



2025:KER:57823

1

W.A No.45 of 2023 & conn. cases

"C.R"

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 45 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20387
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY SRI.SAJI
K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

2

W.A No.45 of 2023 & conn. cases

2 JOHNY ANTONY
 POOVELI (H), THABORE P.O., POOTHUMKUTTY, ERNAKULAM,
 PIN - 683577

BY ADVS.
SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION
SHRI.P.K.IBRAHIM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.2012/2022 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

3

W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 2012 OF 2022

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20175
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S. COCHIN INTERNATIONAL AIRPORT LTD
KOCHI AIRPORT P.O., ERNAKULAM DISTRICT - 683 111,
REPRESENTED BY ITS COMPANY SECRETARY SRI.SAJI K.GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSIONER
PUNNEN ROAD, OFFICE OF STATE INFORMATION COMMISSION
THIRUVANANTHAPURAM, PIN - 695001.
- 2 SRI.OUSEPH ANTONY
KARUMATHI (H), NAYATHODU P.O, ANGAMALY, ERNAKULAM, PIN
- 683572



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

3 **SRI.M.R.AJAYAN**
 S/O LATE M.K RAGHU, EDITOR AT GREEN KERALA NEWS,
 MATTAPPILLY HOUSE, OCHANTHURUTH P.O, KOCHI, PIN -
 682508

BY ADVS.

SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

SHRI.P.K.IBRAHIM

SRI.M.ABDUL RASHEED

SRI.K.P.PRASANTH

SMT.T.S.KRISHNENDU

SMT.ARCHANA SURESH

SMT.HARITHA HARIHARAN

SHRI.P.S.BIJU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 46 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20214
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM 683111
REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF STATE INFORMATION COMMISSION, PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001.
- 2 MR.CHACKAPPAN
KARUMATHY HOUSE, NEAR E COLONY, ANGAMALY, ERNAKULAM
DISTRICT, PIN - 683572



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

BY ADV SRI.M.AJAY, SC, STATE INFORMATION COMMISSION

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

W.A No.45 of 2023 & conn. cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 64 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20462
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM - 683111.
REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K GEORGE.

BY ADVS.
SHRI.HARIKRISHNAN S.
SRI.S.SREEKUMAR (SR.)

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001
- 2 BABY P V
POOVELI HOUSE, NAYATHODE P.O., ANGAMALY, ERNAKULAM, PIN
- 683572



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 73 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20373
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM - 683111
REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K GEORGE

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001
- 2 SRI. PETER P A
POOVELY HOUSE, NAYATHODU P.O. ERNAKULAM, PIN - 683572



2025:KER:57823

10

W.A No.45 of 2023 & conn. cases

BY ADV SRI.M.AJAY, SC, STATE INFORMATION COMMISSION

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 80 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20432
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001
- 2 RAJU VAZHAKKALA
PADAMUKAL, KAKKANAD, ERNAKULAM, PIN - 682030.



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMN

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 86 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20280
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SHRI.HARIKRISHNAN S.
SRI.S.SREEKUMAR (SR.)

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001



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W.A No.45 of 2023 & conn. cases

2 SRI. KUNJUMON T T
 THOMBRA (HOUSE) VAPPALASSERRY P.O., MAIKKAVU ERNAKULAM
 DISTRICT, PIN - 683572.

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 88 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20528
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K
GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001



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W.A No.45 of 2023 & conn. cases

2 JOSEPH P.P.
 POOVELI (H) NAYATHODU P.O. ANGAMALY, ERNAKULAM
 DISTRICT, PIN - 683572.

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 91 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20452
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K
GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001
- 2 LITHIN VARGHESE
GREEN HOME APARTMENTS, 401, C WING, ANAND NAGAR, MAROL



2025:KER:57823

18

W.A No.45 of 2023 & conn. cases

PIPE LINE ROAD, (NEAR DR.SUNIL DEEKSHIT HOSPITAL) ,
ANDHERI EAST, MUMBAI, PIN - 400059

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 93 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20497
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SHRI.HARIKRISHNAN S.
SRI.S.SREEKUMAR (SR.)

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

20

W.A No.45 of 2023 & conn. cases

2 VARGHESE T. K
 THAZHATHU VEETIL HOUSE KONGOTHARA, MAIKAD P.O.
 ERNAKULAM DISTRICT, PIN - 683589.

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 102 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20435
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED ,
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION,
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

2 **BABY T. V. ,
THEKKANATH (H) VAPPALASSERRY P. O. , THURUTH, ERNAKULAM,
PIN - 683572**

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

23

W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 108 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20201
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SHRI.HARIKRISHNAN S.
SRI.S.SREEKUMAR (SR.)

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

2 ANTONY K O
 KARUMATHY HOUSE, NAYATHODE P O, ANGAMALY, ERNAKULAM
 DISTRICT, PIN - 683572.

BY ADVS.
SHRI.M.AJAY, SC, STATE INFORMATION COMMN
SHRI.P.K.IBRAHIM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

25

W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 109 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20383
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION, PUNNEN
ROAD, THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

2 **ANTU P.V.**
 POOVELIL HOUSE, NAYATHODE.P.O, ANGAMALY, ERNAKULAM
 DISTRICT, PIN - 683572

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:**



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 117 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.20209
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM
DISTRICT-683 111, REPRESENTED BY ITS COMPANY SECRETARY
MR. SAJI K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001



2025:KER:57823

28

W.A No.45 of 2023 & conn. cases

2 VARGHESE M.M.
 MOOZHAYIL (H) AKAPARAMBU, VAPPALASSERRY P.O. ERNAKULAM,
 PIN - 683572

BY ADV SHRI.M.AJAY, SC, STATE INFORMATION COMMISSION

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 134 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.19656
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

M/S.COCHIN INTERNATIONAL AIRPORT LIMITED
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM DISTRICT -
683 111, REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI
K GEORGE.

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE INFORMATION COMMISSION
OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
THIRUVANANTHAPURAM, PIN - 695001
- 2 SUNIL NALIYATH
DAKSHINA, 19 ULLAS NAGAR, THEKKUMBHAGAM, THRIPPUNITHURA



2025:KER:57823

30

W.A No.45 of 2023 & conn. cases

P.O, ERNAKULAM-, PIN - 682301

BY ADVS.

SHRI.M.AJAY, SC, STATE INFORMATION COMMN

SHRI.C.E.UNNIKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

TUESDAY, THE 5TH DAY OF AUGUST 2025 / 14TH SRAVANA, 1947

WA NO. 289 OF 2023

AGAINST THE JUDGMENT DATED 02.12.2022 IN WP(C) NO.19452
OF 2019 OF HIGH COURT OF KERALA

APPELLANT/2ND RESPONDENT:

COCHIN INTERNATIONAL AIRPORT LIMITED
AGED 54 YEARS
KOCHI AIRPORT P.O., NEDUMBASSERY, ERNAKULAM,
REPRESENTED BY ITS COMPANY SECRETARY MR. SAJI K GEORGE,
PIN - 683111

BY ADVS.
SRI.S.SREEKUMAR (SR.)
SHRI.HARIKRISHNAN S.

RESPONDENTS/PETITIONER & 1ST RESPONDENT:

1 JOHN GEORGE NECHUPADOM
S/O. C.J. GEORGE, NECHUPADOM, KADAYIRUPPU P.O.,
KOLECHERRY, ERNAKULAM, PIN - 682311



2025:KER:57823

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W.A No.45 of 2023 & conn. cases

2 THE STATE INFORMATION COMMISSION
 OFFICE OF THE STATE INFORMATION COMMISSION PUNNEN ROAD,
 THIRUVANANTHAPURAM, PIN - 695001

BY ADVS.

SHRI.PAUL JACOB

SHRI.M.AJAY

SHRI.LEO LUKOSE

SRI.ENOCH DAVID SIMON JOEL

SRI.S.SREEDEV

SRI.RONY JOSE

SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY

SHRI.DERICK MATHAI SAJI

SHRI.KARAN SCARIA ABRAHAM

SHRI.ITTOOP JOY THATTIL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08.07.2025,
ALONG WITH WA.45/2023 AND CONNECTED CASES, THE COURT ON
05.08.2025 DELIVERED THE FOLLOWING:



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J U D G M E N T

[WA Nos. 45/2023, 2012/2022, 46/2023, 64/2023, 73/2023, 80/2023, 86/2023, 88/2023, 91/2023, 93/2023, 102/2023, 108/2023, 109/2023, 117/2023, 134/2023, 289/2023]

Sushrut Arvind Dharmadhikari, J.

Heard Sri.S.Sreekumar, learned Senior Counsel appearing for the appellant with Adv.Sri.S.Harikrishnan, and Sri.M.Ajay and Sri.Paul Jacob, learned counsel appearing for respondents.

2. Taking into consideration the facts and the similitude of the controversy involved in these batch of appeals, they have been heard analogously and decided by this common judgment.

3. The facts of W.A No.45 of 2023 are taken up for consideration for deciding the batch of appeals.



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4. The present appeals arise against the final judgment dated 02.12.2022 passed by the learned Single Bench of this Court in W.P.(C) No. 20387 of 2019 and connected cases (*Cochin International Airport Ltd. v. The State Information Commission & Another*), wherein the Court after undertaking a meticulous analysis concluded that the Cochin International Airport Authority Ltd. (for short, 'CIAL'), is a 'public authority' within the confines of Sec. 2(h)(d)(i) of the Right to Information Act, 2005 (for short, 'RTI Act') and therefore amenable to obligations of disclosure of information held by it to third parties and public at large, approaching it for divulging various heads of information sought by them vide the applications filed under Sec. 6 of the RTI Act.



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5. The CIAL in these appeals filed under Sec. 5 of the Kerala High Court Act, 1958 and Rules assails the aforesaid judgment primarily on the ground that as per the ingredients of Sec.2(h)(d)(i) of the RTI Act, they are neither being 'owned', 'controlled', nor 'substantially financed' by the agency of the Government. We shall advert to contentions at length a little later, however for the present purpose, suffice to state that CIAL contends that it is not 'State' under Article 12 of the Constitution of India (for short, 'COI'), being bereft of the trappings of a 'State', as explicated in the judgments of **Ajay Hasia & Ors. v. Khalid Mujib Sehravardi & Ors. [(1981) 1 SCC 722]** and other trail of precedents of the Supreme Court following and developing the said concept.



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6. The respondents on the other hand, which are the State Information Commission, Kerala (for short, 'SIC, Kerala') and Johny Antony, one of the applicants seeking disclosures under the RTI Act, contend that CIAL is to be classified as a 'public authority' under the RTI Act, amenable to binding obligations of disclosure resting upon them in terms of the transparency enactment.

7. The arguments and contentions of the respondents shall also be referred to at length a little later at the appropriate stage.

ISSUES FOR CONSIDERATION

8. In view of the similitude of controversy and overlapping subject matter of the entire batch of writ appeals, it would be condign to frame the issues of our consideration and resolution at



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the outset, so as to cut short the prolix arguments made by the contesting parties in the course of prolonged hearings. **The following issues arise for our consideration, which shall be answered herein below:**

- I. Whether CIAL owes its existence to a notification issued or order made by the 'appropriate government', thus satisfying the first leg for the applicability of Sec. 2(h)(d)(i);
- II. Whether CIAL can be treated as a body/entity 'owned' or/and 'controlled' by the appropriate government, in a manner to treat it as an authority answerable to the public at large and third parties under the RTI Act;
- III. Whether CIAL can be treated as an organisation/ entity 'substantially financed' by the appropriate government, possessing a direct/ indirect financial and administrative control of agencies of the State government.



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9. In view of the above exposition of the broad issues which we intend to deal with and answer, it would be necessary now to reproduce the admitted facts, documents and Government Orders (GOs) between the parties, which have never been disputed in the previous rounds of litigation before the SIC, Kerala or before this Court.

ADMITTED FACTS & UNCONTESTED DOCUMENTS, GO'S OF THE DISPUTE AT HAND

10. The CIAL was preceded by Kochi International Airport Society (for short, 'KIAS'), the members of which had mooted the idea for establishment of a new airport at Nedumbassery, Ernakulam District. It is not clear as to who exactly prepared the



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project report, nor either of the parties were able to answer convincingly about the original drafting committee of the project report. However, it has been admitted by both the contesting parties that the District Collector, Ernakulam forwarded the aforesaid project report to the Government of Kerala vide his letter dated 01.02.1993.

11. On the basis of this letter of the District Collector, Ernakulam, G.O. (Ms) No.42/93/PW&T dated 19.05.1993 was passed, through which it was directed that KIAS (the predecessor of CIAL) must be constituted. An interesting feature of this GOM dated 19.05.1993 is that KIAS was to be constituted of Government nominees and Government officers in majority, having a



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predominant say in the decision-making and administration of assets of KIAS. Apropos, the Chief Minister of Kerala and the State Minister for Transport were nominated as the Chairman and Vice-Chairman of KIAS, respectively. Shri V.J Kurian, District Collector was nominated as the Special Coordinating Officer for implementing the whole project. Shri.VJ Kurian is considered to be the moving brain and the implementer of the whole vision and dream of Cochin International Airport, what it stands today. This is luminescent from the fact that the official booklet/ brochure of CIAL titled as '*Insignia of a Dream*' has dedicated not only a chapter specifically acknowledging the contribution of Shri.VJ Kurian, but also abundantly mentioned his role as the facilitator, executor and



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the actual brain behind the conception of the whole idea of Cochin International Airport. Clearly, Shri.V.J Kurian himself was a Government Officer, being the District Collector of Ernakulam who was drawing his salary and perks from the State exchequer.

12. However, when the KIAS started facing shortage of funds in achieving the dream of establishment of the airport, various interested stakeholders including private citizens, used their good connections to attract funds from NRIs to the tune of Rs.200 to 250 crores. However, it must be mentioned that the said idea failed to take off as there was a lukewarm response from the prospective investors for various reasons, one of them being the very uncertainty of the airport in being established finally. At this stage,



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again the Government of Kerala (for short, 'GOK') was approached by the private citizens, association of industrialists and businessmen, which under the chairmanship of the erstwhile Chief Minister proposed the incorporation of a company in the name and style of CIAL. The entire asset structure, including the land base, capital and funds of KIAS were then transferred to CIAL on its incorporation. After incorporation of CIAL, in March 1994, the share redistribution also took place, in which KIAS had 70% shareholding and remaining for private citizens and industrial and business houses. *This fact assumes relevance at a later stage when we shall be dealing with the first issue.*



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13. In their booklet/brochure '*Insignia of a Dream*' published by the CIAL, it has been stated that land acquisition was the greatest challenge for the dream of Cochin Airport to take off. It was the GOK only, which went ahead with the land acquisition and **acquired 1254 acres of land in the name of KIAS**. This land on conversion of KIAS into CIAL was transferred entirely under the ownership and possession of the newly constituted company of CIAL. Thus, it is clear that the entire asset and land base of CIAL was consolidated at the behest of GOK only.

14. Through a subsequent G.O(Ms) No. 92/97/PW&T dated 29.08.1997, GOK decided to enhance its share capital participation in CIAL to 51% of the authorised share capital. This share capital



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was decided to be enhanced and provided only to allow the airport project to take off. Resultantly, the GOK provided an additional amount of Rs.19 crores approximately through G.O. (Ms) No. 22/2000/Tran dated 17.09.2001. However, the participation of the State Government stood only at 26% at this stage and not 51% with the financial aid of around Rs.19 crores. This was a turning point for the CIAL because GOK as a quid pro quo arrangement required CIAL to suitably amend its Articles of Association (for short, 'AoA'), so as to empower the dominance of constitution, membership and decision making in the Board of Directors (for short, 'BOD') of the company.



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15. It is also admitted that through a subsequently issued G.O. (Ms) No. 22/2000/Tran dated 17.09.2001, the GOK topped up its shareholding from 26% to 34.96%, stating that it shall be contributing funds in all future rights issues to maintain State's share at a constant figure of 34.96% of the total equity shares of the company. Simultaneously, GOK also opened up the rights of other States and Union PSUs to engage to become substantial participants in the shareholding of CIAL to ensure that the airport project doesn't sink due to its own financial burden and sustains the minimum required financial stability for its maintenance and operation. *Therefore, it is beyond any pale of doubt that public funding and resources of the State exchequer were always treated as*



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cardinal and centripetal to the sustenance, maintenance and operation of CIAL.

16. As per documents available on record, not disputed by the counsel for CIAL, the shareholding pattern of the company as on June 2010 was as follows:

AGENCY	Rs. IN CRORE	% OF PAID UP CAPITAL
STATE GOVERNMENT	98.68	33.33
STATE PSUS	5.4	1.82
CENTRAL PSUS	20.5	6.92
NATIONALISED BANKS	11	3.72
PRIVATE BANKS	6.5	2.2



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DIRECTORS & RELATIVES	112.38	37.96
OTHERS	41.59	14.05
TOTAL	296	

17. From the above table, which depicts the financial status of CIAL as in June 2010, the equity participation was around Rs.105 crores approximately (including the contribution of State PSUs), which collectively constituted 35.15% of the total share capital of Rs.296 crores. Central PSUs and nationalized banks, which also hold public money in their corpus constituted approximately around 10% of the total shareholding, aggregating to around Rs.31.5 crores. Seen in its entirety, the public money and funds



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infused in CIAL was thus clearly crossing 45% in aggregate of the overall share capital. On a specific question being put to the counsel for CIAL about such a high shareholding of the public funds, it was impliedly conceded that without the support of State and Central Governments and PSU, CIAL perhaps would have never been able to stand on its own legs (if 45% of shareholding is not taken into account). This amount doesn't include miscellaneous funds, grants and aid received randomly from other Central and State authorities, one of them being a one-time grant of Rs.10 crores received from Ministry of Civil Aviation and Tourism, GOI in July 2010.



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18. As mentioned supra, in view of G.O. (Ms) No. 22/2000/Tran dated 17.09.2001, when CIAL was directed to amend/modify its AoA and Memorandum of Association (for short, 'MoA')/Bye-laws, some of the provisions that underwent a cascading change were **Articles 95, 125, 185 and others**, wherein Government nominees were compulsorily inducted in the CIAL. The BOD of CIAL thus came to possess majority of Government officials and nominees by virtue of these amendments, which we shall be referring to a little later. Thus with the dominance of the nominees and representatives of GOK in the BOD of CIAL, it is contended that important decisions came under the control and directions of the GOK.



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19. When CIAL was being established, it had borrowed huge financial loans and guarantees from various financial institutions/banks, the guarantor and surety of which was provided by none else but the GOK. For illustration, for bringing financial support from HUDCO to the tarmac of CIAL, with a loan exposure of around Rs.140 crores, sovereign guarantee was extended by the GOK itself. This fact also finds mention in the official brochure/booklet of CIAL- '*Insignia of a dream*', specifically mentioning that sovereign guarantees were extended for various loan facilities raised from nationalized banks by CIAL to the extent of more than Rs.250 crores from different entities.

20. The GOK has only invested its money as share capital of



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CIAL, and not any direct financing. There is no direct free funding provided by the Government to CIAL otherwise, and like other shareholders, the GOK also earns handsome dividend from the investment in share capital of CIAL by the GOK.

21. As such other than capital shareholding and dominance and 1/3rd membership in the BOD of CIAL, there is no other mode of direct or indirect control by the Government on CIAL. Thus, the role and control of CIAL is restricted only to the extent as provided under the MoA and AoA of CIAL. Other than GOK, there is a capital shareholding of the private sector to an extent more than 50% of the total standing share capital.

22. On applications moved by certain private entities for



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disclosure of certain information, the Public Information Officer of CIAL (for short, 'PIO, CIAL') took a view that CIAL being not a 'public authority' under Sec. 2(h) of the RTI Act, there is no bound obligation to adhere to RTI Act. This took the dispute to the SIC, Kerala, which through its first order dated 26.07.2010 held that CIAL is a 'public authority' under Sec. 2(h) of the RTI Act and resultantly obligated to disclose information sought for by the private applicants. CIAL contested this judgment of the SIC before the High Court, which eventually through its final judgment and order passed in 19.02.2019 in W.P.(C) No. 12151 of 2015 (Cochin International Airport Ltd v. State Information Commissioner) and other connected writ petitions remanded the matter back to the



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SIC for fresh consideration on the question of jurisdiction and applicability of the RTI Act to CIAL.

23. Thereafter, SIC again took up all the matters afresh and through its final order dated 20.06.2019 reiterated the very same view which it took earlier viz., that CIAL is a ‘public authority’ under Sec. 2(h)(d)(i) of the RTI Act and therefore bound to provide information sought for by the private applicants. It is this order that was passed in the second round dated 20.06.2019, which had now reached the corridors of this Court, wherein the Single Bench through its final judgment dated 02.12.2022 passed commonly for the whole batch of petitions (which is under challenge before us) took a view that CIAL being a ‘public authority’ cannot repel



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requests for being provided the necessary information under RTI Act.

CONTENTIONS OF THE APPELLANT/ WRIT PETITIONER

24. Assailing the judgment of the learned Single Bench, the appellant/ writ petitioner contends as follows:

- a. The SIC as well as the Single Bench have misdirected themselves whilst holding the CIAL to be amenable to RTI Act. The principal contention revolves around the fact that after all GOK is at best a shareholder (albeit having the highest aggregate of shares), receiving dividends at par with any other category of shareholders and therefore mere shareholding would not constitute control or ownership of the affairs of CIAL;
- b. Drawing this Court's attention to the various AoAs and MoAs of CIAL, the learned senior counsel led by other



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counsels appearing in the batch of petitions persuaded us for holding that it is the BODs which takes a decision as per the majority and merely because certain representatives are on Board of CIAL would not make it a company 'controlled' by the GOK or its instrumentalities;

- c. In extension of this argument, it is further argued that eventually it is not the individual members or a lot of members who decide the fate of the company's course of action, but the majority in the BOD, which has the actual decision-making powers;
- d. It is further contended that random documents uploaded on the website cannot be relied upon, which are individualized studies of Harvard University, Kennedy School and National University of Singapore, which are at the highest subjective assessments of the course of development of CIAL;
- e. It is contended that initial take-off of CIAL was without any funding by the Government, whose grant was merely a



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meager donation of Rs.1 crore between March 1994 to April 1996 and the GOK had absolutely no say in the affairs of the company which was actually at the relevant point of time taking key decisions pertaining to the development of CIAL. Therefore, it cannot be held that CIAL was 'substantially financed' by GOK, as being 'substantially financed' would imply a financial support which constitutes a spine in the vertical growth of any commercial entity and not a mere financial support, when the concerned entity is already standing on its leg and making good profits;

- f. Referring to the provisions of Secs. 255, 268, 269, 198, 309, 310, 311, and other applicable provisions of the Companies Act, 1956, it was arduously contended that the decision of BOD of CIAL is subject to the Annual General Meeting of BOD of the company, which is a conglomerate of all the shareholders and that it cannot be held that 1/3 directors appointed/ nominated by GOK would exercise absolute or



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- all-pervasive control over the affairs of the company;
- g. Referring further to the judgment of **D.A.V. College Trust and Management Society and Ors. v. Director of Public Instructions and Ors. [(2019) 9 SCC 185]**, the appellants contend that ‘substantial financing’ under Sec. 2(h)(d)(i) of the RTI Act attributes an objective color to the funding, but for such funding it would be extremely onerous and difficult to sustain. The moot question to be addressed according to the appellants for determining whether any entity is ‘substantially financed’ is to raise and answer the question - whether the concerned entity can carry on its activities effectively, without getting any finance from the government. If its functioning is independent of the finances of the government, there can be no manner of doubt that it is not ‘substantially financed’;
- h. In support of the contention that CIAL is not ‘substantially financed’ by GOK or its subsidiary or its instrumentalities,



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detailed reference has been made to facts and figures of total asset value and investment of CIAL, vis-a-vis the investments made by GOK or share capital held by GOK, which comes to a pittance when compared to the former. In this respect our attention was drawn to figures quoted vide **Paras 25, 28 and 29** of the memorandum of writ appeal.

25. All in all it's been argued that GOK, even if has invested any amount in CIAL, at the highest it is an investment of equity and shareholding which cannot be treated as an investment for giving a fillip to the establishment, sustenance and maintenance of CIAL.

CONTENTIONS OF THE RESPONDENTS

26. The vehemence of the appellants was countered with equivalent force by the opposite parties, which argued as follows:

- a. CIAL can be treated as an authority/ body established vide



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an order made by the ‘appropriate government, which is GOK in the present case. The predecessor entity of CIAL, viz. KIAS was established through a government order issued in this behalf, whose public project report was forwarded by no one else, but the District Collector, Ernakulam. KIAS was a registered society comprising the majority of government nominees, including the Chief Minister, State Transport Minister, the Chief Secretary, the District Collector and many other government nominees who actually drove the idea from dream to fruition of CIAL. It is this KIAS, which was later converted into CIAL as a company, with entire assets and land base under the ownership and control of KIAS transferred to it. Therefore, clearly attributing a purposive interpretation to Sec. 2(h), it can be treated as an authority or a body established vide an order made by the appropriate government and thus the first limb of applicability of Sec. 2(h) is clearly attracted;



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- b. CIAL can be treated as a body owned by GOK for the reason that the shareholding in CIAL to the extent of 45% of the share capital by the GOK, Central Government or their undertakings, PSUs etc. The word 'owned' under Sec. 2(h)(d)(i) reflects the dominance in decision making, shareholding and financial affairs of the concerned entity or body. Therefore, even the second limb of Sec. 2(h)(d)(i) stands satisfying with CIAL being a body owned by the GOK;
- c. Referring to the MoA and AoA, specifically Articles 95, 125, 185 and others, the respondents contend that 1/3rd of the BODs of CIAL are government representatives, including the Chief Minister, the Cabinet Ministers, the Chief Secretary, District Collector and other such government officers. The Managing Director of CIAL is also a government nominee, which by the virtue of his designation has the first say in the holding of meetings, drawing of agenda and passing of final resolutions of CIAL;



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- d. Apart from financial funding, all these directors on Board of CIAL are its incumbents by virtue of their government post and designation and not individually. They draw their salaries for discharging the functions of CIAL from the public exchequer and consolidated fund of the State, which is yet another attribute of indirect government funding of CIAL. Therefore, it can be treated as a body or an authority 'controlled' by the appropriate government;
- e. Referring to the judgment of **Thalapalam Service Cooperative Bank Limited v. Union of India** [2009 (2) KLT 507], the respondents contend that the expression 'substantially financed' occurring under Sec. 2(h)(d)(i) would imply any financial help which is substantial and visible in nature to the financial standing of the authority or body. The word 'substantial' by its very usage would imply any and every help which is not a pittance or insignificant. Therefore, once it is established that shareholding to the



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extent of 45% was from the public funds or monies drawn from the State exchequer, then it can clearly be compartmentalized as a financing which is 'substantial' in nature and, enough to clothe the concerned authority or body as a 'substantially financed' authority under Sec.2(h)(d)(i) of the RTI Act;

- f. Referring to various facts, figures mentioned in the writ petition as also both the judgments of SIC, it is contended vehemently by respondent No.2 that financial aid was provided to CIAL at the stage when it needed the most and therefore at a later stage, after having successfully taken off, the management of CIAL cannot turn its back and after 2 decades label the said financial aid as a pittance, insignificant or insubstantial in nature;
- g. The Court must always lean in favour of disclosure and transparency by purposefully interpreting the RTI Act, instead of giving it restricted and narrow interpretation



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viewed in the backdrop of the objective for which RTI Act has been enacted. The Court must lean in favour of bringing CIAL under the larger umbrella of RTI Act, for it would be in the benefit of one and all concerned.

**RTI ACT: SCHEME, OBJECT & RECOGNITION OF A
FUNDAMENTAL RIGHT**

27. Before we embark on consideration of various issues, a peep into the background of RTI Act, 2005 must be adverted to. Two landmark judgments paved the way for RTI Act, which were **Secretary, Ministry of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal [(1995) 2 SCC 161]**, and **PUCL & another v. Union of India & Ors. [(2004) 2 SCC 476]**. In the judgment of **Secretary, Ministry of Information &**



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Broadcasting, GOI v. Cricket Association of Bengal (supra), the Supreme Court held that right to impart and receive information is a specie of the right of freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India (for short, 'COI'). It is a necessary adjunct to the exercise of one's expression, voice, views and opinion in any vibrant democracy without which the individual cannot express himself to the fullest. Likewise, in the judgment of **PUCL v. Union of India** (supra), the Supreme Court reiterated that the people of the country have the right to know every public act, whatever is done in a public way by their public functionaries and representatives. Transparency, accountability, removal of corruption, and citizen-participation



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are some of the ideals which a developing country must achieve. Efficient implementation of social welfare and economically beneficial legislations in any country is dependent on the accountability and integrity of those obligated to implement the same. Openness in the decision making process goes a long way in building accountability, credibility and integrity of all those who are part of the decision making process as well as the ultimate decision.

28. The two judgments as aforementioned led to the enactment of RTI Act after a lot of deliberations and participatory discussions. The Preamble of the RTI Act itself envisions the objective for which it is enacted, viz. an enactment for introducing



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a formalised regime enabling citizens to secure access to information under the control of 'public authorities', in order to promote transparency and accountability in the working of every 'public authority'. The recitals accompanying the Preamble state that democracy requires an informed citizenry and transparency of information, which are vital to its functioning and also to contain corruption by holding governments and their instrumentalities accountable to the governed; it is expedient and necessary to provide a formalised structure for furnishing certain information to citizens who desire to have it.

29. The RTI Act is therefore aimed at providing free access to information with the objective of making governance more



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transparent and accountable. Akin to other fundamental rights, right to information is not uncontrolled or untrammelled, but subject to inbuilt restrictions in the statute itself and constitutional limitations of right to privacy enshrined under Article 21 of the COI. Therefore **to that extent, wherever the right to information doesn't collide or conflict** directly with rights under Article 21 of any individual or third party, it must have its way through by expansive and purposive interpretation of the provisions of the RTI Act especially the definition clause.

30. Proceeding ahead, **Sec.2** of the RTI Act titled as '**definitions**' vide **Sec. 2(a), (h) and (j)**, defines 'appropriate government', 'public authority' and 'right to information',



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respectively as follows:

“2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to a ‘public authority’ which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(h) ‘public authority’ means any authority or body or institution of self- government established or constituted—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;



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(d) by notification issued or order made by the appropriate Government, and includes any—

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government

(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any 'public authority' and includes the right to—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device."



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31. **Sec. 3** occurring under **Chapter II** titled as '**Right to Information and Obligations of Public Authorities**' is a formal recognition and embodiment of the fundamental right under Article 19(1)(a) of the COI stating that all citizens have the right to information. Thus, the right to information is not merely a statutory right, but a fundamental right enjoined to every citizen of India by virtue of being a participant in Indian polity and democracy. **Sec. 3** therefore, merely formalises and acknowledges the fundamental right and does not introduce any new right. **Sec. 4** titled as '**Obligation of public authorities**' mandates every 'public authority' (as defined under **Sec. 2(h)**) to introduce paraphernalia in a time bound period, including appointment of PIOs so that



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information sought to be procured by any citizen is provided within statutory timelines. **Secs.6 and 7** titled as '**Request for obtaining information**' and '**Disposal of request**', respectively are the machinery provisions wherein application is being made for procurement of any information by any citizen to any 'public authority' and consideration and disposal of the said request. **Sec.8** titled as '**Exemption from disclosure of the information**', provides various heads under which the 'public authority' is absolved of its responsibility to provide information in relation to the heads mentioned thereunder, which includes 'third party information' relating to personal facts and details of any individuals. **Sec. 11** titled as '**Third party information**' provides



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for safeguards against disclosure of information of any nature which may affect third party personally or individually.

32. The conspectus of statutory provisions of the RTI Act would ably demonstrate its beneficial nature, having been formalised to effectuate and effectively realise the fundamental rights under Article 19(1)(a) of the COI. The curtailment of the said right can take place only vide exemptions and exceptions provided under **Secs. 8 to 11**. Otherwise the right to obtain information is otherwise absolute and unrestricted. Therefore, the Court must be loathe to interpret beneficial provisions of the RTI Act in any manner, that would dismantle any edge or corner of the fundamental right guaranteed under Article 19(1)(a). The



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endeavour is always towards expansion and elaboration of the right to information as it ushers in transparency, non-secrecy, openness, resulting in turn accountability and credibility in the democratic governance. The Court's effort must be to ensure that the sunlight enters every room and corner of any building from where the governance and decisions of government take place, instead of bringing down the curtains and keeping things in dark under the veil of secrecy. The Delhi High Court in the matter of **Indian Railway Welfare organisation v. D.M. Gautam & another** [2010 SCC OnLine Del 1795] whilst dealing with the definition of 'public authority' held that the term 'public authority' under **Sec.2(1)(h)** must be interpreted widely, without importing any



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restrictions or conditions, *which are not expressly mentioned in the defining provision.*

33. In the above background, it is now appropriate to deal with the issues individually and answer them head wise.

RE ISSUE NO. 1: CIAL BEING A BODY/ AUTHORITY ESTABLISHED UNDER AN ORDER ISSUED BY THE APPROPRIATE GOVERNMENT

34. CIAL has vehemently contested that CIAL is not an authority/ body established through a notification or an order issued by the appropriate government. Learned Senior Counsel for CIAL argued in extent that it has been incorporated as a company under the provisions of erstwhile Companies Act, 1956, being therefore not an ordain of any statutory authority. Mere



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registration as a company would not confer it the attribute of a 'public authority' under Sec. 2(h)(d)(i) of the RTI Act. Referring to the certificate of incorporation dated March 1994, it is further contended that registration of a company along with its independent MoA and AoA can not be presumed to be clothed as a 'public authority'.

35. The aforementioned contention is quoted to be rejected for the fundamental reason that CIAL as a company was not incorporated for the first time, nor can it be said that it had no predecessors. As explicated above, it's an admitted fact that CIAL was preceded by KIAS, which was a society predominantly constitutive of senior functionaries of the GOK like the Chief



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Minister, the Cabinet Minister, as also of senior bureaucrats, deputed and officiating in the State of Kerala, who had steered the dream of an international airport into fruition. One of them was erstwhile Collector of Ernakulam, Shri. V.J. Kurian, who had personally taken up the whole fight for arranging resources for commissioning and establishment of an international airport. KIAS was clearly established through G.O. (Ms) No. 42/93/PW&T dated 19.05.1993 issued by the GOK to handle all the issues relating to land acquisition and the insurmountable financial and administrative difficulties being faced regarding the same. Had KIAS not been constituted, perhaps the necessity for constitution of CIAL after the land base of KIAS had become substantial would



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have never arisen. The constitution of CIAL led to transfer of the entire asset structure and land base being passed over under the name, title and ownership of CIAL overnight, which could have never been possible without the government of the day agreeing and consenting for the same. KIAS can clearly be treated as a predecessor of CIAL, from whom CIAL borrowed all the assets, land base and other capital and funds.

36. Therefore in view of our foregoing analysis, it can clearly be held that CIAL's predecessor came into existence by virtue of an order issued by the GOK (through the erstwhile Collector, Ernakulam District). Had KIAS not been there, clearly the question of constitution of CIAL would have never arisen and



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therefore it can safely be recorded that KIAS and resultantly CIAL both came into existence by virtue of a specific order, bearing G.O. (Ms) No. 42/93/PW&T dated 19.05.1993 issued by the Collector in this regard. It is this G.O. (Ms) No. 42/93/PW&T dated 19.05.1993 that had set the stage formally for establishment and commissioning of the airport at Cochin. Clearly, therefore the first limb of Sec. 2(h)(d)(i) stands satisfied in the present case of CIAL being established by an order made by the appropriate government. We accordingly answer issue No. 1 against the appellant.

RE ISSUE NO. II: CIAL IS A BODY OWNED & CONTROLLED BY GOK

37. It has been contended rigorously by the learned senior



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counsel appearing on behalf of CIAL that it cannot be treated as a body owned and controlled by the GOK or any of its instrumentalities. It is further contended that neither the SIC nor the Single Bench have considered or properly interpreted the meaning of 'owned' and 'controlled' as occurring under Sec. 2(h)(d)(i), which would imply a substantial extent of ownership and control over the management, administration and decision making powers of CIAL. It is further contended that the ultimate decision of CIAL vests with the BODs, and the AGM of CIAL, which is the final body taking any decision relating to the management and affairs of the airport.



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38. To the contrary, the respondents have argued on the lines of observations made in the twin orders of SIC, dated 26.07.2010 and 20.06.2019 passed in the first round and in the second round, respectively.

39. Sec. 2(h)(d) employs 3 different terms separated by comma and the word 'or' the body may be either 'owned, controlled or substantially financed by the appropriate government'. The ownership conceived under Sec. 2(h) may be not be a complete or an absolute ownership, but a partial ownership as well, we would readily import the said reasoning and rationale in interpreting the word 'owned' so employed under Sec. 2(h)(d)(i). Ergo, even though complete or absolute ownership may not be



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shown to be existing with any entity of the GOK or any of its instrumentalities. Likewise, the word 'controlled' shall also envisage a limited control over the affairs, management and decisions of a company, in a way that the controlling entity is able to influence or affect the final decisions taken by the controlled entity. The test therefore to be applied in such cases to examine whether the controlling authority (GOK or its instrumentalities in the present case) is able to influence and affect the course and direction of the decisions of the controlled entity by referring to the MoA and AoA of CIAL (the controlled entity).

40. It is admitted between the parties that through the G.O. (Ms) No. 22/2000/Tran dated 17.09.2001, CIAL was directed by GOK



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to amend its Bye-laws as a precondition for shareholding to the extent of 26% in the management of CIAL. In pursuance of the aforesaid G.O. dated 17.09.2001, the MoA and AoA were extensively amended, specifically **Articles 95, 118, 125, 195**, wherein in compliance with the G.O., the newly amended Articles provided 1/3rd reservation for senior government functionaries and officers of the State of Kerala. These included the Chief Minister, the Cabinet Ministers of the State, Chief Secretary as the Managing Director and other such government functionaries. The Managing Director is the person first amongst equals who heads all the meetings, decides the agenda, and sets the tone and tenor of decisions to be taken in the meeting by the BOD as a collective



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entity. The presence of the Chief Minister, the Cabinet Minister in the ex-officio capacity further ladens the CIAL with the governmental character. All these 1/3rd members are members of CIAL by virtue of their post, i.e., as ex-officio directors. They are drawing their salary, perks, and remuneration from the State exchequer, whilst participating and discharging their functions as part of the BOD of CIAL. The question therefore arises is if CIAL was never controlled by GOK, then why were the MoA and AoA amended on the directives of the State Government; why 1/3rd reservation for nominees of the State Government was specifically provided by amendment of the said Articles. Clearly, all this was designed towards ensuring that the management of CIAL does not



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go against the interests or planning of the State Government. This was provided because the State Government has a continuous and constant say in the decisions to be taken by the BOD in its GBMs.

41. This can be gleaned from a bare reading of some of the AoA, which are as follows:

“Appointment of Directors

95(1) Subject to the compliance of Section 255, 268 and other applicable provisions of the Companies Act, 1956 and Articles 108 (1,2 & 3) of the AoA of the company, so long as the Government of Kerala and/ or its Public Sector Undertakings jointly or severally hold not less than 26% of the paid up equity capital of the company, Government of Kerala shall have the right to nominate from time to time at its discretion 1/3rd of the total number of Directors of the company. Government of Kerala shall also be entitled from time to time to remove any



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such Director or Directors so appointed and reappoint any other person in his or their place and that the Directors so appointed by Government of Kerala shall not be liable to retire by rotation.

Chairman

118(1) *So long as the Government of Kerala and' or its Public Sector Undertakings Jointly or severally hold not less than 26% of the paid up equity capital of the company, the Chief Minister, Kerala shall be the Chairman of the Company who shall be one of the nominee Directors: of the State Government under Article 95(1).*

Appointment and Powers of Managing Directors/ Whole time Directors/ Technical Directors.

125(1) *Subject to the provision of sections 268, 269, 198, 309, 310,*



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311, Schedule XIII and other applicable provisions of the Companies Act, 1956 as amended and applicable from time to time, so long as the Government of Kerala and/ or its Public Sector Undertakings jointly or severally hold not less than 26% of the paid up equity capital of the company, the Government of Kerala shall have the right to appoint one among the Directors as Managing Director of the company for such term not exceeding five years at a time and to fix his remuneration. Government of Kerala will also have the right to withdraw/ cancel the appointment so made and to re-appoint any other Director as Managing Director at their discretion. However, the Government of Kerala shall exercise their rights contained in this Article (Article 125(1)) only in consultation with the Board of the company. Board may appoint one or more of its members as wholetime Director or Wholetime Directors or Technical



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Director or Technical Directors at such remuneration and upon such conditions as they think fit.”

42. There are 6 members out of the total strength of 11 directors on the BOD of CIAL. Out of these 6 members are ex-officio government nominees. Therefore the government holds a clear mandate of majority thereby controlling the affairs and management of CIAL. A similar view had been taken by the Supreme Court in the judgment of ***Air India Ltd. v. Cochin International Airport Ltd. & others*** [(2000) 2 SCC 617], wherein whilst dealing with the issue of interference in contractual decisions being taken by the CIAL, the Court observed that CIAL is a government undertaking, which has a substantial shareholding



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was discussed at length. This judgment related to the allotment of ground handling facilities by the management of CIAL to certain private parties, which was challenged on the ground that decision is to award tender to one company, Air India Limited. This Court had then cancelled the contract in favor of Air India so awarded by CIAL, whilst directing it to reconsider the valid tenders once again and call all the tenderers who had applied for the same. Whilst dealing with the challenge to the aforesaid judgment of this Court, the Supreme Court impliedly proceeded on the assumption that CIAL is a State instrumentality, being owned, controlled and ‘substantially financed’ by the GOK. It was also mentioned that CIAL was expected to act fairly being under a public duty towards



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all the bidders and tenderers. The decision of CIAL was scrutinized by the Supreme Court as to whether it withstood the test of objectivity and fairness and whether it deserved interference by the writ Court. The aforesaid judgment is clearly an indicator of the stand taken by CIAL itself in the past that it is an entity substantially owned and controlled by the State Government and therefore amenable to judicial review of its decisions taken with the involvement of the State Government and its functionaries.

43. Likewise, the expression 'controlled' fell for interpretation earlier on many occasions in different contexts. Currently, we are concerned about it being used in the context of RTI Act and not in the context of expression 'State' employed



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under Article 12 of the COI. Article 12 of the COI becomes relevant in the context of maintainability of a writ against a body or authority under Article 226 and therefore it would be inappropriate to import the aforesaid interpretation of ‘controlled’ as employed vide Article 12 for interpreting the similar expression employed under Article 12 to the RTI Act. In **State of West Bengal & Anr. v. Nripendra Nath Bagchi [AIR 1966 SC 447]**, the expression ‘controlled’ was interpreted in the context of Article 235 of the COI (control of High Court over District Courts). The Supreme Court held that control doesn’t imply merely the power of arranging day to day working of the Court, but higher degree of power of holding inquiries, imposing punishments and the like.



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Likewise in the case of **Chief Justice of Andhra Pradesh & Ors. v. L.V.A. Dixitulu & Ors. [(1979) 2 SCC 34]** it was held that the term 'control' is of a very wide connotation, amplitude and includes a large variety of powers which are incidental or consequential to achieve the powers vested in the authorities concerned. It is employed synonymously with superintendence, management or authority to direct, restrict or regulate the subordinate authority in exercise of its supervisory powers. Merely because an authority/body exercises supervisory or regulatory powers over some other authority, the relationship of control by the former over the latter is clearly not established. It must therefore be held that the control of any entity must be of such a nature and degree, which amounts



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to substantial control over the management and affairs of the body.

44. Applying the above yardstick and scrutinizing the amended MoA and AoA, specifically the Articles referred to above, it is clear as noon day that GOK exercises an authoritative dominance with the presence of none else but the Chief Minister of the State in the BOD of CIAL. The presence of Chief Minister and other Cabinet Ministers in the BOD practically has the consequential psychological effect of all other private Directors yielding to the opinion, view and expression of authority to the head of the government. It cannot be gainsaid that opinion or proposal of the Chief Minister and other Cabinet Ministers presiding over the meeting of BOD of CIAL can be overridden by



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other private Directors on board of CIAL in a routine or cavalier manner, neither individually nor collectively. The group of private Directors is bound as a norm (barring certain exceptional contingencies) to tow the line of the Chief Minister, who vide Article 118(1) of the AoA holds the apex position of being the chairman of the whole company. The control therefore of GOK is not nominal, supervisory or merely regulatory in nature over CIAL, but complete and total in its *effect and impact*, in the day to day functioning and decision making of CIAL. This Court cannot break away from the reality that when senior government functionaries, bureaucrats and officers preside over the meeting, then non-government members are left with little choices, but to follow



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the opinion and suggestions of their government counterparts in Board meetings. Board meetings may be reflective of participatory and collective consciousness of the entire Board, but in effect the balance gets heavily tilted towards the government nominees appointed by virtue of Articles 95(1), 118(1) & 125(1) of the CIAL. The practical working and functioning of BOD cannot be overlooked by the Court whilst interpreting the textual clauses and statutory provisions. Therefore, the contentions of the appellant/writ petitioner merit rejection, of the company being governed by the provisions of the Companies Act and not controlled by the GOK or its instrumentalities.



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**IN RE: ISSUE NO. III CIAL BEING A ‘SUBSTANTIALLY
FINANCED’ ENTITY UNDER SEC. 2(h)(d)(i) OF GOK**

45. The next and last limb of submission of the appellant is that CIAL is not a ‘substantially financed’ body of GOK, nor can the latter be treated as ‘appropriate government’ to be labelled as ‘public authority’ on the said score. Here it would be worthwhile to point out that the learned senior counsel for CIAL did not dispute certain facts which were argued and mentioned by the respondents, as also the 2 orders dated 26.07.2010 and 20.06.2019 passed by the SIC on the issue of substantial financing of CIAL by GOK:

- a. In the year 1994, when KIAS was established, the entire exercise of land acquisition was facilitated both



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administratively and financially by the GOK which brought around 1254 acres of land under the management and control of CIAL by adopting land acquisition proceedings. The necessary funds and expenses were borne by the GOK itself on a keen interest shown by the erstwhile Chief Minister, District Collector and other senior government functionaries;

- b. When financial instability was being faced by CIAL in the 1990s and various banks, financial institutions were reluctant to extend the requisite monetary support, it was GOK which stood as a guarantor extending sovereign guarantees to the lender institutions. Ready reference can be made to the loan arrangements of around 140 crores extended by HUDCO in the year 1995, for protecting which GOK stood as a guarantor for the entire loan agreement. Clearly, without extension of sovereign guarantee the loans or borrowings would not have come into existence for the



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CIAL;

- c. The GOK had initially promised shareholding support to the extent of 51% in the year 1997, which was however settled finally at 26% with the GOK extending equity support to the extent of Rs. 27.85 crores. The issuance of G.O. (Ms) No. 22/2000/Tran dated 17.09.2001, through which GOK required CIAL to mandatorily amend their Bye-laws as a precondition for extending 26% of financial support (in the form of equity share capital), and CIAL eventually amending them itself demonstrates visibly the pressing necessity of funds from the GOK for CIAL, lest there was never any occasion to concede for amendment to the AoA/ MoA of the company. The fact that a government order came to be issued formally with the concession of CIAL and AoA/MoA were substantially altered, speaks volumes about the scarcity of existing equity and corpus to make the airport successfully operational and functional. Therefore, the



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contention of the appellant/ petitioners that equity support by the State Government was never a necessity, but was offered to an already taken-off successfully executed project doesn't appeal to this Court in the face of above circumstances.

- d. Apart from the above, admittedly in the year 2010 as mentioned supra, around 45% equity shareholding was in the hands of GOK or its instrumentalities (PSUs), Central Government or its PSUs. The financial exposure of CIAL to the extent of 45% of public funds of the State exchequer is a clear indicia of 'substantial financing' of its activities by the GOK and the GOI. A faint attempt was made that the phrase 'appropriate government' is not a relative term but an absolute term so employed under Sec. 2(h)(d)(i) and the investments of GOK shall be different from that of GOI, both standing in separate compartments. While we prefer not engaging ourselves with which shall be the 'appropriate



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government' under Sec. 2(h)(d)(i), whether GOK or GOI, but our prima facie interpretation of the provision implies that GOK and its instrumentalities having the highest shareholding, the 'appropriate government' shall be GOK itself. However we restrain ourselves from going deeper into this question as it doesn't arise before us. What arises before us is being answered about the meaning of 'substantial financing', which in this Court's opinion would be referable to the aggregate financing from the State exchequer of the project in question of any body/ authority. Seen from this perspective, the figure to be considered for determining whether CIAL is substantially funded is the figure of 45% (aggregate shareholding of both GOK as well as GOI) which clearly accords the character of 'public authority' to CIAL, meeting even the third requisite of the statutory provision.



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46. The learned senior counsel representing CIAL has persuaded us ably to accept that GOK was not an investor but was receiving dividends and profits out of its shareholding at par with other shareholders, and detailed facts, statistics were produced in support thereof. Though at first blush this contention seems to be attractive, but on a deeper scrutiny, it is also liable to be turned down. This is because the ***applicability of the expression 'substantial financing' is not about the returns being earned or the flavour of financing or investment, but the factum of extent of financing.*** It's a plain vanilla test, which has to be applied to de hors the flavour or nature of investment or funding by the appropriate government from the public funds of the State exchequer. Not to forget that



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even a one-time grant of Rs. 10 crores was made by AAI in July 2010 towards development of various infrastructural facilities. The fact that various government agencies and undertakings were willingly coming forward to financially support CIAL itself is indicative of the fact that management of CIAL was desperately looking for investment through public funds in its corpus. Every investment has its own return in tangible or intangible form, by way of interest or fixed returns or dividends. However, the factum of 'substantial financing' under Sec.2(h)(d)(i) cannot be adjudged on the basis of returns being earned out of the investment, but from the investment and financial support (in whatever form) extended to the borrowing entity as a support system.



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47. It has not been disputed on behalf of CIAL that as on date 01.10.2018, 32.42% of equity shareholding is held by GOK and its PSUs in its company. As on today the face value of shareholding of GOK stands at an aggregate of Rs. 125 crores. It is also not disputed that the infrastructural assets and land base which came in possession of KIAS was transferred whole hog under the title, possession and ownership of CIAL on its incorporation as a company from KIAS. This conversion and resultant transfer of entire asset base from KIAS to CIAL was itself facilitated by the GOK with the active involvement of the erstwhile Chief Minister and the entire State machinery. The official brochure/ booklet titled as ***‘Insignia of a Dream’*** issued by CIAL under its sign and seal itself



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records all the aforementioned facts of the active role of State Government, the incumbent Chief Ministers from time to time and the entire State machinery (through its bureaucrats, senior officials and not to forget the Collector, Ernakulam District) in the swift and smooth transfer of assets from KIAS to CIAL. The aforementioned facts about the sovereign guarantees in lieu of loan facilities were given by GOK, facilitated by the active involvement of the erstwhile Chief Minister, the Cabinet Ministers and the Collector, Ernakulam District also assume much pertinence. When the learned senior counsel was confronted with the contents and acknowledgments made in their own official brochure/booklet titled '*Insignia of a Dream*', they found



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themselves frail to deny the same. A vertical glance and glimpse of this elegantly designed brochure '*Insignia of a Dream*', provides a profound insight into the cardinal role played by various organs of GOK in the eventual establishment, commissioning and successful operation of CIAL. The learned senior counsel appearing on behalf of CIAL attempted to take an escape route by arguing that the acknowledgments and recognitions extended in the brochure are a bit exaggerated and in many corners even blown out of proportion, but the fact remains it is a document of CIAL itself, issued, drafted, designed and released by its own officials. Therefore, the escape route contrived by the learned senior counsel for CIAL couldn't provide much of a rescue.



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48. We must at this juncture also refer to certain judgments relied upon by both parties on the aspect of the tests laid down in various judgments on the aspect of ‘substantially financed’ as has been used under Sec. 2(h)(d)(i). The Supreme Court in the matter of **Thalappalam Service Coop. Bank Ltd. and others v. State of Kerala and others [(2013) 16 SCC 82]**, held that the expression ‘*substantially financed*’ though has nowhere been defined under the RTI Act, but it literally means solid, massive, etc., indicating that the degree of financing must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable etc. It would be condign to quote certain observations made vide **Paras 46, 47 and 48** of the corresponding judgement of **Thalappalam**



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Service Coop. Bank Ltd. v. State of Kerala, (supra), which reads thus:

“46. The words "substantially financed" have been used in Sections 2(h)(d)(1) and (ii), while defining the expression 'public authority' as well as in Section 2(a) of the Act, while defining the expression "appropriate Government". A body can be substantially financed, directly or indirectly by funds provided by the appropriate Government. The expression "substantially financed", as such, has not been defined under the Act. "Substantial" means "in a substantial manner so as to be substantial". In Palser v. Grinlings, while interpreting the provisions of Section 10(1) of the Rent and Mortgage Interest Restrictions Act, 1923, the House of Lords held that "substantial" is not the same as "not unsubstantial" i.e. just enough to avoid the de minimis principle. The word "substantial" literally means solid, massive, etc. The legislature has used the expression "substantially financed" in Sections 2(h)(d)(1) and (ii) indicating that



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the degree of financing must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable, etc.

47. We often use the expressions "questions of law" and "substantial questions of law and explain that any question of law affecting the right of parties would not by itself be a substantial question of law. In Black's Law Dictionary (6th Edn.) the word "substantial" is defined as

"Substantial.- of real worth and importance; of considerable value; valuable. Belonging to substance; actually existing; real; not seeming or imaginary; not illusive; solid; true; veritable. Something worthwhile as distinguished from something without value or merely nominal. Synonymous with material."

The word "substantially" has been defined to mean "essentially, without material qualification; in the main; in substance; materially". In Shorter Oxford English Dictionary (5th Edn.), the word "substantial" means "of ample or considerable amount of size; sizeable, fairly large; having solid worth or value, of real significance; solid; weighty;



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important, worthwhile; of an act, measure, etc. having force or effect, effective, thorough". The word "substantially" has been defined to mean "in substance; as a substantial thing or being; essentially, intrinsically". Therefore the word "substantial" is not synonymous with "dominant" or "majority". It is closer to "material" or "important" or "of considerable value". "Substantially" is closer to "essentially". Both words can signify varying degrees depending on the context.

48. *Merely providing subsidies, grants, exemptions, privileges, etc. as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD, etc. but those facilities or assistance cannot be termed as "substantially financed" by the State Government to bring the body within the fold of 'public authority' under Section 2(h)(d)(i) of the Act.*



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But, there are instances, where private educational institutions getting ninety-five per cent grant-in-aid from the appropriate Government, may answer the definition of ‘public authority’ under Section 2(h)(d)(i).”

49. The very same expression fell for consideration in yet another judgment, of **D.A.V. College Trust & Management Society & Ors. v. Director of Public Instructions & Ors.**, (supra), where the Supreme Court had an occasion to scrutinize whether NGOs are ‘public authority’, within the meaning of RTI Act or not. The Supreme Court held that even a society, which may not be owned or controlled by the government, akin to an NGO, but if ‘substantially financed’ **directly or indirectly by the government**, would be a ‘public authority’. The word ‘substantial’ was



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interpreted to mean a large and sizable portion, which may not necessarily be a major portion or more than 50% of the stakeholding. Substantial financing can be both direct or indirect. **Vide Paras 26 to 29**, the Court explained how the expression ‘substantially financed’ be interpreted, which reads as follows:

“26. In our view, “substantial” means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard-and-fast rule can be laid down in this regard. Substantial financing can be both direct or indirect. To give an example, if a land in a city is given free of cost or on heavy discount to hospitals, educational institutions or such other body, this in itself could also be substantial financing. The very establishment of such an institution, if it is dependent on the largesse of the State in getting the land at a cheap price, would mean that it is substantially financed. Merely because financial contribution of the State comes down during the actual



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funding, will not by itself mean that the indirect finance given is not to be taken into consideration. The value of the land will have to be evaluated not only on the date of allotment but even on the date when the question arises as to whether the said body or NGO is substantially financed.

27. *Whether an NGO or body is substantially financed by the Government is a question of fact which has to be determined on the facts of each case. There may be cases where the finance is more than 50% but still may not be called substantially financed. Supposing a small NGO which has a total capital of Rs 10,000 gets a grant of Rs 5000 from the Government, though this grant may be 50%, it cannot be termed to be substantial contribution. On the other hand, if a body or an NGO gets hundreds of crores of rupees as grant but that amount is less than 50%, the same can still be termed to be substantially financed.*

28. *Another aspect for determining substantial finance is whether the body, authority or NGO can carry on its activities effectively without getting finance from the Government. If its functioning is*



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dependent on the finances of the Government then there can be no manner of doubt that it has to be termed as substantially financed.

29. *While interpreting the provisions of the Act and while deciding what is substantial finance one has to keep in mind the provisions of the Act. This Act was enacted with the purpose of bringing transparency in public dealings and probity in public life. If NGOs or other bodies get substantial finance from the Government, we find no reason why any citizen cannot ask for information to find out whether his/her money which has been given to an NGO or any other body is being used for the requisite purpose or not.”*

50. In view of the aforementioned test, the Court held the society and the colleges run by DAV Trust as a ‘public authority’ under Sec. 2(h)(d) of the RTI Act. Whilst holding so, the Court had underscored that salaries of teaching and non-teaching staff of the



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college were borne by the State Government, even though infrastructural and instructional costs of buildings, auditoriums, hostels, etc, were borne by the Trust itself (not by the government). The Supreme Court extensively skimmed through the audit reports of the DAV Trust to return a finding that Rs. 10 to 15 crores annually were being donated to the society/ trust in various forms by the government, which took care of almost half of the expenditure of the colleges/ schools run by it. Therefore, the colleges/ schools were treated to be '*substantially financed*' and resultantly 'public authority' under the RTI Act.

51. We must not forget referring to a similar controversy which arose before the Karnataka High Court in the matter of



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Bangalore International Airport Limited v. Karnataka Information Commission and Ors. [(2010) SCC OnLine Kar 108].

The question before the Karnataka High Court was whether Bangalore International Airport Limited (*for short*, 'BIAL') is a 'public authority'. Somewhat similar contentions were raised of BIAL not being 'public authority' under the RTI Act. The Karnataka High Court, after examining long line of precedents and views taken by other High Courts, arrived at a finding that number of tax exemptions and benefits were being provided to BIAL; various PSUs of State of Karnataka had extended direct and indirect financial support to BIAL; indirect financial support pertained to exemption from payment of entry tax on movable and immovable plant and



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machinery of BIAL, property tax, stamp duty and registration charges, etc. The Government of Karnataka had also extended substantial monetary support in various forms to BIAL to ensure it became successfully operational.

52. The indirect as well as direct financial benefits clearly translated into a substantial largesse, considered in aggregate. Eventually, it was held that BIAL was a ‘public authority’ ‘being controlled and ‘*substantially financed*’ by the Government of Karnataka. It would be apposite quoting certain paras from the aforesaid judgment, which would squarely apply in the case at hand as well. Vide **Paras 20 to 23**, the Karnataka High Court held thus:



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"20. It is to be noticed that excluding the debts at initiation phase, the Government's finance is at 30.8% and the private promoters financing amounts to 17.1 % as indicated in the statement of objections. The security to the lenders for the project is also to be found in Clause 14.1.2 of the Concession Agreement. The State Government has also ensured that uninterrupted supply of power and water has to be given to the petitioners. If one were to take these substantial concession in terms of indirect finance which is given indirectly, it leads to the conclusion that the petitioner is a non-Government body which is substantially financed directly or indirectly by the funds provided by the appropriate Government. The finance could be either as investment or towards the expenses, or both. The way in which the words have been placed, indicates that perhaps (i) relates to the investments and (ii) relates to the running expenses. Thus every institution which is owned by the Government or not is clearly covered. By any norms, whenever over 50% of the investment in a



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body belongs to any entity, it is said to be owned by that entity. Since bodies owned by Government have been mentioned separately, the words “Controlled” and “Substantially financed” will have to be assigned same meaning not covered by ownership. Thus, it is evident that the intention of the parliament is to extent the scope of the right to other organisations which are not owned by it. No words in an Act can be considered to be superfluous, unless the contradiction is so much as to render a significant part meaningless or they violate the preamble. Therefore, it becomes necessary to consider a situation where an entity may be controlled by Government without ownership or substantial finance. The interpretation given by some that ‘control’ means any kind of control like that exercised by the Registrar of Societies over Co-operative Societies, or by RBI on all private Banks is too wide and certainly are not supported by the law. If we take this very wide interpretation, all companies are controlled by the Registrar of Companies, all sales tax dealers by the sales tax authorities and



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so on. By this logic, all companies, sales tax dealers amongst others will have to give information under the RTI Act. Such a wide interpretation is not clearly intended in the law.

21. *Let us now consider what are the implications of the words ‘substantially financed. It is obvious that as per Section 2(h)(i) “body.....substantially financed” would be a body where the ownership may not lie with the Government, nor the control. Hence, clearly the wording ‘substantially financed’ would have to be given meaning at less than 50% holding. The company law gives significant rights to those who own 26% of the shares in a company. Perhaps this could be taken to define the criterion of ‘substantial finance’. The finance could be as equity or subsidies in land or concession in taxation.*

22. *Thus, I am of the view that the twin conditions of the RTI Act are attracted, inasmuch as, the petitioner — BIAL is required to be construed as a ‘public authority’ which is substantially financed either directly or indirectly by the funds*



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provided by the appropriate Government.

23. *Indeed, another contention was raised by Learned Counsel appearing for the petitioner that the State Commission was not justified in importing the definition of “substantially financed” from another enactment. He would contend that both the CCAG as well as RTI Act would operate in different fields. Hence, they cannot be construed as pari materia. But however, what is significant to note that the word “substantially financed” is not defined under the RTI Act. In this regard, one will have to fall back upon either the dictionary meaning of “Substantially Financed” or for that matter, if the said phraseology is defined in some other enactment, the same can be imported in this context. In this regard, one can refer to the Division Bench ruling of this Court in the case of Bhavani Housing Co-Operative Society Limited (R) v. Bangalore Development Authority. This Court while considering whether the definition of a particular phrase can be imported in a particular enactment has held that if the Acts are*



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pari materia to each other, then the definition of one Act can be imported to the other Act. As observed, “substantially financed” is not defined in the RTI Act. What would the phrase “substantial” mean has to be understood in contradiction to the word trivial and where the funding is not trivial, to be ignored as pittance, the same would be substantial funding because it comes from public funds. It need not necessarily be by a cash flow but also by any other kind. Hence, I am of the view that the petitioner BIAL can be classified as a ‘public authority’ and a non-Government organisation which is substantially financed directly and indirectly by funds provided by the appropriate Government.”

53. The coalescence of above discussion and judgments is that ‘substantial financing’ cannot be treated as financing which must exceed, in the form of direct financial benefit/ aid, to the extent of being more than 50%, as has been contended on behalf of



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CIAL. The very expression 'substantial' implies an aid which is diametrically opposed to 'pittance'; an aid which is not intangible, inconsiderable or insignificant. This Court has thus no hesitation in holding that from much before its incorporation KIAS and then CIAL had been '*substantially financed*' by GOK and its instrumentalities and the Central Government. Therefore, all the limbs of being a 'public authority' are duly satisfied and we must hold that CIAL is a 'public authority' amenable to disseminate information under the provisions and rigours of RTI Act.

CONCLUSION

54. In view of the foregoing discussion, it is therefore held that CIAL is a 'public authority' under Sec. 2(h)(d)(i) of the RTI Act.



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The view taken by SIC in the impugned order dated 20.06.2019 is affirmed, holding that CIAL is bound to divulge necessary information and meet the statutory obligations placed upon its shoulders vide the various provisions of the RTI Act, including the appointment of PIO and divulging of necessary information in the said regard. We fix a timeline of 15 days for CIAL to take all necessary steps for being completely RTI compliant under various provisions of the RTI Act, especially so specified under ***Chapter II (Right to Information and Obligations of Public Authorities) of the RTI Act*** and file a compliance report before this Court. It is made clear that no request for the extension of the aforesaid timeline shall be entertained, which are just procedural formalities to be



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sufficiently implemented in a time span of 15 days.

55. On the setting up of the entire RTI paraphernalia, the applications made by various applicants including the respondents under RTI Act, specifically under provisions of Secs. 6, 7 and 11 shall be dealt with and disposed of within the statutory timeline framed under the enactment. The authority shall be at liberty to examine and apply the exemption clauses pertaining to disclosure of information as stipulated under Secs. 8 to 11 of the RTI Act on their own merits, against which the aggrieved applicant shall be at liberty to take appropriate recourse available under law.

56. From perusal of the history of these cases, it appears that the Managing Director of CIAL has filed the writ petitions and writ



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appeals without approval of the Board of Directors of CIAL for the purpose of hiding several important actions/decisions from the general public shareholders of CIAL. Even the Chief Minister being the Chairman has not been consulted prior to filing of these cases. Therefore, the Managing Director had no authority to file these cases without prior approval. We deprecate such kind of practice and direct the Chief Secretary of the State of Kerala, who is one of the members of the Board of Directors of CIAL, to take appropriate action in this regard and also ensure that such instances are not repeated in future. The Chief Secretary is also directed to ensure proper compliance and file action taken report in a sealed cover before the Registry of this Court within a period of 15 days of



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receipt of a copy of this judgment. The Registry of this Court is directed to communicate a copy of this judgment to the Chief Secretary forthwith.

57. This Court has not expressed any opinion on the merits of the individual applications, but decided the singular issue as to whether CIAL is a 'public authority' under RTI Act or not. Though other issues of exemption from disclosure of third party information and applicability of exempting provisions of Secs. 8 and 9 were argued by the learned counsel for the appellant, however we refrain ourselves from expressing any opinion thereto and leave it on the competent authority/ PIO to decide and dispose of the same through a reasoned speaking order.



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58. Since no approval of the Board of Directors was taken by the Managing Director of CIAL, we are of the considered opinion that the writ petitions and the writ appeals have been filed without proper authority. Therefore, we deem it appropriate to impose cost of Rs.1 lakh (Rupees One lakh only) on CIAL to be paid in the Bank Account of Kerala High Court Advocates' Association (A/c No.6271201000065, IFSC Code: CNRB0006271, Canara Bank, High Court Branch) within a period of ten days from today and produce receipt before the Registry of this Court.

59. The batch of writ appeals are therefore dismissed in view of what has been held in the present judgment with the aforesaid directions and observations to the limited extent.



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Registry of this Court is directed to list the writ appeals for reporting compliance immediately after expiry of 15 days from the date of delivery of the present judgment.

Sd/-

**SUSHRUT ARVIND DHARMADHIKARI
JUDGE**

Sd/-

**SYAM KUMAR V.M
JUDGE**

smp