

**BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTHERN ZONE)  
CHENNAI**

O.A, No.82 of 2021 (SZ)

IN THE MATTER OF:

Dharmesh Shah,  
Chennai

... APPLICANT

Vs

Union of India and others

... RESPONDENTS

**MEMO FILED ON BEHALF OF THE STATE OF  
KERALA / 11<sup>th</sup> RESPONDENT**

It is humbly submitted that the Chief Secretary of the State is respondent is a formal and not an answering party to the litigation filed before this Hon'ble Tribunal. In this respect, the Government of Kerala has issued Circular No.162/SC1/2021/GA(SC) dated 04.03.2021, quoting the Rule 6 of the Rules of Business of the Government of Kerala and instruction 7(1) of the Kerala Secretariat Office Manual, the Secretary of each department shall be the official head of that department. An addition to this, the Government of Kerala has referred Rule 148 of the Rules of the High Court of Kerala 1871 which runs as follows:

**“148 Addition of parties.** – All persons directly affected shall be made parties to the petition. Where such persons are numerous, one or more of them may with the permission of the court on application made of the purpose be impleaded on behalf of or for the benefit of all persons so affected; but notice of the Original Petition shall , on admission, be given to all such persons either by personal service or by public advertisement as the Court in each case may be direct.

*[Provided that in cases where the State Government is a party the Secretary to the Government Department concerned shall be arrayed as party representing the Government]*



*Provided further that if the subject matter of the petition relates to two or more Government Departments or, if the petition is of such a nature, the disposal of which warrants information from two or more Government and the Secretaries to those government Departments shall be made as party representing the Government". The said circular is enclosed herewith as*

**Annexure- A.**

2. It is submitted that in the said circular, the Hon'ble High Court of Kerala also in *Sobhana Vs Panavally Grama Panchayat and Others* W.P.(C).No.21885 of 2019 in its order dated 09.08.2019 reported in 2019 (4) KHC 450/2019 (3) KLJ 990, held that where the State Government is a party, the Secretary to Government concerned shall be arrayed as party representing the Government and also that if the subject matter on the petition relates to two or more Government departments or, if the petition is of such a nature, the disposal of which warrants information from two or more Government departments, the Chief Secretary to Government and the Secretaries to those Government departments may be made as party representing the Government.

3. It is further submitted that in view of the above, the Government of Kerala have advised the Secretaries of all departments to see that whenever in a case, Chief Secretary is made as respondent against the aforesaid provisions, the Secretary of the department concerned shall take steps to delete Chief Secretary from the party array by filing appropriate petition in the matter before the Hon'ble High Court and various other judicial/quasi judicial forums and by timely follow up action in consultation with the learned Advocate General. It has further stated that the duty of the department concerned to defend the case properly to protect the interest of the Government and to keep the suit register

updated for necessary follow up action. A copy of the said circular is submitted along with this memo for perusal.

4. It is submitted that, this memo is filed in view of the above circular issued by the Government of Kerala and the judgment of Hon'ble High Court of Kerala, to the effect that the Chief Secretary of the State may not be arrayed as a party in this case, however, the concerned department Secretary is representing the State and the same may be recorded.

Dated at Chennai on this the 9<sup>th</sup> day of April, 2021.



E.K.Kumaresan

Standing counsel for Kerala(SZ)