

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944

WA NO. 251 OF 2022

[AGAINST THE JUDGMENT DATED 23.12.2021 IN WP(C) NO.24064/2021]

APPELLANTS/RESPONDENTS IN W.P.(C):

- 1 THE INSPECTOR GENERAL OF REGISTRATION,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION, EX-MAYOR
R. BALAKRISHNAN NAIR ROAD, NEAR DISTRICT COURT, VANCHIYOOR ,
THIRUVANANTHAPURAM - 695035.
- 2 THE DISTRICT REGISTRAR [GENERAL],
OFFICE OF THE REGISTRAR OF SOCIETIES, MANANCHIRA,
KOZHIKODE, KERALA , PIN - 673001.

BY SENIOR GOVERNMENT PLEADER SRI.V. TEK CHAND

RESPONDENTS/PETITIONERS IN W.P.(C):

- 1 RIYASUDHEEN K.,
S/O. SALAHUDEEN, KARANKUNDIL HOUSE, PARAKKADAV,
MOONNIYUR, MALAPPURAM, PIN - 676311.
- 2 KRISHNANUNNI E.S.,
S/O. SIVAN, R.K. ERAYIL ROAD, KUNNUKARA, ERNAKULAM, PIN - 683578.
- 3 SHARSHEED E.P.,
S/O. HAIRUNNISAK, SHARSHU MAHAL, MELEPADAM PARAMBA,
PANNIYANKARA, KALLAI, KOZHIKODE, PIN - 673003.

BY ADVS.SRI. P.MOHAMED SABAH
SRI. SAIPOOJA (K/001130/2016)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"C.R."

JUDGMENT**S. Manikumar, CJ**

Instant writ appeal is filed by the respondents in W.P(C) No.24064 of 2021 against the judgment dated 23.12.2021, by which a learned single Judge of this Court, after considering the statutory provisions, disposed of the said writ petition, by ordering thus:

"16. Naming a person, institution or entity is the prerogative of the citizen. It is a matter of the identity of the citizen or of an entity created by him. It is an inalienable right of the citizen. The State, therefore, will not be justified in regulating that right otherwise than through appropriate legislative measure. The Scheme of the Act, 1950 would manifest that the Act, 1950 is intended to curb the menace of exploitation of citizens by naming commercial entities in such a manner that the general public would be led to believe that a private commercial entity is one which has the official patronage of the Central or State Government. The Act, 1950 is rather intended to protect the common man than to assert the authority of the State.

17. Since the petitioners' Association is not an Association related to any trade, business, calling or profession, it is declared that the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 cannot be applied to the petitioners. As and when the petitioners make an application to register it in the name "Kerala Deaf Cricket Association", the application shall be considered without regard to the provisions contained in the Act, 1950. The writ petition is disposed of as above."

2. Brief facts for disposal of the writ appeal are; writ petition was filed by the respondents/writ petitioners, who are the President, Vice

President and General Secretary of an unregistered association formed for the purpose of promoting Cricket among the deaf youth in Kerala. They have challenged the refusal of the appellants to register their association in the name “Kerala Deaf Cricket Association”.

3. The claim of the writ petitioners/respondents herein was that there is no law existing which precludes them from adding the term “Kerala” to the name of their association. On the other hand, the appellants have maintained the consistent stand that name of an association should not bear any resemblance to the Central/State Government, in view of the provisions contained in the Emblems and Names (Prevention of Improper Use) Act, 1950, judgment of this Court, and also going by various Governments orders and circulars issued in that regard.

4. Appellants have further stated that the learned single Judge, without taking note of the directions issued by a Hon'ble Division Bench in W.P.(C) No.2366 of 2015 dated 19.01.2021 and also wrongly interpreting Section 3 and Schedule 4 of Act, 1950, ordered the registering authority to consider the application of the writ petitioners, without regard to the provisions contained in the Act, 1950. According to

the appellants, the learned single Judge has erroneously interpreted the provisions of law and overlooked the judgment of this Court, which is to be reversed in appeal, since the impugned judgment is against the settled principles of law. Hence, this appeal.

4. Before the writ court, writ petitioners/respondents herein have sought for issuance of a writ of mandamus or other appropriate writ or order directing the 2nd respondent - District Registrar (General), Kozhikode, to register the association referred to in Exhibit-P1 Memorandum of Association and Exhibit-P2 rules and regulations as “Kerala Deaf Cricket Association” under the provisions of Societies Registration Act, 1860, pursuant to the application dated 28.04.2021.

5. The question raised by the writ petitioners/respondents herein before the learned single Judge was, as to whether an association of private individual citizens formed with the objective of promoting any sports/games among the deaf, can be denied registration under the Societies Registration Act, 1860, on the ground that their name included the word “Kerala”.

6. Refuting the averments made in the writ petition, the District Registrar (General), Office of the Registrar of Societies, Kozhikode,

appellant No.2, has filed a counter affidavit before the writ court, wherein it was contended that the writ petitioners have approached this Court for a direction to the appellants, to get a draft bylaw to be verified, prior to the submission of the same, for registration under the Societies Registration Act, 1960; that the name of the society was Kerala Deaf Cricket Association. Since there is no provision to register a society bearing the word "Kerala" as per Sections 2(a), 3, and Schedule 4 of the Emblems and Names (Prevention of Improper Use) Act, 1950, the District Registrar (General) advised the writ petitioners/respondents herein to rename their society, avoiding such prohibited names, as it resembles the State Government. However, the writ petitioners did not present the bye law for registration, instead they filed the writ petition. It is contended that there is no provision to name a non-Governmental organisation with a name of any State or Nation, as the same may be, understood or interpreted as a Governmental organisation.

7. Appellants have further contended before the writ court that the respondents/writ petitioners did not submit any application to the District Registrar/Registrar of Societies, as alleged in the writ petition. They have only prepared a bye law of the society and brought it for

verification at the office. According to the appellants, it is somewhat a normal procedure that most clients do for avoiding any disputes, future difficulties, and controversies regarding the society after registration. It is contended that the submission of registration of any society under the Societies Registration Act XXI of 1860 is through online by the software named 'egroups' and there is no facility for manual submission or registration and the respondents/writ petitioners' argument that they have submitted an application for registration of the said society under the Act on 28.04.2021 is baseless.

8. Appellants have also contended before the writ court that the writ petitioners have shown the draft bye law of the society to the District Registrar with the name 'Kerala Deaf Cricket Association' and after examining the bye law, the Registrar had intimated them later that the said association cannot be registered with the name 'Kerala Deaf Cricket Association, as it is against the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950. Further, the writ petitioners were advised to rename the association, by omitting the word 'Kerala', in order to avoid future disputes since the name may be misunderstood as the name of a Government agency or association. That apart, the District

Registrar has intimated the writ petitioners that there are orders from the Inspector General of Registration and clarification from the Government as regards the prohibitions of some Names and Emblems of NGOs, Companies, Associations, etc. Apart from the same, various other contentions were raised by the appellants before the writ court, in order to substantiate their arguments.

9. In reply to the contentions raised by the appellants before the writ court, writ petitioners/respondents herein have filed an affidavit dated 20.12.2021 reiterating the contentions in the writ petition.

10. After considering the pleadings, submissions, and statutory provisions of Act, 1950, writ court disposed of the writ petition filed by the respondents, as extracted above. Being aggrieved, the respondents before the writ court have come up with the instant *intra* court appeal.

11. On the above pleadings, appellants have contented that writ court has practically allowed the writ petition by directing that while considering the application of the respondents for registering the Association, the application shall be considered without regard to the provisions in the Act, 1950. However, according to the appellants, this has not become final and is pending in the appellate proceedings.

12. It was also contended that the writ court has wrongly interpreted the provisions of Act, 1950, while deciding the case and also omitted to take note of the precedents of this Court in the judgment dated 19.01.2021 in W.P.(C) No.2366 of 2015, wherein the Hon'ble Division Bench has given clear directives to the registering authorities not to allow private bodies to bear an impression of a statutory body.

13. Finally, it is contended that the writ court ought to have found that the writ petitioner's Association is a private body, who are desirous of engaging in the game of cricket, which can also be played for monetary compensation/benefit and, in such circumstances, directing the registering authority to proceed with the application, without adverting to the provisions of Act, 1950, would result in an illegality.

14. Controverting the averments in the writ appeal, 1st respondent has filed a counter affidavit, *inter alia*, contending as under:

- "A. The averments that without adverting to the directions contained in the judgment of the Hon'ble Division Bench in WP(C) No.2366 of 2015 dated 19.01.2021 and also by wrongly interpreting Sections 3 and 4 of Act, 1950, the learned Single Judge directed the Registration Authority to consider the application of the petitioner, without regard to the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950, are absolutely false, both legally and factually.

- B. The averments that though the respondents herein had claimed that they had submitted an application to the second appellant as they argued in the writ petition, in fact, they only prepared bye-law of the society and brought it for verification before the second appellant and that, the submission of the application for registration of any society under the Societies Registration Act XXI of 1860 is through online mode by a software named "egroups" are false and baseless, for the reason that they submitted the application for registration of the association as "Kerala Deaf Cricket Association (KDCA)" under the Societies Registration Act, 1860 to the 2nd appellant Registrar on 28.04.2021 along with requisite documents, including Exhibit-P1 Memorandum of Association and Exhibit-P2 Rules and Regulations of Kerala Deaf Cricket Association . However, the 2nd appellant did not accept the application and intimated on 16.06.2021 orally that he cannot register the said association as "Kerala Deaf Cricket Association, and the same can only be registered as "Deaf Cricket Association" by omitting the term "Kerala".
- C. Further, the allegation that Emblems and Names (Prevention of Improper Use) Act, 1950 clearly states that Non-Governmental agencies or organisations cannot be permitted to use the name of State/Union along with their registered name is illegal and without any factual basis. The very object of Act, 1950 is to prevent the improper use of certain emblems and names for professional and commercial purposes. Referring to Section 3 of the Act, it is stated that notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions, as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trademark or design, any name or emblem specified in the Schedule or any colourable imitation thereof, without the previous permission of the Central Government or its authorised officer. A conjoint reading of the object and Section 3 of Act, 1950 leads to an inference that there is no blanket ban prohibiting the use of any name or emblem prescribed in

the referred schedule, by any non-governmental organisation. The said Act is clearly enacted to simply prevent improper use of the names and emblems in the referred schedule and not to prohibit the use of the same.

- D. It is further contended that a plain reading of the object and Section 3 of Act, 1950 makes it clear that there is only a conditional bar in using the said term 'Kerala' in the name of non-governmental organisation or entity, having a Professional and Commercial Purpose, which has clear relation to profit making.
- E. It is further contended that the averments to the effect that the official respondent acted only on the basis of the Act, Government orders, circulars and the directives contained in the judgment of this Court in W.P.(C) No.2366/2015 which specifically stipulates the registering authority to take a decision that while registering, no private body should give an impression that it is a statutory body are the contentions raised without understanding the relevant Act, its spirit and interpretation.
- F. It is further contended that W.P.(C) No.2366 of 2015 is filed challenging the legality of issuance of building permits to the party respondent therein and nothing regarding the scope and provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 are discussed in the said writ petition. In such circumstances, going by various dictum of the Hon'ble Supreme Court, the said directives come within the meaning of *Obiter Dicta*, as laid down in plethora of judgments. Hence, passing of the impugned judgment is not illegal or defective, because it was passed without taking into consideration such directives in the judgment dated 19.01.2021 in W.P.(C) No.2366 of 2015.
- G. It is further contended that reading of Exhibit-P2 rules and regulations of the association makes it clear the association sought to be registered as Kerala Deaf Cricket Association has no commercial or professional objectives. It is specifically stated under Clause 5(h) of Exhibit-P2 that to acquire by lawful means, movable and immovable properties on behalf of the association and to utilise the

funds and properties of the association for the promotion and fulfillment of all or any of the objectives of the association as a Non-profit making organisation.

- H. The averment that the association formed by the respondent can also be related to a profession/business as most of the games are played in return of money and most of the games played as sponsored are not correct because the appellants had not such case and has not raised such an allegation before the writ court. In fact, cricket is conducted at National levels among teams of various Deaf Cricket Associations hailing from different States simply to promote recreational activities among the differently abled and there is no great viewership or audience for the same. Hence, it is practically impossible to conduct such a game and to even make a living by playing cricket as a deaf person. The averment to the effect that these aspects show that the association nurtures financial gains which points out that the association can be termed as a business/profession/ calling is false and concocted. Nowhere it has been raised nor any record is brought forth by the appellants to prove that the association sought to be registered is a professional or commercial body and circumspection has to be exercised before allowing the said association to add the name "Kerala" in its registered name. For the foregoing reasons, the 1st respondent prayed for dismissal of the writ appeal."

15. Heard the learned Government Pleader, as well as learned counsel for the respondents, who have addressed arguments on the basis of the facts deliberated above, and perused the material on record.

16. The issue is guided by the provisions of Emblems and Names (Prevention of Improper Use) Act, 1950, which is framed also for preventing the use of the name of a State, without proper authority, and in particular, for commercial purposes, of the emblem, the official seal

and the name. The Act extends to the whole of India and it has come into force on and with effect from 1.3.1950. Section 2(a) of the Act defines emblem to mean any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule.

17. The word “name” is defined under Section 2(c) of the Act, 1950, to include any abbreviation of a name.

18. Section 3 of the said Act, 1950 speaks about prohibition of improper use of certain emblems and names, and it stipulates that notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof, without the previous permission of the Central Government or such officer of the Government, as may be authorised in this behalf by the Central Government.

19. Section 4 of the Act, 1950 speaks about prohibition of registration of certain companies, etc., and it reads as under:

- “(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall,--
- (a) register any company, firm or other body of persons which bears any name, or
 - (b) register a trade mark or design which bears any emblem or name, or
 - (c) grant a patent in respect of any invention which bears a title containing any emblem or name,
- if the use of such name or emblem is in contravention of section 3.
- (2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.”

20. Hence, Section 4 makes it clear that even other body of persons, which bears any name of a State, is prohibited from registration.

21. Section 5 of the Act, 1950 speaks about penalty and states that any person, who contravenes the provisions of Section 3, shall be punishable with fine, which may extend to five hundred rupees.

22. Entry 4 of the Schedule of the Act, 1950 states that the name, emblem or official seal of the Government of India or of any State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government shall not be used.

23. That apart, the aims and object of Exhibit-P2 rules and

regulations of Kerala Deaf Cricket Association (KDCA) state that the objective of the Association shall be,-

- a) To promote, encourage, organize and Control the game of cricket throughout the State of Kerala.
- b) To arrange and regulate respective matches within the State, District and select teams for any tournament, championship, local or otherwise.
- c) To foster Sportsmanship and co-operation among the members, officials and players.
- d) To hold and maintain the laws of cricket and the rules and regulations of the Kerala Deaf Cricket Association.
- e) To spread the game of cricket throughout the District by organizing coaching camps, tournaments, exhibition matches, seminars, publishing journal, souvenir, magazines and literature on cricket etc.
- f) To promote, encourage, organize and develop the game of Cricket in schools, colleges within the State.
- g) To maintain a panel of approved umpires and to do such acts may be deemed necessary for the purpose of promoting and conduction of Cricket.
- h) To acquire by lawful means, moveable and immovable properties on behalf of Association and to utilize the funds and properties of the Association for the promotion and fulfillment of all or any of the objectives of the Association as a nonprofit making organization.
xx xxxxxx xxxxxx
- k) To conduct State and National Cricket Tournament in Kerala for Men, Women, Boys, Under 16, Under 19 and Under 22.
xxx xxxx xxxxx”

24. In W.P.(C) No.2366 of 2015, this Court by judgment dated 19.01.2021, held as under:

“7. Name of the petitioner is described as the State Environment Protection Council. NGOs or associations or societies, should not give any impression, to the public at large, that it is a statutory body, under any enactment, State / Central, as the case may be. However, in the case on hand, we are of the view that the petitioner gives an impression, as if the petitioner is a statutory body. Needless to say that NGOs or associations, or societies, registered under the Kerala Societies Registration Act, 1860, as far as possible, should avoid using the name 'Central' or 'State' or 'National'.

8. Though, the instant writ petition is regarding the alleged construction of a building and violations, taking note of the fact that public at large, should not be misled by any institution, giving an impression that it is a statutory body, because of the nomenclature with the description, Central or State or National, under the provisions of the Kerala Societies Registration Act, 1860, in exercise of the powers under Article 226 of the Constitution of India, we deem it fit to implead the Inspector General of Registration, State of Kerala, as additional 5th respondent to this writ petition, for the limited purpose of considering, as to whether, such NGOs or association or societies, be permitted to register, with the specific words, Central or State or National.

9. We direct the registering authority to take a decision that, while registering, no private body should give an impression that it is a statutory body. Inspector General of Registration, State of Kerala, is directed to take appropriate decision, within two months from the date of receipt of a copy of this judgment.

In the light of the fact that Mr. K. P. Mohammed Ashraf, Managing Director, Emad Building, Global Village, Kannur, 4th respondent, has submitted an application for regularizing the construction effected on the 5th and 6th floors of the building in question, and placing on record the submission of Mr. P. B. Sahasranaman, learned counsel for the petitioner, with the observations stated supra, writ petition is disposed of.”

25. The question that emerges for consideration is, as to whether the word “Kerala”, added as prefix to the Deaf Cricket Association, can be legally sustained or not. As stated supra, Section 3 deals with the prohibition of improper use of certain emblems and names.

26. Perusal of the Schedule makes it clear that it has undergone successive changes. Entry 7 in the Schedule, as it originally stood, has undergone a change on 7th September, 1965, and it reads as under:

- “7. Any name which may suggest or be calculated to suggest-
- (i) the patronage of the Government of India or the Government of a State; or
 - (ii) connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force.”

27. Therefore, it is clear that the use of the word “Kerala”, which is the name of a State, is something which is prohibited in terms of Section 3 of the Act, 1950 read with the Entries 4 and 7 of the Schedule.

28. In order to implement the provisions of Act, 1950, the Emblems and Names (Prevention of Improper Use) Rules, 1982 is framed by the Central Government, in exercise of the powers conferred under Section 9 of the Act.

29. Rule 8 of the said rules speaks about the use of emblems and names contained in the Schedule and it reads as under:

“8. Use of emblems and names contained in the Schedule.- No person shall use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trademark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorised in this behalf by the Central Government except in the following cases, namely:-

(1) the use thereof by the agencies, bodies or persons to whom the name or emblem belongs;

(2) the use thereof by the Central Government or any State Government to whom the name or emblem belongs;

(3) issue of postal stamps, coins or other commemorative items brought out by the Central Government or a State Government in honour of any of the persons or institutions whose names are included in the Schedule;

(4) the use of the names of persons included in the Schedule by bodies set up by the Central Government or State Government for propagation of the ideals for which they stood and lived;

(5) the authorship, production, publication, exhibition or transmission by any medium for academic, artistic, biographical, cultural, educational, scientific or spiritual purposes with the previous permission of the Central Government and subject to such conditions as the Central Government may lay down while granting such permission.”

30. Reading of the abovesaid provisions of the Act, 1950 and rules framed thereunder, make it clear that no person shall use or continue to use for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trademark or design, any name or emblem specified in the Schedule or any colourable imitation thereof, without the previous permission of the Central Government or of such officer of

Government, as may be authorised in that behalf by the Central Government except the cases specifically referred to in Rule 8 of the Rules, 1982.

31. However, a contention is raised by the learned counsel for the respondents/writ petitioners that the prohibition contained under Section 3 of Act, 1950 and Rules, 1982 is in respect of the purposes prescribed thereunder and that the activity carried on by the Deaf Cricket Association would not come under any of the purposes mentioned in the said provision.

32. As regards the use of the word “Kerala”, in the name of an Association, we deem it fit to consider the case in **K.P. Vijayakumaran v. State of Kerala and Others**, reported in 2014 SCC Online Ker 28082, wherein, when the usage of the word “Kerala” in a Kathakali Centre was objected, on the grounds of contravention of Sections 3 and Entry 7 in the Schedule of the Emblems and Names (Prevention of Improper Use) Act, 1950, after considering Sections 3 to 5 & Item No.7 of the Schedule, a Hon'ble Division Bench of this Court held thus:

“Item No. 7 provides that any name which may suggest or be calculated to suggest the patronage of the Government of India or the Government of a State. Thus Section 3 read with Item No. 7 prohibits the use of any

name which may suggest or be calculated to suggest the patronage of the Government of State. Item No. 7 uses the word 'may suggest or be calculated to suggest'. The word 'suggest' used in item No. 7 is a word of wide import and wide meaning. The word 'suggestion' is defined in Black's Law Dictionary in the following words:

"Suggestion, *n.* **1.** An indirect presentation of an idea; the client agreed with counsel's suggestion to reword the warranty. **2. Procedure.** A statement of some fact or circumstance that will materially affect the further proceedings in the case."

The word 'suggest' has been defined in "Webster's Third New International Dictionary" as follows:

"1: to put (as an idea, proposition, or impulse) into the mind: as a obs(1) : to seek to influence the mind of : URGE (2) : insinuate esp. An evil or false thought into the mind of : TEMPT, SEDUCE < what serpent hath ~ed thee - Shak> b : to call forth(as a desire or mood) : AROUSE, EVOKE < indirectly ~ the desired attitude - Dorothy Barclay> < the pleasant voice that enticed and ~ed the most improbable falsehoods from witnesses - Rose Macaulay> c: to mention (something) as a possibility : put forward by implication : HINT, INTIMATE d : to propose (something) as desirable or fitting e: to offer (as an idea or theory) for consideration : present a hypothesis:"

The definition of the word 'suggest' as noted above indicates that it mean to put as an idea, proposition, or impulse into the mind or to mention something as a possibility. The object and purpose for the prohibition is to desist any person from using the name for professional or commercial purpose which may suggest patronage of the Government of India or Government of a State. Present is a case where the name of petitioner's establishment is 'Kerala Kathakali Centre'. The name clearly suggests that it is associated with the Government of the State. Ext.P7 notice issued by the Circle Inspector of Police, Fortkochi dated 29.06.2010 to the petitioner was to the following effect:

“It has to come to my notice that you have been running a commercial establishment for quite sometime in Fortkochi under the name and style of “KERALA KATHAKALI CENTRE “which may suggest or is calculated to suggest the patronage of Government of India/Kerala for the purpose of trade, business without the previous permission of the Govt. of India (namely Indian, National, anything pertaining to India, Kerala, Tamilnadu etc.). The above said act is prohibited by section 3 of ‘The Emblems and Names (Prevention of Improper use) Act 1950 and it makes out an offence under sections 5 & 7 of the Act. Such practices mislead the unsuspected gullible consumers, especially the tourists. It is therefore hereby directed that you shall either avoid or discontinue the use of such name and style forthwith and any failure in this regard will certainly follow the prosecuting steps against you without further notice.”

6. The petitioner's submission is that since Kathakali is originated in Kerala, therefore, the use of name as ‘Kerala Kathakali Centre’ does not suggest patronage of the State. As against this the submission of the Director General of Prosecution appearing for the State is that several undertakings and Corporations bear the name beginning with ‘Kerala’, like Kerala Tourism Development Corporation, The Kerala Ceramics Limited and such other Government undertakings and Corporations.

7. Now we come to the decisions relied upon by the petitioner. In **South India Textiles v. Govt. of A.P.** [AIR 1989 Andra Pradesh 55] the petitioner was a partnership firm with the name ‘The South India Textiles’. In that case the Andra Pradesh High Court held that the name used as ‘The South India Textiles’ does not reflect upon State Government or Government of India. Following was laid down in paragraph 6:

“6. Under the schedule the relevant clause is 7 which reads thus:

“7. Any name which may suggest or be calculated to suggest

(1) the patronage of the Government of India or the Government of a State.

Therefore, notwithstanding anything contained in any law whether the emblem or name purports to use for the purpose of any trade, business calling or profession as specified in the schedule it shall not be used except with the previous permission of the Central Government or of the State Government. In this case, the use of the word ‘South India’ does not reflect upon any State Government or the Government of India nor signifies any patronage. South India is not a State. It is a common name for many a firm or proprietary concerns. Therefore, by no stretch of imagination it can be said that it is improper use within the meaning of S.3 of the Emblems Act.”

The above judgment was clearly distinguishable. There is neither mentioning of State Government nor the word ‘South India’ suggests any State patronage. South India is not a State which word only refers to a geographical part of the Country consisting of several States. The said case does not help the petitioner/appellant in any manner.”

33. Going through the statutory provisions, it is clear that it is not only for the purpose of trade or business the use of name of a particular State is prohibited, but also for calling or profession, which is a very comprehensive and expansive term to contain the use of the name for any establishment, irrespective of its profit or purpose for which it is constituted.

34. The intention and purport of the Act would be clear by making a reference to the statement of objects and reasons; the Emblems and

Names (Prevention of Improper Use) Act, 1950 is constituted and the Rules, 1982 are framed, to prohibit the improper use of certain emblems and names, so as to deceive the public as if to appear that it is an organisation belonging to the State. When we look at the purpose for which the Act is constituted, we are of the undoubted opinion that the name "Kerala" made as prefix to the Deaf Cricket Association cannot be used, in view of the prohibitions contained in the Act, 1950 and Rules, 1982. In that view of the matter, we find force in the contentions advanced by the appellants.

In the result, we allow this appeal and set aside the directions issued in the impugned judgment. Accordingly, the writ petition would stand dismissed. However, we make it clear that this judgment will not stand in the way of the party respondents seeking registration before the competent authority, in accordance with law.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
SHAJI P. CHALY
JUDGE

Krj

APPENDIX

APPELLANTS' ANNEXURES:- 'NIL'

RESPONDENTS' ANNEXURES:

- EXHIBIT-R1(A) COPY OF THE SCREENSHOT OF THE MAIN PAGE OF WEBSITE OF DIFFERENTLY ABLED CRICKET COUNCIL OF INDIA.
- EXHIBIT-R1(B) COPY OF THE BROCHURE OF INDIAN DEAF CRICKET ASSOCIATION.
- EXHIBIT-R1(C) COPY OF THE SCREENSHOT FROM THE WEBSITE 'DYSA KERALA.GOV.IN' SHOWING THE RECOGANISED STATE ASSOCIATIONS.
- EXHIBIT-R1(D) COPY OF NEWSPAPER ARTICLE REGARDING TELENGANA DEAF CRICKET ASSOCIATION.

//TRUE COPY//

P.A. TO C.J.