RESPONDENT DATED  
   22.09.2024

Exhibit P-2                    TRUE COPY OF THE COMPLAINT FILED BY THE  
   PETITIONER BEFORE THE 4TH RESPONDENT DATED  
   22.09.2024