

SOLAR INQUIRY COMMISSION REPORT

BY

HON'BLE MR. JUSTICE G. SIVARAJAN (RETD.)

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THE KERALA POLICE ASSOCIATION

Section 109 of the Kerala Police Act, 2011 for short 'the Act' provides for Police Associations as per which 'the Government may, subject to such restrictions as may be prescribed, grant permission for the formation of Associations for different ranks and categories of police officers.

Section 14 of the Act, sub-section (2) thereof in ascending order specifies Police Officers of various ranks in the Kerala Police Force. They are (a) Police Constable; (b) Police Head Constable; (c) Assistant Sub Inspector of Police; (d) Sub Inspector of Police; (e) Inspector of Police; (f) Deputy Superintendent of Police; (g) Superintendent of Police; (h) Deputy Inspector General of Police; (i) Inspector of Police; (j) Addl. Director General of



Police; (k) Director General of Police and
(1) State Police Chief.

The Kerala Police Association is an Association of the first two categories namely, Police Constable and Police Head Constables. The State Government, in exercise of the Powers conferred under the Kerala Police Act, 1960 (Now Section 109 of the Kerala Police Act, 2011) have approved the constitution of the Kerala Police Association as per G.O. (MS) No.134/79/Home dated 04-10-1979.

The Constitution of the Kerala Police Association as approved is Ext.X 529. Reading the Constitution of the Association it is a state-wide Association recognised by the State Police Chief - Director General of Police. It is a non political organisation and its activities are strictly within the four corners of the



Police Forces (Restriction of Rights) Act, 1966 and the rules made there under, the Kerala Police Act, 1960 and other Acts and Rules regarding the service conditions, discipline, duties and rights in force and in future.

(Other Police Associations)

For ASI to Inspector of Police there is Police Officers Association; for Dy.S.P. to promoted Superintendent of Police, Police Service Officers Association and for IPS Officers IPS Association State-wide are also there. (Dw.XIV Pp 84 - 85).

One of the aims of the Kerala Police Association, it is stated (Clause 5(5)(b) is to create impression that the Police acts with dedication and (e) the protection of the general interest of the members of the Association must be subject to the



restrictions mentioned in the Constitution of the Association.

As per the duties and responsibilities of the office-bearers of the Association (clause 10) the Chief Executive of the Association is its State General Secretary. He is to make correspondence in respect of all matters.

So far as finance, clause 12 says its capital fund consists of membership fee, grants, if any, from Government and money collected with the prior permission of the Government. This fund has to be used for the welfare of the members of the Association. It is specifically provided (clause 12 (3)) that the Association shall not collect donations from any individual, voluntary agency or organisations.

It would appear from a general reading of the constitution of the Kerala Police



Association there is an overall control in the activities of the Association to the State Police Chief and the unit heads.

Section 3 of the Kerala Police Act, 2011 specifies the general duties of police as 'The Police, as a service functioning category among the people as part of the administrative system shall, subject to the Constitution of India and the laws enacted there under, strive in accordance with the law, to ensure that all persons enjoy the freedoms and rights available under the law by ensuring peace and order, integrity of the nation, security of the State and protection of human rights'.

Section 4 deals with the functions of the police which inter alia clause (o) provides for upholding and maintaining the standards of internal discipline.



As per Section 18 the administration, supervision, direction and control of the police throughout the State shall, subject to the control of the Government, be vested in an officer designated as the State Police Chief.

Section 20 of the Act enables the State Police Chief to issue and compile, subject to the power of the Government to modify or annul standing orders and guidelines, not inconsistent with this Act and the rules made there under generally for the efficient discharge of all police duties and functions by compiling the Police Manual.

Section 85 of the Act provides that the police officers and persons undergoing training after selection for appointment as a police officer shall be subject to the provisions of discipline. Inter alia clause (f) thereof provides 'conduct themselves in

for

accordance with the general or special order issued by the State Police Chief while engaging in each duty and on other occasions'.

Sri.G.R.Ajith, a Civil Police Officer, was the State General Secretary of the Kerala Police Association since 26-08-2011. He joined the police department as a constable on 30-11-1998 in the Special Armed Police (SAP). From 2010 to 2013 he was on duty in Armed Police Reserve in Nandavanam Police Camp, Thiruvananthapuram. From June 2013 he was posted in local police - Traffic. He was working in the Thiruvananthapuram City Traffic Police Station in its store since then. Up to May 2016 he was in such duty. Now he is on traffic duty.

He, it is stated, completed B.A. Degree course. Studied in the University College,



Thiruvananthapuram. He was a KSU worker. Sri.Tenny Joppan, Personal staff of Chief Minister Sri.Oommen Chandy studied in the Mar Ivanious College, Thiruvanthapuram. He was also a KSU worker. During that period both of them worked together in the KSU. Former Chief Minister Sri.Oommen Chandy at that time was an MLA representing Indian National Congress. Sri.Oommen Chandy had a room in the MLA quarters. Himself and Tenny Joppan get introduced and worked together in the party and in the programmes of KSU during that period. As KSU workers they assemble every day in the MLA hostel premises. At that time he did not have connections with Sri.Oommen Chandy. (Vide his deposition dated 03-06-2016 - DW Vol.XIV Pp 84 - 121).

He was an active worker of the Congress Party prior to his joining the police



department. (Vide deposition dated 10-06-2016 at Pp 152 - 153).

The solar scam issue was discussed in the 13th State Legislative Assembly Session from 12th June, 2013 to 9th July, 2013.

Sri.Raju Abraham, MLA and 4 other MLAs. have jointly moved an urgent motion in the Assembly on 13-06-2013 for the Chief Minister to reply.

In the said motion, Ext.X 562 (Vol.XIV Exts,Pp 68 -69) at page 62 it is stated that 'by spending the money cheated by Saritha Police Association Programme was sponsored.'

When this news was reported in the Medias, since it adversely affects the reputation and faith in the Police Association, its General Secretary Sri.G.R.Ajith, it is stated, filed a petition dated 17-06-2013 (Ext.X 549) before



the State Police chief for enquiring in to the allegations and its source.

Another petition Ext.X 550 also is stated to have been filed on the same day before the State Police Chief alleging that in Face Book Account 'Nerkazhcha' certain news published bring disrepute to the Chief Minister and the General Secretary of the Police Association with their photos and requested for taking steps under the law relating to Prevention of Cyber Crimes against those responsible. This apart, another petition dated 25-06-2013 Ext.X 524, it is stated, was filed before the State Police Chief. It is stated therein that in the medias like Mangalam and Deshabhimani it is reported that the Kerala Police Association in connection with its 30th State Conference held at Kollam have received a sum of Rs.40 lakhs by way of donation from the controversial solar company for the



publication of the Smaranika and the conduct of the conference.

Since this prejudicially affects the reputation and the faith in the Association and also brings disrepute to its State General Secretary the State Committee which met on 20-06-2013 after detailed discussion, it is stated, decided to take action against the newspapers which reported the false news. Permission of the State Police Chief was sought for filing defamation case against the Editors, Reporters, etc. of those newspapers.

The discussion in relation to this matter is available in the Assembly proceedings (Vol.IV at page 19, 28, 33, 37, 39, 126).

Sri.Thiruvanchoor Radhakrishnan,
Minister for Home and Vigilance said in the
Assembly 'First one relates to allegation



against Police Association. On asking the office-bearers of the Police Association they said such a programme was not sponsored by them. Secondly, the office bearers of the Association informed this through Press Report.

These are materials available in the form of records produced by the Police Association and from the Assembly Proceedings in regard to the allegations against the Police Association.

In this matter it is seen that All India Lawyers' Union (AILU), Thiruvananthapuram District Committee filed a petition dated 18-06-2013 (Ext.X 705 (b)) before the Kerala State Police Chief. It is for enquiring into the role of the office-bearers of the Kerala Police Association with the solar scam accused. It is inter alia stated therein that solar scam accused had



sponsored the 30th State Conference of the Kerala Police Association by spending lakhs of rupees. News reported in Mangalam Daily was mentioned. There is reference to the Smaranika published by the Association in which an advertisement "Best Compliments from A Well Wisher". The petitioner wanted this also to be included in the high level enquiry conducted and to bring the accused to book.

There is an endorsement therein dated 18/06 "May be sent to ADGP (SZ) for enquiry and report in due course". Accordingly this is forwarded by the State Police Chief to the ADGP (SZ) for enquiry and report in due course as per letter No.T8/59262/2013 dated 19-06-2013. The ADGP (SZ) as per communication No.159/Camp/ADGP/SZ/2013 sent it to Sri.Reji Jacob, Assistant Commissioner of Police, DCRB, Thiruvananthapuram City, a member of the SIT for personal enquiry.



Sri.Reji Jacob submitted an enquiry report Ext.X 704 (b). The State Police Chief has forwarded this to the Commission as requested by letter dated 24-06-2016 (Ext.X 704 (a)).

The report shows that the office-bearers of the Kerala Police Association were treated as counter petitioner. He obtained a statement from the petitioner on 31-08-2013 (Ext.X 705). There is a specific allegation in the petition itself that solar scam accused Saritha S.Nair by spending lakhs of rupees had sponsored the 30th State Conference of the Kerala Police Association. Advertisement in the souvenir is also mentioned as a piece of evidence. The statement of Sri.G.R.Ajith, State Secretary of the Kerala Police Association was also obtained on 04-09-2013. He said the advertisement referred was for 'Skyline Builder' and that there was no connection



whatsoever with Team Solar, Saritha Nair or Biju Radhakrishnan. They did not collect any donations from anybody. The operative portion of the report reads thus:

"The enquiry revealed that association had been permitted by State Police Chief to accept advertisement in moderate rate. The veracity of the statement of accounts produced by General Secretary, Kerala Police Association could not be verified with available data. Hence it is not possible to suggest that the Association had accepted donation from the said accused.

Investigation of the solar case is being conducted by a special team headed by ADGP Sri.A.Hemachandran, IPS. The investigation of a crime case is a matter with different magnitude. No person can be dragged into the case without proper support of evidence to substantiate the allegation. So far no



evidence received during the course of enquiry to link Sri.G.R.Ajith, Secretary, Kerala Police Association with Saritha S.Nair or Biju Radhakrishnan, or anybody else".

It is significant to note that the officer who enquired into the matter did not choose to question either Smt.Saritha S.Nair who, it is alleged had spent lakhs of money for sponsoring the 30th State Conference of the Kerala Police Association or any staff of Team Solar Company or their bank accounts etc. He confined the enquiry to the advertisement.

Sri.G.R.Ajith, as CW 140, in his deposition before this Commission on 03-06-2016 at P. 90 DW Vol.XIV has stated that he and his Association happened to appear before this Commission only in the first week of February, 2016, that too in



connection with the allegation made by solar scam accused Saritha S.Nair in her deposition before this Commission made on 05-02-2016 and 06-02-2016, that she had paid a sum of Rs.20 lakhs to him in the Northern Block of the Secretariat which was false. He said such an allegation was made in the Kerala Legislative Assembly when the solar scam issue was discussed from 12th June, 2013 to 9th July, 2013. The Kerala Police Association protested against this and made a press statement with the permission of DGP and in writing requested the DGP to conduct an enquiry. As per their request ADGP (SZ) Sri.A.Hemachandran, IPS head of the SIT constituted, through its member Sri.Reji Jacob, Assistant Commissioner, DCRB, Thiruvananthapuram City got an enquiry conducted and found that the allegations are baseless and a report to that effect is given. He, when questioned, had furnished



copy of the souvenir, the details of the person who gave the advertisement and the accounts. He said he does not know whether the enquiry officer had questioned Saritha S.Nair or the staff of the Team Solar Company or their statement taken. He said besides, his complaint Sri.Pramod Pallichal, District Secretary of AILU, Thiruvananthapuram branch also filed a complaint. He understands that both these were considered together. He admitted that there is no mention in the report of any complaint made by the Association and the Association is shown as counter petitioners. He also admitted that no legal action was taken against Saritha S.Nair or any others since permission sought from the DGP was not obtained. They therefore did not think of any legal proceedings against any of them. No defamation case was filed against Saritha S.Nair so far.



He states that against the false statement of Saritha Nair that she has paid Rs.20 lakhs to him legal steps taken and that it is as part of that they have appeared before the Commission and cross examined Saritha S.Nair and requested for examining more documents.

He has further stated as a reason for not filing statement when public notice calling for such statement was issued in all important newspapers that the DGP got the allegations enquired into and found that there is no substance in the allegations and the report was placed before the sabha.

It is relevant to note here that the complaints alleged to have been filed by the Kerala Police Association before the ADGP when the allegation that Saritha S.Nair had sponsored the function of the Kerala Police Association by spending amounts received



from the customers were raised in the Legislative Assembly and in the Mangalam Daily were not sent by the DGP for any enquiry. The statement to the contrary is not correct. Only the complaint of AILU was got enquired through Sri.Reji Jacob, AC, DCRB, Thiruvananthapuram City and the Police Association was treated as counter petitioners. Similarly the statement that this report of Sri.Reji Jacob was placed before the sabha is also not borne out by records.

Smt.Saritha S.Nair in her deposition made before this Commission on 05-02-2016 (DWVol.X Part I at Pp 207 - 210) has stated that in 2013 Sri.G.R.Ajith, Secretary of Kerala Police Association has demanded donation for the Annual Conference of the Association. He had undertaken to her that in the meeting of the Association a resolution for installing solar panels in



all the police stations can be got passed and based on that an order can be got issued assigning the said work to Team Solar Company. Since Sri.Ajith was seen in the C.M's office on many occasions she visited there and got acquainted, she gave Rs.20 lakhs in cash to the Association in his hand at a place near the car parking area in the Northern Block of the Government Secretariat. Subsequently, after 20th May, 2013, it would appear, a resolution for solar electrification was passed by the Association and an order for the same was issued by the then North Zone ADGP Sri.N.Sankar Reddy. Sri.Ajith did not issue any receipt for the donation given. But, in the Smaranika published in connection with the Annual Conference the companies advertisement was sent from the E-mail ID of the Company to the E-mail ID of Tenny Joppan. But, at the time when the Smaranika



was published she was arrested and in the place of their advertisement 'Best Compliments from a Well Wisher' was given at page 103 of the Smaranika. (Ext.X 429).

At the time of her arrest when the investigating officers had questioned her, the office-bearers of the Association through her Advocate Phenny Balakrishnan instructed her to say she does not know about it.

Saritha S.Nair's examination continued on 06-02-2016 and her deposition recorded. (Vol.X Pp 251 - 277).

Sri.P.N.Sukumaran, Advocate for the E Party asked her whether the Police Association had demanded Rs.40 lakhs - Her answer was that they demanded 40 lakhs but due to the financial crisis of the company only Rs.20 lakhs was paid. The news came in the Mangalam daily dated 19-06-2013 that



Rs.40 lakhs was paid to the Police Association - she said it is not correct, only Rs.20 lakhs was paid. Resolution dated 24-05-2013 passed by the Kerala Police Association is also produced as Ext. E 37. Sri.George Poonthottam, Advocate for the Kerala Police Association cross-examined Saritha S.Nair on 26-02-2016 and her deposition recorded. (DW Vol.X Part II Pp 473 - 499). She answered to the questions thus: She had talked to G.R.Ajith over phone from her mobile numbers 8606161700, 9744761700 and 9447535555 in the land phones of the C.M's office more than 15 times. Sri.Ajith was seen in the C.M's office on many occasions. When she was asked about the date on which a sum of Rs.20 lakhs was paid to Sri.Ajith for the Police Association, her answer from memory was that it was on 22nd January, 2013. The Annual Conference, she was told, was on 28th May,



2013. She answered to the question whether the money was demanded for the Association by way of sponsorship including advertisement. It includes advertisements in their banners, flex boards, notices etc. and further a quarter page advertisement in their magazine to be published by the Association. They also offered as compliments orders from the DGP for solar electrification of all Police Stations in the northern parts of Kerala by passing a resolution to that effect.

She talked to Ajith only regarding the sponsorship in the office of the C.M. in the Secretariat North Block. Sri.Ajith saw her in the office of the C.M. in the first week of January, 2013. (Date she does not remember) and told her that a conference of the Association is being held in May and asked her whether she can undertake the main sponsorship. For that a package of Rs.40



lakhs was suggested. Since, by the end of December, 2012 more than a Crore of rupees was paid to the C.M. there was difficulty in raising that much amount. On the 3rd day when Sri.Ajith contacted her from the land phone in the office of the C.M., she told this difficulty to Ajith. It is as a result, the amount was reduced to Rs.20 lakhs. The amount paid to Sri.Ajith based on personal acquaintance was the amount received from their customer Sri.T.C.Mathew in two instalments.

She talked to Ajith in the C.M's office near to Jikkumon's cabin. The money was paid at about 4 0' Clock near to the car parking area of the north block of the Government Secretariat as earlier fixed. She said she did not enter in to the Secretariat office that day. She went in her I 10 car. She said cash vouchers and cash receipt of Team Solar Company produced



before the ACJM Court, Thiruvananthapuram in C.C.No.3140/14 filed by Sri.T.C.Mathew against her and Biju can be examined by the Commission. The amount paid to Sri.Ajith was the amount received by way of cash from Sri.T.C.Mathew. She had met Ajith in C.M's office even after payment of the money.

Sri.Reji Jacob, ACP (SB)

Thiruvananthapuram City was examined in this connection on 01-09-2016. He was shown copy of the report dated 19-11-2013 prepared and submitted by him (Ext.X 704(a)). He has produced copy of the letter dated 19-06-2013 of the State Police Chief and its enclosures (Petitions and connected documents) Exts.X 705 (a), (b) and (c).

He said he had read the report which has come in Mangalam Daily. He did not collect the phone call details of the solar scam accused and the Police Association



since according to him they were not accused in the inquiry. It was brought to his notice the report in Mangalam Daily that the 30th State Conference of the Kerala Police Association was sponsored by Solar Scam accused Saritha S.Nair by spending lakhs of rupees. He said, he asked Saritha S.Nair about the allegation but since she was in the judicial custody and since she has been questioned in connection with another case after obtaining permission from the Court her statement was not taken. But he did not mention this in his report. He said he did not mention about questioning Saritha Nair in his report since he was under the impression that it may prejudice the trial of the case investigated by him. He had shown as counter petitioners the office bearers of the Kerala Police Association. He took the statement of G.R.Ajith. He admitted that he had confined



his enquiry in this matter only in regard to the specific allegation connected with the Smaranika. He was entrusted with the enquiry regarding the complaint of AILU District Secretary. Whether he was entrusted with the enquiry of this complaint in his capacity as the member of the SIT is a matter to be spoken by the ADGP (SZ) Sri.Hemachandran. He said, he was not aware of the details of the discussions in this regard in the Legislative Assembly. It was specifically brought to his notice the discussions in the Assembly on 20-06-2013 wherein Sri.Sreeramakrishnan, MLA has said that Saritha Nair had sponsored the State Conference of Kerala Police Association by giving rupees 40 lakhs and the statement of Sri.Thiruvanchoor Radhakrishnan, the Home Minister wherein he said that he had talked to the office bearers of the Association and he was told that such a sponsorship did not



happen and that they had given paper reports also to that effect. He said he is not aware of all these.

He further said that in the deposition of Sri.Pramod except that Saritha's company had sponsored an advertisement no other matters were stated. In spite of that he asked Saritha about the spending of the money collected from the customers.

The Kerala Police Association has produced a copy of the petition/complaint filed by it before the State Police Chief against the allegation made against its State General Secretary Sri.G.R.Ajith by Smt.Saritha S.Nair before this Commission in her deposition dated 05-02-2016 Ext.X 552 and 553. It is stated therein that Saritha S.Nair has alleged that a sum of Rs.20 lakhs in cash has been paid to the State General



Secretary of the Kerala Police Association for the advertisement in the Smaranika published by the Association at page 103 - 'A Well Wisher'. It is also stated that the allegation is the result of conspiracy with the Associations erstwhile office bearers Sri.C.R.Biju and Baburaj who are inimically disposed to him. He wanted a detailed enquiry to bring out the true position of the allegation made by Saritha. It is also mentioned that when this allegation came in 2013 Sri.G.R.Ajith, as State General Secretary, gave petitions before the Chief Minister and the Home Minister and on that basis ADGP Sri.Hemachandran was entrusted with the enquiry and he in turn entrusted it to Sri.Reji Jacob, Dy.S.P., DCRB who was a member of the SIT and that it was found on enquiry that the allegations are baseless and false. In the other petition he wanted



permission to file defamation case against Saritha S.Nair.

It is this representation of the General Secretary of the Kerala Police Association, it would appear, was sent to Sri.Muhammed Shaffi.K., Dy.S.P., Special Branch CID, City Detachment, Thiruvananthapuram by the Addl.DGP (Int.) by his letter No.16/PTN/ADGP(Int.)/16 dated 08-02-2016 for report.

Sri.Muhammed Shaffi.K., Dy.S.P. as per letter No.377/Dy.S.P./SB-TC/2016 dated 22-02-2016 submitted his report to the ADGP (Int.). (Ext.X 525 (3)).

The ADGP in turn sent this report to the State Police Chief as per No.P4/11059/SB/2016 dated 08-04-2016. (Ext.X 525 (2)).

The ADGP had also forwarded a copy of the report of AC, DCRB, of



Thiruvananthapuram City following reference
No.T8/59262/2013 dated 19-06-2013
of State Police Chief. It is stated in this
letter 'the allegations made by the accused
in solar scam against the Secretary, Kerala
Police Association are not substantiated by
evidence in both the enquiries.'

Now coming to the enquiry report of
Sri.Muhammed Shaffi, he, in Para 1 of his
report, speaks about the allegation made by
Saritha S.Nair before this Commission on 05-
02-2016 and 06-02-2016. In the second para
it is stated that Sri.G.R.Ajith in his
complaint before the State Police Chief has
stated that Saritha happened to make such an
allegation, he doubts, is the result of a
conspiracy by the former State General
Secretary Sri.C.R.Biju and State Treasurer
Sri.C.T.Baburaj.



The next paragraph states at page 103 of the Smaranika published by the Association, there is an advertisement 'Best Compliment from A Well Wisher' which is given by Skyline Builders. The report also refers to a resolution Item No.39 presented in the General Assembly on 24-05-2013 which deals with installation of solar panel in all police stations in the State for solving the shortage of electricity. He has also stated that the allegation that Smt.Saritha had donated rupees 40 lakhs to the Police Association's 30th State Conference first came in the Mangalam Daily dated 19-06-2013.

The report concludes that the allegation raised by Smt.Saritha against the Kerala Police Association is not true to the facts. It is also mentioned that the allegation reported in Mangalam Daily was that 40 lakhs was paid, now it is reduced to rupees 20 lakhs and that there was no case for the



complainant about any conspiracy of Biju or Baburaj.

Sri.Muhamed Shaffi was examined as CW 172 before this Commission with reference to this report on 23-08-2016 (Depo. Vol.XVIII Pp 290 - 317).

He had stated that the complaint dated 05-02-2016 submitted by Sri.G.R.Ajith, General Secretary, Kerala Police Association to the State Police Chief was given to the ADGP (Int.) Sri.A.Hemachandran, IPS who in turn by communication No.16/PTN/ADGP (Int.)/16 dated 08-02-2016 had entrusted the enquiry with him. The complaint given by Sri.Ajith is Ext.X 689. In that complaint two matters were stated. In the Smaranika published by Kerala Police Association in connection with the 30th Sate Conference at page 103 of the Smaranika for an advertisement a Well Wisher Saritha Nair



gave Rs.40 lakhs to Sri.Ajith, and the other this allegation is made as a result of conspiracy with the Associations, Ex-office bearers Biju and Baburaj. He said he was directed to enquire into these two matters. According to him, he did not have occasion to see the report and connected documents of the enquiry conducted by Dy.S.P. Sri.Reji Jacob, a member of the SIT based on the allegations raised in the Niyamasabha discussions. He did not see the report. He had talked to Sri.Reji Jacob in the matter.

He said he conducted enquiry by meeting the connected persons except Smt.Saritha S.Nair. He did not contact Georgekutty or Advocates Sri.Rajendran and C.D.Johny nor did he talk to any of them.

He had stated that he did not enquire into all the allegations raised against the Kerala Police Association by Saritha S.Nair



in her deposition before this Commission. He had only considered the complaint made by Sri.Ajith in his petition dated 05/02/2016 before the State Police Chief.

To a question why Smt.Saritha S.Nair who is alleged to have paid the money to Sri.Ajith was not questioned his answer was enquiry by the Intelligence is confidential in nature; if Saritha was summoned to the office there will be difficulty in collecting the details from her confidentially. That is why he did not either meet or question Saritha S.Nair. He reiterated that he had enquired only with regard to the allegation regarding the advertisement in the Smaranika and the conspiracy of Ex-office bearers of the Association. He understood that Sri.Ajith used to be in the C.M's office frequently.

As already noted the Kerala Police Association, in spite of the fact that there



were serious allegations against them in the Kerala Legislative Assembly to the effect that they received a sum of Rs.40 lakhs from Team Solar Company by way of sponsoring their Annual Conference, have not appeared before this Commission earlier. When Saritha S.Nair had deposed before this Commission on 5th and 6th of February, 2016 that she had paid a sum of Rs.20 lakhs by way of donation to the Kerala Police Association to its General Secretary Sri.G.R.Ajith, the Association through him filed a petition I.A.No.4/2016 dated 08-11-2016 before this Commission for permission to cross examine Smt.Saritha S.Nair in relation to the statement made by her as against the Association and related aspects.

In para 2 of the affidavit filed in support it is stated thus:



"News was reported in the print and visual media regarding the statement given by the prime accused in the solar scam before this Hon. Commission to the effect that Smt.Saritha S.Nair had given Rs.20 lakhs to the Kerala Police Association as donation during 2013. The said statement of Smt.Saritha S.Nair and her claim are totally incorrect and against facts. The above statement has been made before the Commission as part of a conspiracy between the former office bearers of the police Association and Smt.Saritha S.Nair or her agents. Those aspects can be brought to light, in the event of this Hon. Commission taking steps to call for the mobile phone call details of certain persons whose particulars will be provided in due course, from December, 2015 for a period of 3 months. There are other circumstances also which can be established. The statement



given by Smt.Saritha S.Nair, to the effect that she had given Rs.20 lakhs to the Police Association in 2013 has adversely affected the reputation of the Association and its office bearers. The said statement is part of a conspiracy. The Association is proposing to take separate legal proceedings as against the defamatory statement. However, in the back ground of the statement made by Smt.Saritha S.Nair before the Commission, which is incorrect and a blatant lie, the Association intends to cross examine Smt.Saritha S.Nair to bring on record before the Commission that the statement made by her is untrue."

The petitioner was represented by its counsel Sri.George Poonthottam. The Commission after hearing the Advocate has issued order dated 08-02-2016 allowing the said request. The relevant portion of the order reads thus:



"This is a petition filed by the Kerala Police Association, A.R.Camp, Nandavanam, Thiruvananthapuram, represented by the State General Secretary Sri.G.R.Ajith.

In paragraph 2 of the affidavit filed in support of the Petition it is stated that news was reported in the print and visual media regarding the statement given by the prime accused Smt.Saritha S.Nair, that she had given Rs.20 lakhs to the Kerala Police Association as donation during 2013. It is also stated that the said statement of Smt.Saritha S.Nair and her claim are totally incorrect and against the facts. According to the petitioner it adversely affects the reputation of the association and its office bearers and that the said statement is part of a conspiracy. The petitioner in the circumstances seeks the permission of the Commission for the association to cross examine Smt.Saritha S.Nair in relation to



the statement made by her as against the association and related aspects.

The right of cross examination of a witness in an inquiry is provided under Section 8C of the Commissions of Inquiry Act, 1972, for short 'the Act'. It reads:

S. 8-C. Right of cross-examination and representation by legal practitioner,- The appropriate Government, every person referred to in Section 8-B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission.,-

(a) may cross examine witness other than

a witness provided by it or him;

(b) may address the Commission; and

(c) may be represented before the

Commission by a legal practitioner or,

with the permission of the Commission,

by any other person}.



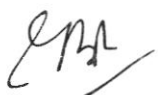
Going by the averments in the affidavit it would appear that the petitioner is seeking the benefit of the provisions of Section 8B of the Act, which reads:

S 8-B. Persons likely to be prejudicially affected to be heard - If at any stage of the inquiry, the Commission, -

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry.

The Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence;



Provided that nothing in this Section shall apply where the credit of a witness is being impeached.

It is true that Smt.Saritha S.Nair in her deposition before this Commission made on 5th and 6th of February, 2016 stated that a sum of Rs.20 lakhs was given to the Police Association Secretary Sri.G.R.Ajith by way of donation to the annual ceremony of the Association held in May, 2013. She had also stated in her deposition dated 6th February, 2016 that the Association had demanded Rs.40 lakhs but due to the economic crisis of the Company they could give only Rs.20 lakhs.

In fact this is not a new matter. Of course Smt.Saritha S.Nair has spoken as above before this Commission only now. Sri. Reji Jacob, Special Branch Assistant Commissioner, Thiruvananthapuram in his deposition dated 11-12-2015 stated that he



had conducted some inquiry in connection with the alleged payment of donation to the Police Association and had submitted a report to the Government (Pages 13 and 14).

Probably the petitioner might not have thought that the said allegation will come up before this Commission. Now that Smt.Saritha S.Nair has stated before this Commission that she had paid a sum of Rs.20 lakhs to the petitioner through Mr.G.R.Ajith its Secretary and since the Association apprehends that if this Commission is likely to act upon the said statement it will adversely affect the reputation of the Association and its members, certainly there is a case for application of the provisions of Section 8B and consequently the petitioner has got a right to cross examine the person whose statement is objectionable. In the circumstances, the request of the petitioner Association for permission to



cross examine Smt.Saritha S.Nair who made the objectionable statement is justified and it is accordingly allowed'.

Thereafter the Association filed four petitions dated 18-03-2016 - I.A.Nos.9, 10, 11 and 12/2016. I.A.No.9 was for direction to the Director General of Police to submit a report before the Commission as to whether any message was sent from the three E-mail Ids of the Team Solar to the E-mail ID of Sri.Tenny Joppan to be published in the Souvenir of the Kerala Police Association of the year 2013. I.A,No.10/2016 was for direction to the DGP, Kerala to file a report regarding the call details of the mobile numbers of Smt.Saritha S.Nair (8606161700, 9744761700 and 9447535555) and the mobile number and land line numbers of the applicant (9400438949, 9497965369 and 0471- 2336100) as well as the call details generated from the office land line numbers



of the Hon. Chief Minister to the mobile numbers of Smt.Saritha S.Nair between November, 2012 till the end of January, 2013.

I.A.No.11/2016 was for a direction to the DGP, Kerala to provide the tower location details of the mobile numbers of Smt.Saritha S.Nair on 22-01-2013 between 2 p.m. and 5 p.m.

I.A.Nos.10 and 11/2016 supported by a common affidavit were disposed of by order dated 22-04-2016. The order reads thus:

1. "The Kerala Police Association, Thiruvananthapuram against whom Smt.Saritha S.Nair, one of the prime accused in the Solar Scam criminal cases pending before various Magistrate Courts in the State had made some objectionable statement, was permitted to participate in the inquiry. In the course of her examination she had



alleged that in connection with the annual day celebrations of the Association, for advertisement of the solar business of her company and for other obligations from the police department, she has paid a sum of Rs.20 lakhs to Sri.G.R .Ajith, State General Secretary of the Association in the Secretariat premises. This is not a new allegation made for the first time in her deposition before the Commission. There was an allegation that a sum of Rs.40 lakhs was paid to the Police Association which was the subject matter of discussion in the Legislative Assembly in June - July, 2013. Besides, an enquiry was conducted in this regard when such a complaint was raised, as directed by the higher Police authorities by Sri.Reji Jacob, Assistant Commissioner of Police, Thiruvananthapuram City and a report submitted.



2. The Association appeared before the Commission by filing petition and sought to cross examine Saritha S.Nair. Permission was granted. She was cross-examined by its Advocate.

3. Later, it was alleged that this allegation by Saritha S.Nair is the result of the conspiracy by the erstwhile office bearers of the Association. A petition was filed to direct the Director General of Police to analyse the telephone call details of Saritha S.Nair and some of the erstwhile office bearers of the Association for the period from November 2012 to end of January 2013. The Commission declined the request. The Association filed Writ Petition - WP © No. 5555/2016-T before the Hon'ble High Court and the Court issued direction to the Director General of Police to furnish the details required by it if available. The Director General of Police



accordingly furnished the report with call details.

4. The Association has filed the present petitions seeking for issuing the following directions.

I.A.No.10/2016

Direct the Director General of Police, Kerala to file a report regarding the call details of the mobile numbers of Smt.Saritha S.Nair (8606161700, 9744761700 and 9447535555) and the mobile number and landline numbers of the applicant (9400438949, 9497965369 and 0471- 2336100) as well as the call details generated from the office landline numbers of the Hon'ble Chief Minister to the mobile numbers of Smt.Saritha S.Nair between November, 2012 and the end of January, 2013.

I.A.No.11/2016

Direct the Director General of Police, Kerala to provide the tower location details



of the mobile numbers of Smt.Saritha S.Nair on 22-01-2013 between 2 p.m. and 5 p.m.

The telephone call details of Saritha S.Nair Nos.8606161700, 9744761700 and 9447535555 for the period from November, 2012 till the end of January, 2013 have already been furnished before the Commission. But, the mobile phone and land phone call details of the Association Nos.9400438949, 9497965369 and 0471 - 2336100 and the call details generated from the office land line numbers of the Hon'ble Chief Minister to the mobile numbers of Saritha S.Nair are not available. Similarly, though the call details of Saritha S.Nair's mobile phones for the period on 22-01-2013 are available, the tower location details are not available.

Heard the counsel for the Association, Advocate assisting the Commission and the



Senior Government Pleader assisting the Advocate General for the State.

Since the Association wants to know whether the Secretary of the Association and Saritha S.Nair were present on 22-01-2013 in the Secretariat premises, the tower location will be helpful.

Having considered the request of the Association the commission is of the opinion that the details called for by it are relevant and useful for the subject matter of the inquiry.

In the circumstances, a direction is issued to the State Police Chief and Director General of Police to furnish the call details of

1, Mobile Nos.8606161700,

9744761700 and 9447535555 with

details including tower location of

the calls for the period from 06-06-

2012 to 05-06-2013.



2. Mobile Nos.9400438949, 9497965369 and land line phone No.0471 - 2336100 with details including tower location for the period from 1st November, 2012 to 31st January, 2013.
3. The call details generated from the office land line numbers of the Hon'ble Chief Minister listed below to the mobile numbers of Saritha S.Nair for the period of one year from May 2012, with tower location details.

NAME	DESIGNATION	OFFICE	MOBILE	PAE Ext
P.S.Sreekumar	Private Secretary	0471 - 2518606	9495577700	202
C.N.Rajendra Prasad	Spl. Pvt. Secretary	0471 - 2518082	9447694645	207
M.C.Mathew	Addl.Private Secretary	0471 - 2518666	9846055978	233



R.K.Balakrishnan	Addl.Private Secretary	0471 2518666	-	9447206256	209
K.Venugopal	Addl.Private Secretary	0471 2518667	-	9496258963	333
Latha Panicker	Addl.Private Secretary	0471 2517241	-		214
P.T.Chacko	Press Secretary	0471 2518592	-	9495552777	206
V.N.Radhakrishnan	Asst. Private Secretary	0471 2517288	-	9446052003	220
E.A.Abdul Wahab	Asst. Private Secretary	0471 2517208	-	9447303616	221
A.R.Surendran	Asst. Private Secretary	0471 2517124	-	9446541135	222
Joji George Jacob	Asst. Private Secretary	0471 2517301	-	9447081910	219

gzh

P. Sivadasan	Personal Assistant	0471 - 2517057	9847212444	217
Abdul Kharim.A.	Personal Assistant	0471 - 2517124	9847145484	213
Rakesh.S.P.	ASO	0471 - 2518148	9495904208	232
B.Rajendran Nair	Clerk	0471 - 2518596	9400275167	218
K.Vijayamohanan Unnithan	Clerk	0471 - 2518128	9544427746	212
M.K.Mohammed	Clerk	0471 - 2518148	9895457531	210
R.Mohanan	Data Entry Operator	0471 - 2518128	9495826283	208
Saju K.Nair	Data Entry Operator	0471 - 2518596	9496887036	236
A.Alosious	Office Attendant	0471 - 2517057	9496258962	201
Babu Kuttappan	Office Attendant		9497161559	



Copies of the petitions in I.A.Nos.10 and 11/2016 and the additional affidavit enclosing the list of telephone numbers shall be forwarded along with the order to the Director General of Police."

I.A.No.9/2016 was also disposed of by order dated 26-04-2016 which reads thus:

"The Kerala Police Association was permitted to cross examine Smt. Saritha S. Nair with reference to her Statement in her deposition before this Commission that she had given a sum of Rs. 20 lakhs to Sri. G.R.Ajith, State General Secretary of the Kerala Police Association in connection with the annual celebration of the Association for advertising the solar business of Team Solar and for other helps.

Kerala Police Association thereafter, inter alia, has filed I.A.No. 9/2016 seeking for a direction to the Director General of Police, Thiruvananthapuram to submit a



report before the Commission as to whether any message was sent from the three E-mail IDs of the Team solar to the e-mail ID of Sri. Tenny Joppan to be published in the Souvenir of the Kerala police Association of the year 2013'. This application is made based on the statement made by Saritha S.Nair in her deposition before this Commission that the matter for advertisement in the Souvenir was sent from the e-mail ID of team solar to the e-mail ID of Sri. TennyJoppan, a personal staff of the chief Minister and that he has furnished the same to the Kerala Police Association. The e-mail ID No. of Sri. TennyJoppan was furnished by him when he was examined before this Commission and he has also stated that he has no objection to verify from the e-mail ID as to whether such a mail was received.



When the matter came up for consideration before the Commission it was noticed that the Association had not furnished the three e-mail ID numbers of Team Solar company mentioned in the affidavit and therefore, the Counsel for the Kerala Police Association was requested to furnish the same. Now the Association has filed an affidavit in which the three e-mail ID details of team solar are furnished.

E-mail ID of TennyJoppan -
tjoppan@yahoo.co.in

E-mail IDs of Team Solar Company

1. teamsolarindia@gmail.Com
2. ceoindia-uk@teamsolarindia.com
3. info@teamsolarindian.com

Heard the Counsel for the Association,
Advocate assisting the Commission and the
Senior Government Pleader assisting the
Advocate General for the State.



The Commission is of the opinion that verification of the details sought by the petitioner would be relevant and useful to the subject matter of the inquiry and therefore there will be a direction as prayed for by the Petitioner.

Forward a copy of the petition and affidavit in I.A.No. 9/2016 and additional affidavit along with this order to the Director General of Police for compliance."

I.A.No.12/2016 was for a direction to Smt.Saritha S.Nair to produce the personal diary of January 2013 by retaining the confidential nature of the content other than the entry if any of 22-01-2013 to enable the Commission to ascertain the genuineness' of the entry by resorting scientific analysis. The counsel for Saritha S.Nair had filed an objection to this request relying on a decision of the Hon. Supreme Court in R.Rajagopal v. State of



Tamil Nadu and contending that production of personal diary would be violating the right of privacy. The petitioner has also filed a petition No.35/2016 in I.A.No.4/2016 on 10-02-2016 in which a direction to the DGP, Kerala to collect and produce the call details of mobile phone numbers of Smt.Saritha S.Nair (8606884307, 9544023627, 8289813307), Sri.C.R.Biju (9447050211, 9495925175) Sri.C.T.Baburaj (9497963111, 9447330320) for effective, proper determination of the issues which are being enquired into by this Commission for the period from December, 2005.

The reasons stated for this request is contained in paragraphs 1 and 2 of the affidavit filed in support. It reads thus:

"As per order dated 08-02-2016, this Commission was pleased to allow the applicant in I.A.No.4/2016 to cross examine



Smt.Saritha S.Nair, the prime accused in Solar related scam and the enquiry. In the application filed by the Association in support of I.A.No.4/2016, it is specifically alleged that the statements made by Smt.Saritha S.Nair before the Commission on 05-02-2016 and 06-02-2016 as against the Association regarding the alleged payment of donation to the tune of Rs.20 lakhs is part of a conspiracy. To the knowledge of the deponent, the said conspiracy was hatched with the active involvement of Smt.Saritha S.Nair, Sri.C.R.Biju, former Secretary of Kerala Police Association and Sri.C.T.Baburaj, the former State Treasurer of Kerala Police Association. Sri.C.R.Biju and C.T.Baburaj are having their own reasons to wreck vengeance as against the deponent.

Smt.Saritha S.Nair is presently using, to the knowledge of the deponent 3 mobile numbers and those numbers are 8606884307,



9544023627 and 8289813307, Sri.C.R.Biju, former Secretary of the Kerala Police Association is presently using mobile numbers 9447050211, 9495925175. Sri.C.T.Baburaj is presently using mobile numbers 9497963111, 9447330320. Sri.C.R.Biju and Sri.C.T.Baburaj are Police personnel who are in no way involved or connected with the investigation of crime in which Smt.Saritha S.Nair is an accused. However, the details of the calls generated and received in the mobile numbers of Sri.C.R.Biju and C.T.Baburaj will demonstrate the constant contact in the mobile numbers used by Smt.Saritha S.Nair. The statements made against the Association by Smt.Saritha S.Nair regarding the alleged contribution given to the Association now before the Commission is the result of conspiracy between C.T.Baburaj, C.R.Biju and Smt.Saritha S.Nair for which substantial



amounts have been received by Smt.Saritha S.Nair from the said persons".

This request of the Association was rejected by the Commission by its order dated 10-02-2016 the relevant portion reads: (Petition No.35/2016 in I.A.No.4/2016).

"I.A.No. 4/2016 is filed by the Kerala Police Association, A.R.Camp, Nandavanam, Thiruvananthapuram, for permission to cross examine Smt. Saritha S.Nair in relation to a statement made by her before this Commission that she had paid a sum of Rs. 20 lakhs to the petitioner through Mr. G.R.Ajith, its Secretary. According to the petitioner, if the Commission acts upon the said statement which is baseless, certainly it will adversely affect the reputation of the Association and its members. In view of this Statement the Commission felt that the petitioner's case could fall under Section 8



B of the Commissions of Inquiry Act 1952, and consequently the provisions of Section 8C of the said Act provides for affording opportunity to cross examine Smt. Saritha S.Nair through its Counsel.

It is stated in the application that the present allegation of Saritha S.Nair is due to a conspiracy by her with the erstwhile office bearers of the association. The Commission in this context had noted that there was an allegation that a sum of Rs. 40 lakhs was given to the Kerala Police Association as contribution by the Company and that an inquiry in this matter was conducted by Sri. Reji Jacob, Assistant Commissioner, DCRB, Thiruvananthapuram.

The present petition is for a direction to the Director General of Police, Kerala to collect and produce the call details of Mobile Numbers of Smt. Saritha S.Nair



(8606884307, 9544023627 & 8289813307 of Sri. C.R.Biju (944023627 and 9495925175) and of Sri. C.T.Baburaj (94979963111 and 9447330320) for the period from December, 2015 till date for the effective, proper determination of the issues which are being inquired into by this Commission.

Heard Mr. George Poonthottam, Learned Counsel for the petitioner.

As already noted the alleged contribution to the Kerala Police Association is not a new matter. Allegation was there as early as in 2013. The matter was inquired into by a competent officer and a report is stated to have been submitted. The present case of the petitioner is that these allegations now made by Smt. Saritha S. Nair are the result of a conspiracy between her and the erstwhile office bearers whose details are now furnished and therefore the call details of those persons



for the period from December, 2015 to till date must be obtained by this Commission through the D.G.P.

This Commission is not at all concerned with the circumstances under which the present allegation is made. This Commission is concerned only with regard to the allegation as to whether Smt. Saritha S.Nair/her company had paid any donation to the Kerala Police Association. The telephone calls alleged to have been made between Saritha S.Nair and the erstwhile office bearers of the Police Association have nothing to do with the inquiry for finding the truth of the allegations which were already there in 2013. Under these circumstances, the Commission is of the view that the telephone call details of the persons mentioned in the petition for the



period from December, 2015 to till date is not relevant and useful in the inquiry.

That apart from media reports it has come out that immediately after the statement made by Saritha S.Nair before this Commission that a sum of Rs. 20 lakhs was paid to the association through Mr. C.R.Ajith, the association had filed a complaint before the State Police Chief and D.G.P. This is a matter for verification. If, as a matter of fact, any such complaint has been filed before the DGP it is for the petitioner to approach the said authority for relief which has already stated might not be of much relevance in the inquiry."

Petitioner filed I.A.No.21/2016 for acceptance of certain documents as evidence. The Commission passed the following order on 13-07-2016.



It reads, this is an application to accept the documents produced along with the affidavit filed in support of evidence on the side of the applicant. The petitioner is directed to be present before this Commission at 11 A.M. on 20-07-2016 for marking this documents as evidence in this case. Post on 20th day of July, 2016."

He filed another I.A.No. 22/2016 for providing the copy of the information as received from the Director General of Police in a print form or in a CD, for which a CD will be provided to facilitate the Commission.

The Commission passed the following order on 13-07-2016.

"Sri. George Poonthottam, Advocate for the Kerala Police Association has filed this I.A. seeking for providing copy of the information as received from the Director General of Police in a print form or in a CD



for which a CD will be provided to facilitate the Commission.

In the affidavit accompanying the petition it is stated thus:

" As per the direction given by the Hon'ble High Court of Kerala in the writ petition filed by the Association, direction was issued to the Director General of Police to provide the call details of mobile numbers of Smt. Saritha S Nair from her number 8606884307, 9544023627 and 8289813307 and that of Sri. C.R.Biju (9447050211, 9495925175) and C.T.Baburaj (9497963111, 9447330320) to the Commission. Accordingly, the call details were provided by the Director General of Police. Since the details were provided pursuant to the application by the Association, the Commission ought to have provided the said information to the Association. However, the same has not yet been provided".



Heard Mr. Arun Chandran, Counsel for the petitioner. It is true that the Hon'ble High Court in a writ petition filed by the petitioner has issued direction to the State Police Chief to furnish the required call details of the persons mentioned above if it is available with him to the Commission. Accordingly the State Police Chief had furnished the details. This was intimated to the Counsel for the petitioner at the earliest opportunity when he appeared before this Commission. He never requested for copy of those details. This document was marked through him as Ext. X 570. In fact Mr. G.R.Ajith, State General Secretary of the Association had occasion to verify all those details from the Commission office with the permission of the Secretary. On 18..6..2016 he submitted a representation to this Commission in which it is stated "tower location of Saritha S.Nair's phone on



22..1..2013 and the details of call made from the Chief Minister's office to Saritha S.Nair's phone and vice versa for the period from 1..1..2013 to 31..1..2013 are required by me. Therefore I humbly request that the above details may be issued to me. Chief Minister's office land phone Numbers list is also attached".

He had acknowledged the receipt of tower location details and call details for the period from 1..1..2013 to 31..1..2013 in C.D. After having received those details it is surprising to note that Sri. G.R.Ajith, State Secretary has made the allegation that since the details were provided pursuant to the application by the association the Commission ought to have provided the said information to the association and that the same has not yet been provided. The Secretary of the association is cautioned that he should not make such bald



allegations against this Commission in future.

However, if the Association still requires the details directed by the Hon'ble High Court and furnished by the State Police Chief office is directed to furnish the same to the petitioner."

The Association, as already noted, through its Advocate Sri.George Poonthottam had cross-examined Smt.Saritha S.Nair on 26-02-2016. The deposition recorded may briefly be stated thus:

There are inconsistencies in the statement of facts before this Commission on all occasions she was examined both before and after 25-01-2016 on which date the former Chief Minister Sri.Oomman Chandy was examined. She said - Yes. The statements made before 27-01-2016 were based on the persuasion of Sri.Benny Behanan, MLA



and Sri.Thampanoor Ravi, Ex. MLA she did not disclose the truth.

The facts she had stated are based on the evidence in her personal diary and memory. The personal Diary contains so many personal matters. Still if the Commission directs she is prepared to produce it confidentially. She is keeping personal diary since 2008. The relevant details are in the 2013 diary.

She was asked with reference to the details regarding her illicit connection with higher political leaders confidentially furnished in the form of a reply; certain pages came in the print and visual media and asked whether those are part of the confidential letter, produced before the Commission. She said not part of the confidential letter; she gave the details regarding mobile phones used by her



8606161700, 9744761700 and 9447535555.

Mostly these numbers are used to contact Ministers, customers etc. To a question whether she had contacted Sri.Ajith from her above mobile phones she said on more than 15 occasions called in the Chief Minister's office numbers and back. She had met him many times in Chief Minister's office. She does not know whether he was working there. She said she does not know the mobile / land phone number of Sri.Ajith.

During 2013 she knew the telephone numbers in the Chief Minister's office, Cliff House number, Tenny Joppan, Jikkumon, Salim Raj, Pradeep, Ravi, P.A.Surendran, R.K., Vasudeva Sarma by heart. Now, since it is not required it is not in her memory.

The date, on which a sum of Rs.20 lakhs was paid to Sri.Ajith, she said from her memory that, it was on 22nd January, 2013.



Annual Conference of Police Association was on 20-05-2013.

Sri.Ajith demanded money for sponsorship including advertisement. For their business a quarter page in the souvenir, flex board, notice etc. being issued. Besides this, from the side of DGP Solar electrification of Police Stations on the northern region of Kerala order and for that passing of a resolution by the Association were parts of the offer. She had talked about sponsorship only with Ajith in the Chief Minister's office on the Northern Block of Secretariat. She did not notice whether flexes and Boards were fixed.

Discussion regarding sponsorship was in the Chief Minister's office. She was informed that there is a meeting in May and asked her whether the main sponsorship can be undertaken on package of Rs.40 lakhs.



Since, more than rupees 1 Crore was given to the Chief Minister there was difficulty in raising that much amount which she informed when she was contacted from the land phone in the office of the Chief Minister on the 3rd day. This amount was reduced to Rs.20 lakhs. The amount paid was that received from Sri.T.C.Mathew in two instalments. She gave it to Ajith on personal acquaintance only. Nobody else was with Ajith in the discussions. Talked to Ajith, near the cabin of Personal Staff Mr.Jikkumon. The money was paid to Ajith in the car parking area on the Northern Block of the Secretariat.

Regarding this for 2 - 3 days there was communication between them in the Chief Minister's office. On the North Block near the gate vehicle belonging to outsiders can be parked.



On that day she went in her I 20 car she is not able to say whether the mobile phone ordinarily used was with her then. Her personal relationship with Biju Radhakrishnan was nil. But till she was arrested business relationship was maintained through staff and Advocate.

The money which was paid was the amounts collected from the parties. The donation to the Association was intimated to Sri.Biju. She was reminded of her deposition that for payment of Rs.20,000/- and above the company issued only cheques or drafts. She answered that at times, at the request of customers, money is paid in cash with the knowledge of Biju.

She said the agreement for settlement of liabilities executed between her and Biju is dated 5th May, 2013.



To a suggestion that she had not seen Ajith so far, that she never talked to him and that the allegations are made on some others interest - She said wrong.

She was asked about the date of advertisement sent in the E-mail address of Sri.Tenny Joppan. She said it was sent from the office. Date not remember. Whether any reference in the E-mail message about Police Association Annual Meeting, she said, did not check the message sent from office.

The three E-mail ID's of the company are mentioned. The mail might have been sent from anyone of the said ID.

The advertisement was sent in the Face Book friend E-mail ID maintained by Sri.Joppan.

She did see Ajith after the Annual function. She had met Ajith in Chief Minister's office even after payment.



Ajith said the mobile phone which he is having is official and that it will be changed frequently and that is why the number is not given to her.

Ajith is known as the Secretary of the Police Association only.

She believes that there is only one Police Association.

She presently uses -

8606884307, 9544023627, and 8289813307

The call details of the above numbers from December 2015 as required by Ajith are produced before the Commission is known through paper reports.

She does not know C.R.Biju, Baburaj, former State Secretary and Treasurer respectively of the Kerala Police Association, not seen nor talked to them over phone so far.



This is the situation.

One of the allegations raised in the Kerala Legislative Assembly in the solar scam discussion from 12th June, 2013 to 9th July, 2013 is that the police helped her in settling the crime cases registered against Saritha S.Nair and Biju Radhakrishnan, and that Team Solar Company through Saritha S.Nair had sponsored the 30th Annual Conference of the Kerala Police Association. This news was reported in the Mangalam Daily dated 19-06-2013. It is curious to note that neither in the report of Sri.Reji Jacob, AC, DCRB, Thiruvananthapuram City Ext.X 704(b) / Ext.X 720 nor, in the report of Mr.Mohamed Shafi, Dy.S.P. (Ext.X 525) there is any mention about either of them questioning Saritha S.Nair or any staff of Team Solar Company or verification of the bank account etc. of the Company. Since the allegation was that Saritha S.Nair of Team



Solar Company has paid money for sponsoring the Annual Programme of the Kerala Police Association the enquiry needless to say, should have been first directed against Saritha S.Nair and her Company.

Sri.Reji Jacob Assistant Commissioner says he had asked her about the accounts but he did not mention the questioning of Saritha, for he thought, it may prejudice the trial of the case investigated by him.

Sri.Mohamed Shafi, Dy.S.P. has categorically admitted that he did not meet or talk to Saritha S.Nair, for, he thought, that the confidential nature of the details may not be possible. He also said he only considered the advertisement in the Smaranika and the conspiracy aspects. Hence, the efficacy of these two reports has to be examined.



Admittedly, this allegation was also subject matter of discussion before the Legislative Assembly. As such, it is a matter falling under item 1 of the terms of reference to this Commission.

This Commission, as required under Rule 5(2) (b) of the Commissions of Inquiry (Central) Rules, 1972 issued notification in all leading Malayalam Dailies inviting all persons acquainted with the subject matter of the Inquiry to furnish to the Commission a statement relating to such matters as may be specified in the notification. The Kerala Police Association, if it was aggrieved by the allegations which was the subject matter of discussion in the Assembly and outside in newspaper it could have filed a statement in compliance with the notice in which case they would have got enough opportunity to participate in the proceedings. They did not.



As already noted the Kerala Police Association happened to be before this Commission only for the reason that SarithaS.Nair, in her deposition had made a statement on 5th February, 2016 that she has paid a sum of Rs.20 lakhs to the Kerala Police Association for sponsoring the 30th Annual function of the Kerala Police Association. Therefore, the Association wants to cross-examine SarithaS.Nair and consequently to establish before this Commission that the allegation made by SarithaS.Nair is baseless and false.

The Commission afforded opportunity to the Association to cross-examine SarithaS.Nair. Regarding the request of the Association to issue direction to the State Police Chief to furnish the phone call details to prove that Saritha Nair has made the statement in collusion with the former office bearers of the Association the



Commission rejected it on the ground that the issue is only whether she had paid the amount and that the allegation is not a new one which was raised in the Legislative Assembly. It is also stated that they can approach the DGP for this. Almost all other requests made by the Association were granted.

The Kerala Police Association, being aggrieved by the order dated 10-02-2016 rejecting its request for calling a report regarding certain phone calls made between Saritha S. Nair and erstwhile Police Association Office bearers, from the Director General of Police filed Writ Petition No. 5555/2016 before the Honourable High Court of Kerala. They are entitled to file it, if they are aggrieved. Very serious allegations are raised against the Commission. It reads:



1. The Government of Kerala by order dated 28-10-2013 appointed Justice G.Sivarajan, a retired Judge of the High Court of Kerala with the terms of reference to enquire into the allegations related to the financial irregularities and transactions, which was by then became known as "Solar Scam". After the said terms of reference, the Commission formulated the issues that are to be decided. True copy of the issues thus formulated by the Commission is produced herewith and marked as Exhibit P1. It is submitted in this regard that the provisions of the Commission of Enquiries Act does not empower the Commission to formulate the allegations. It is for the Government to formulate the allegations. It is therefore submitted the formulation of the allegations by the Commission as per Ext.P1 is without authority and an illegal action which will vitiate the entire steps



taken in this regard. The enquiry so far progressed based on the allegations formulated by the Commission is non-est in law.

2. An enquiry was necessitated in the background of allegations raised at different forums by the opposition political parties on the floor of the Legislative Assembly, the Medias as part of their investigation and the consequential publications of initiation of criminal proceedings against Smt.SarithaS.Nair and Sri.BijuRadhakrishnan who are the prime accused in several criminal cases.

3. To the knowledge of the petitioner, there are about 58 criminal cases charged as against Smt.SarithaS.Nair for cheating the public promising to effect installation of solar panels, facilitating procuremental subsidy etc. However, those promises could not be materialized as the accused have no



real intentions to fulfil the promise. The accused, mainly Smt.SarithaS.Nair has tactfully developed personal connections with men in power by using various means which, according to the subsequent revelations have turned to be illegitimate. It is also claimed that Smt.SarithaS.Nair has consciously created digital evidence to substantiate illegitimate connections, which according to her includes persons having power and authority. When the factum of cheating has come out in public, law has proceeded accordingly, which resulted in registration of crime and the consequential arrest of the persons who are involved in the commission of offence. From the spread and nature of allegations, it has come out in public that the parties to the crime had cheated people throughout the State and across the country. Therefore, the opposition political parties in the State



started campaign to use the same as a weapon against the Government in office. It is in the background of the allegations as raised, the Government agreed to appoint a Commission to enquire into the allegations. It is in the above backdrop, Government issued order on 28-10-2013 appointing the 2nd respondent Commission and it is consequent to the said appointment, the Commission formulated Ext.P1 allegations as part of its enquiry through the said exercise is beyond the powers of the Commission.

4. It is widely alleged that the prime accused Smt.SarithaS.Nair has used the digital evidence and other materials to make money while dragging the names of public men and public servants among the public by selectively leaking the news through the media to her advantage. It may also be stated that the media had also chosen to give disproportionate coverage because of



the spicy nature of the allegations. It is reliably understood that Smt. Saritha S. Nair has already collected several Crores of rupees by blackmailing people who had occasion to interact with her knowingly or otherwise that she is a cheat. It is on record that she while giving evidence before the Commission has stated that statements given earlier were with a view to help and support persons to die over the crisis which she had to face as a result of the registration of crime, as against her. The evidence before the Commission is in progress.

5. The course adopted by the Commission in conducting the enquiry cannot be traced to the provisions in the Commissions of Enquiry Act. No procedure has been formulated regarding the course of enquiry. The Commission proceeds on the assumption that the allegations formulated are true and

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it is on that basis, the enquiry is conducted. The Commission is required to formulate Regulations and procedure. That is not done. In an enquiry, the Commission is required to give opportunity to the Government to present their version by way of deposition of witnesses, documents and other materials. The parties who sought the leave of the Commission to be heard in the proceedings thereafter be given an opportunity to cross examine the witnesses of the State. Thereafter, it will be the turn of parties who are issued with notice under 8B of the Act. It is also open for the Commission to summon witnesses if it is found that the person to whom summons is issued is likely to assist the Commission in order to submit a dispassionate report to the Government.

6. Here in this case, the procedure resorted by the Commission is not by



following a known course after framing regulations. The Commission has appointed a lawyer as if the Commission has a case to be established and to submit a report. It is the lawyer appointed by the Commission, asking questions to the parties who are summoned by the Commission in the enquiry at the 1st instance. As a matter of fact, the enquiry conducted by the Commission in its literal sense is a mockery of the proceedings. Higher ranking officers in the Police Department have been summoned by the Commission for recording their evidence. The questions put to the said officers by the Commission during the course of evidence were in fact belittling the position held in the past and now.

7. Be that it may, the prime accused Smt. Saritha S. Nair after extracting money from so many people promising to provide installation of solar panels and to enlarge

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the area of business is threatening and blackmailing public men by publishing certain letters written by herself selectively. Presently she is engaged in giving false evidence against responsible persons in the society. After giving such evidence, she is further engaged in deputing emissaries to negotiate for money which is nothing but blackmailing. It is as part of the said process, she made wild allegations against the Chief Minister of the State with whom she claims proximity, a claim made orally without materials. As the claims are unsubstantiated, in order to give torrential for her statements, she produced certain documents in sealed cover which even according to her are doctored documents. It is another form of creating confidence and credibility for the baseless allegations made by her before the Commission.



8. On 08-02-2016, Smt.SarithaS.Nair is claimed to have produced a pen drive as a confidential document before the Commission. That has been accepted and acted upon by the Commission by receiving the same and keeping in safe custody believing that the said pen drive contain valid materials which can shatter the Government in office, which is another form of threatening, by a known criminal who is an accused in more than 58 cases of cheating. The receipt of digital evidence and the pen drive by the Commission is an improper course and a procedure. It is understood that the Commission had seen those documents. Assume for a while that Smt.SarithaS.Nair was successful in doctoring materials to discredit men in office, that document or the materials cannot be used without putting or giving an opportunity to the person against whom evidence has been created by using the



criminal and wicked mind of Smt. Saritha S. Nair. On the other hand, if those digital evidence and the doctored documents are seen by the Commission, which the Commission had already seen and it is decided that those materials need not be referred to while submitting the report, even then the influence created by seeing the documents which are not proved through proper channel will definitely create an adverse impact in the subconscious mind of the Commission while preparing the report. Therefore, the receipt of documents and materials by the Commission and seeing those materials secretly by the Commission without giving an opportunity to the parties in the proceedings to discredit the genuineness and veracity of the materials is a major defect in the proceedings now in progress by the 2nd respondent. The said conduct of the

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Commission has legally incapacitation of Commission to proceed any further.

9. Sec. 6 of the Act has provided certain amount privileges to persons giving evidence or statement before the Commission. By using the said privilege, a conspiracy was hatched with Smt.SarithaS.Nair by the former office bearers of Kerala Police Association to make a false allegation against the petitioner. As a matter of fact, the conspiracy element can be established before the Commission by producing the mobile call details of the three mobile numbers which are now under use by Smt.SarithaS.Nair and two numbers each of the rivals of the petitioner in the Association, who have hatched the conspiracy to give a false statement against the petitioner. As a matter of fact, an MLA by name Sri.Raju Abraham had occasion to raise an allegation on the floor of the Assembly



as against the petitioner Association that the petitioner Association has received Rs.40 lakhs as contribution from Smt.SarithaS.Nair. This was also part of an earlier conspiracy. Then, a complaint was given to the Hon'ble Minister for Home & Vigilance by the petitioner Association to conduct an enquiry in regard to the said allegation. Accordingly, a detailed enquiry was conducted by the Special Investigation Team constituted in the background of the allegations related to "solar scam" and an officer in the rank of Deputy Superintendent of Police was specifically authorised to conduct the investigation. The said Officer, after conducting detailed enquiry, collecting evidence even from Smt.SarithaS.Nair, and submitted his report to the effect that the allegation raised regarding the payment of contribution is incorrect and are baseless. Based on the



said report, the file in relation to the complaint is stated to have closed. Since the said attempt did not produce the desired result, the former office bearers of the Association had conspired with Smt. Saritha S. Nair and after parting substantial amounts by them to Smt. Saritha S. Nair, she was caused to make statement before the Commission on 05-02-2016 and 06-02-2016 to the effect that a sum of Rs.20 lakhs was given to the General Secretary of the petitioner Association during May, 2013 at the North Block car park area of the Government Secretariat, Thiruvananthapuram. True copy of the statement given by Smt. Saritha S. Nair before the Commission on 05-02-2016 and 06-02-2016 is produced herewith and marked as Ext.P2 & P3. The petitioner is aggrieved by the baseless allegations made by her.



10. It is submitted that the above statement given by Smt.SarithaS.Nair is nothing but a blatant lie. It may be pointed out in this connection, that the allegations are raised by Smt.SarithaS.Nair against public men and public servants relying on the number of mobile telephone calls made by her and made to her by such public men of public servants. A consideration of the manner and method resorted by the Commission, statement given by Smt.SarithaS.Nair before the Commission will show that Smt.SarithaS.Nair is dictating terms as to how the Commission should record statements, collect evidence and so on. This is after a public statement by Smt.SarithaS.Nair at Calicut to the effect that the Commission is behaving inhumanly towards her. Now the present scenario in the Commission would suggest that even questions put to Smt.SarithaS.Nair



cannot embarrass her in any manner so also the evidence that are to be gathered and presented. This is apart from the mockery of the proceedings which are now undertaken by the Commission. It is submitted that a close examination of the proceedings before Commission would demonstrate the conscious and deliberate attempt by persons who are associated with the Commission to malign persons holding high positions in a democracy with the aid of a person who is an accused in more than 58 criminal cases in which charge of cheating is levelled. A further examination also will show that the said person has been successful in compromising and settling cases by effecting payment which are in lakhs after her release from custody even when she has no deposits in the banks or known source of income. Even then the said person is now in a position to settle criminal cases by paying



money to the complainants and to lead a luxurious life by maintaining security man and by maintaining at least three or four mobile numbers and hiring luxurious cars for her daily use. Though, the Commission is anxious in enquiring into several aspects which are totally unrelated to the issue referred, the enquiry by the Commission presently is confined to spicy subjects other than the question notified to be enquired into.

11. As part of maligning public servants and conspiring to make legitimate money, Smt. Saritha S. Nair in collusion with the former office bearers of the Police Association after receiving money has given a statement before the Commission on 05-02-2016 and repeated the same on 06-02-2016, to the effect that a sum of Rs.20 lakhs was given to the petitioner Association during May, 2013 in the background of the State



level conference held at Kollam. This statement was made as part of a conspiracy with the active involvement of two former office bearers of the Association to discredit the present office bearers of the Association. The statement made was widely reported in the newspapers. As a statement was against truth and facts, the petitioner Association sought the leave of the Commission to cross examine Smt.SarithaS.Nair to bring on record the fact that the element of truth is lacking in the statement given regarding the payment of Rs.20 lakhs to the petitioner Association as well as to bring on record the conspiracy part which lead to the statement given by Smt.SarithaS.Nair. An application in that regard was given before the Commission and true copy of the said application is produced and marked as Ext.P4.



12. On publishing the news in regard to the statement given by Smt.SarithaS.Nair before the Commission, an application was given for cross examining the said witness. The said application was considered and allowed by the Commission by order dated 08-02-2016. True copy of the order dated 08-02-2016 passed in this regard is produced herewith and marked as Exhibit P5. In Ext.P5, it is stated that Sec.8B notice will be issued to C.R.Ajith, State Secretary of the petitioner Association. The petitioner is given permission to cross examine Smt.SarithaS.Nair on 15-02-2016. Since permission has been granted to cross examine Smt.SarithaS.Nair, it has become necessary and essential to bring on record material facts especially since the application has been allowed after considering the specific ground and averments in Ext.P4. Therefore an application was given to call for certain



documents. The said application was to call for the mobile call details of Smt.SarithaS.Nair with Sri.C,R.Biju and Sri.C.T.Baburaj. Copy of the petition given before the Commission on 10-02-2016 is produced herewith and marked as Exhibit P6. That application has been rejected by the Commission stating that those details are not relevant and useful in the enquiry. True copy of the order passed in Petition No.35/2016 in I.A.4/2016 is produced herewith and marked as Exhibit P7. The orders passed by the Commission are not issued with cause title. Therefore, the order issued by the Commission as it is produced without the cause title, as issued.

13. It is stated in the order passed by the Commission that the details sought by the petitioner are not relevant and useful in the enquiry. Primarily, that is a matter to be decided after giving evidence and the

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Commission cannot prejudge the relevancy of the evidence at this stage. Further, it is absolutely essential from the point of view of the petitioner to bring on record the conspiracy and circumstances under which the statement was given and it is thereafter the petitioner will be justified in correlating the basis of the allegations made in 2013 on the floor of the Assembly that too at the instance of the erstwhile office bearers of the Association. Therefore it is not a matter within the dominie of the Commission to decide on the relevancy of the material by denying the production of the call details through the Director General of Police, Kerala before the same is produced and considered as being the contents.

14. It is submitted in this connection, that the Commission is adopting double standard in the matter of gathering materials and evidence. A telephonic



conversation between Smt.SarithaS.Nair on the basis of her statement before the Commission on 02-02-2016 with Sri.AbrahamKalamannil, Chairman Mount Zion Medical College was leaked by at the instance of Smt.SarithaS.Nair before the visual media. Immediately thereupon, the Commission issued summons to Sri.AbrahamKalamannil. A true copy of the summons issued to Sri.AbrahamKalamannil is produced herewith and marked as Exhibit-P8. Telephonic conversations with others were leaked by Smt.SarithaS.Nair. They are with Sri.Thampanoor Ravi, General Secretary of Kerala Pradesh Congress Committee and Sri.BennyBehnan MLA. These leaking were after 03-02-2016. They are also issued with summons by the Commission for examination. Those are instances or events which have taken place subsequent to the appointment of the Commission and in the month of February,



2016. However, the Commission felt relevancy on the leakage by Smt.SarithaS.Nair and summons has been issued for examining them on oath before the Commission. However in the background of the specific allegation to substantiate the same as part of a conspiracy as sought by the petitioner has been rejected by stating that the same is irrelevant. It is submitted that the Commission is not a dictator to decide on relevancy or otherwise. The Commission is required to take action independently and fairly. The Commission need not be under the fear of an allegation by Smt.SarithaS.Nair or her statements which are made in public. In so far as the petitioner is concerned, the call details are relevant and material documents to substantiate the conspiracy as otherwise there was no necessity for the petitioner to

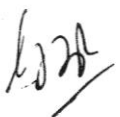


file an application for cross examine Smt.SarithaS.Nair.

15. It is submitted that the entire proceedings now in progress by the Commission is a mockery of a legal proceedings. The Commission is used as a weapon or a forum by Smt.SarithaS.Nair to blackmail responsible people and to amass money. Political rivals are using her selective leaking of news as a main source to malign their opponents. Media is celebrating the spicy news and revelations of a criminal describing the revelations are gospel truth. The media coverage that is given to a person like Smt.SarithaS.Nair has persuaded several others to follow her path and practice blackmailing as has been witnessed in the year 2014 and 2015. The conduct of enquiry by the Commission has spoiled the culture of the State.



16. The object of appointing the Commission was to find out whether there is any truth in the terms of reference. However, the Commission proceeds to malign the society at large with oblique and hidden agenda. The Commission is functioning in a partisan manner and has gone far in excess of its powers and jurisdiction. The Commission had even summoned a judicial officer and was compelled him to give evidence on oath even when cases are pending before the judicial officer in relation to the crime charged against Smt. Saritha S. Nair. Summoning of the judicial officer is impropriety of the highest order committed by the Commission which shows that the Commission will go to any extent in creating news and polluting the society. The denial of the request of the petitioner has resulted in adversely affecting the right of the petitioner in establishing the



conspiracy by Smt.SarithaS.Nair while giving the statement before the Commission on 5th and 6th of February, 2016 as against the petitioner. It is only after establishing the same, the petitioner will be justified in taking further steps to link the conspiracy while raising the said issue before the Legislative Assembly through a member of the Legislative Assembly at the instance of the rivals whose names are given in the application.

17. The petitioner is serious aggrieved by the rejection of the application as per Ext.P7 as the same will result in denying the right of the petitioner in upholding the reputation and in establishing the fact that the allegations have been made as part of conspiracy. It is further submitted that the rejection of the application as per Ext.P7 is in violation of the principles of



natural justice as also the conclusion arrived at by the Commission describing the materials as irrelevant even before seeing the document by the Commission.

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A. The proceedings by the Commission in its entirety is an abuse of power by a quasi-judicial forum appointed under the Commission of Enquiries Act to find out certain facts and truth if any therein. In fact and in reality, the functioning of the Commission has become a mockery of a quasi-judicial proceeding. The functioning of the Commission has virtually turned to be a legal forum to glorify a person against whom 58 cases of cheating has been charged and pending trial. The functioning of the Commission is now intended to glorify such a person resulting in polluting the society at large. The statement and revelations before the Commission are used as materials by



political parties who are opposing the Government as against the Government. The Commission is facilitating the propagation of the same knowingly or otherwise. The glorification of a person like Smt.SarithaS.Nair by a Judicial Commission in the manner in which it is glorified is paving way or path for others to emulate her footprints because of the disproportionate coverage given by the media even with the aid of the Commission. Therefore, the functioning of the Commission any further is not giving any public service worth it is meant and a stage has come to declare that the object for which the Commission has been constituted has been defeated by the conduct of the Commission.

B. The Commission has no authority to frame allegations. They are the factions to be performed by the Government. Before proceeding or commencing the functioning of



the Commission, the Commission is required to formulate regulations. Such regulations have not been framed. As a rule, it is for the Government to present their case. However, evidence is let in by the Commission as if the allegations are true and correct. The entire course followed by the Commission is lacking legal support. A Judicial Magistrate, before whom cases against the prime accused are pending, has been summoned by the Commission. That is the height of impropriety and a conduct of illegality. It is therefore submitted that the continued functioning of the Commission has not delivered the object sought to be achieved by the Constitution of the Commission. It has only helped on polluting the society.

C. The petition given by the petitioner has been rejected for the reasons stated in Ext.P7. At the first instance, it is not a



matter to be decided by the Commission before seeing the said material. Secondly and admittedly the allegation is the continuation of the allegation made in the past. At both occasions, the allegation was raised as a part of conspiracy. That is the specific case of the petitioner. It is the conspiracy element, by raising the allegation lastly before judicial Commission, is the matter to be established with material documents. Establishment of the same is essential for upholding the reputation of the petitioner and the office bearers of the Association. The denial of opportunity to place the materials is the denial of natural justice and thereby violating the constitutional rights. These fundamental issues are required to be known by the Commission by virtue of the office which the Commission held in the past. Therefore, the rejection of the application



after knowing the legal implications and the legal consequences can only be seen as intentional and deliberate. Therefore, there is absolutely no justification in rejecting the request by a Commission who is judicial trained and legally equipped. Therefore, ExtP7 order passed by the Commission is liable to be set aside with consequential directions.

The Honourable High Court in its judgment considered the matter thus:

The Writ petitioner is the Kerala State Police Association. They have approached this Court aggrieved by Ext.P7 order of the Hon'ble Mr.JusticeG.Sivarajan, Solar Scam Inquiry Commission, constituted under the Commissions of Inquiry Act, 1952.

2. The Commission was appointed to inquire into the solar scam and connected financial transactions. The terms of



reference are produced as Ext.P1. The terms of reference clearly indicate: the subject of the on-going inquiry involving cheating and deception and the investigation thereon and what measures the State has to adopt from the suggestions for taking stringent actions to ensure that such cheating and deception would not take place in future.

3. The Kerala Police Association is an Association of police personnel in the State of Kerala. It appears that Smt.SarithaS.Nair, who is being heard in the subject matter of inquiry, had raised a complaint against the Police Association stating that she had paid Rs.20 lakhs to the Police Association. This certainly would cast aspiration not only upon the credibility of the police personnel and the office bearers but also an impact on any investigation undertaken by the Police in relation to cheating or crime against such



persons. The inquiry in this regard is a significant aspect to be adverted to by the Commission of Inquiry in the light of terms of reference.

4. The stand of the Police Association is that the call details generated from phone of Smt.SarithaS.Nair to the persons referred in Ext.P6 would indicate that the Police Association has nothing to do with any deal with SarithaS.Nair. It is submitted that this was as a result of conspiracy hatched out by the former office bearers of the Police Association. Therefore, the Association filed Ext.P6 application requesting the Commission as follows:

"In view of what is stated above, it is absolutely necessary to call for the calls details of the mobile numbers given as above viz. Smt.SarithaS.Nair



(8606884307, 9544023627, 8289813307),
Sri.C.R.Biju (9447050211, 9495925175)
Sri.C.T.Baburaj (9497963111,
9447330320), for which necessary orders
may be passed directing the Director
General of Police to collect and produce
the call details of the above numbers
for the period from 1st December, 2015
till date for which a separate petition
is filed".

This is essentially to establish that the
Police Association has nothing to do with
conspiracy and the Police Association's name
is unnecessarily dragged.

5. The question whether the Police
Association has been unnecessarily been
dragged or not has to be examined by the
Commission based on the terms of reference.
If, ultimately, the Commission is of the
view that the Police Association has



received any amount from Smt.SarithaS.Nair, it is a serious matter to be placed before the Government for appropriate measures. However, the credibility of the testimony of SarithaS.Nair has to be ascertained. It is also to be found out whether the office bearers individually or the Police Association collectively is responsible for such act. These are all matters that have to be decided after conclusion of the evidence.

6. The Commission, however, rejected the request of the petitioner stating as follows:

"That apart from media report it has come out that immediately after the statement made by SarithaS.Nair before this Commission that a sum of Rs.20 lakhs was paid to the association through Mr.C.R.Ajith, the association



had filed a complaint before the State Police Chief and D.G.P. This is a matter for verification. If, as a matter of fact, any such complaint has been filed before the DGP it is for the petitioner to approach the said authority for relief which has already stated might not be of much relevance in the inquiry".

7. The Commission proceeded as through the petitioner is seeking a relief before the Commission to disprove the claim of SarithaS.Nair that she has paid Rs.20 lakhs. In fact, what is the attempt of the Police Association was to prove that the allegations are as a result of conspiracy. Whatever may be the ultimate purpose of the request of the petitioner to be considered, certainly, it may have certain bearing in the on-going inquiry, if otherwise it is proved that the Association has received any



amount from Saritha S. Nair considering the terms of reference.

8. Therefore, this Court is of the view that it is appropriate for the Commission to have allowed the request of the petitioner so as to elicit truth for any recommendation to the Government for involvement of the Police Association for ultimate recommendation. It is to be noted that the details sought for by the petitioner are relevant or not could be considered by the Commission while considering the entire evidence for the purpose of recommendation. I am not expressing any opinion as to the relevancy of the details. This is a matter for consideration by the Commission while making final conclusion in the matter. However, certainly, considering the terms of reference, this aspect has certain for reaching consequences depending upon the credibility of the evidence relied on by the



Commission. Therefore, the impugned order is set aside. Ext.P6 stands allowed.

9. It is submitted by the learned counsel for the petitioner that the Commission has posted the matter on 15-02-2016 for cross examination of the witnesses. In view of the directions as above, this Court is of the view that further opportunity should be given to the petitioner. The Director General of Police, Police Head Quarters, Vazhuthacaud, Thiruvananthapuram-10 is therefore, suo moto impleaded as an additional respondent in the party array. The Director General of Police is directed to place the details as sought by the petitioner in Ext.P6 before the Commission at the earliest, at any rate, within one week. If the details are not available, the Director General of Police shall file such affidavit before the Commission within such time.



As directed by the High Court in the Writ Petition the State Police Chief has obtained and forwarded the following details.

One important aspect/circumstance has to be considered in this context.

As Sri.G.R.Ajith has stated that the Association had approached this Commission as a legal measure to establish his innocence when SarithaS.Nair had made allegations against him and the Association. He wanted to cross examine SarithaS.Nair which the Commission gladly allowed. He wanted a direction to the State Police Chief to furnish the call details of the mobile phones used by SarithaS.Nair and Associations former State Secretary and Treasurer to prove that Saritha S.Nair's allegation was the result of collusion between them. The Commission said this is

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not a new allegation and rejected their request.

It is relevant to note that this is what Sri.Mohammed Shaffi, Dy.S.P. who was entrusted to enquire into the allegations raised by Saritha S.Nair in his report dated 22-02-2016 has also stated. The last sentence in the report is "when this allegation was raised in 2013 the complainant (Sri.G.R.Ajith) has no complaint that the allegation was the result of conspiracy by Sri.Biju or Sri.Baburaj. Sri.Ajith was granted enough opportunity to prove his innocence by adducing evidence both oral and documentary.

In the above circumstances, for the simple reason that the Association's request to call for the CDRs to prove conspiracy was objectively, rejected assigning reasons, it is a matter of serious concern whether a



member of a disciplined force bound to act in accordance with the Constitution and the laws in challenging every action taken by this Commission with respect to the subject matter of inquiry ordered by the State Government. Government strictly in accordance with the provisions of the Commission of Inquiry Act and Rules made thereunder.

Sri.G.R.Ajith, General Secretary of the Kerala Police Association being aggrieved by the order rejecting the request for calling for the CDRs files WP(C) No.5555 of 2016 before the High Court on 12-02-2016 (Ext.X 558). In order to understand the seriousness of the allegations made against this Commission the Writ Petition in its entirety (statement of facts in 17 paragraphs and grounds A to C are extracted below:).



This Commission was made 2nd respondent in the Writ Petition. The State of Kerala was the 1st respondent. The Government was served with copy of the Writ Petition was filed on 12-02-2016 and the same was moved on 12-02-2016 itself as today moving stating that the cross-examination is fixed to 15-02-2016. 13th and 14th being Saturday and Sunday. The Writ Petition happened to be disposed of on the same day by Judgment dated 12-02-2016. (Ext.X 563).

Please see what are the allegations raised against this Commission.

Sri.G.R.Ajith was examined before this Commission on 03-06-2016, 08-06-2016, 10-06-2016, 16-06-2016, 28-07-2016 and 02-12-2016.

When he was asked about the provocation for making baseless allegations against the Commission his answer was to prove his



innocence. Allegations are stated to be made based on newspaper / media reports, his counsels advice and with his knowledge. He was informed that the various allegations made in the Writ Petition against this Commission squarely attracts Section 10A of the Commissions of Inquiry Act and prosecution steps has to be initiated against him.

Sri.G.R.Ajith got every opportunity to adduce evidence both oral and documentary to justify his stand.

Notwithstanding all these again, a petition numbered as I.A.No.5/2017 supported by a detailed affidavit of G.R.Ajith dated 13th March, 2017 raising serious allegations against this Commission is filed before the Commission.

The affidavit paragraphs 1 to 7 are extracted below:



"1. I was the General Secretary of Kerala Police Association. During the course of giving evidence by Smt.SarithaS.Nair on 5th and 6th February, 2016, a statement was made before the Commission that Rs.20 lakhs was given to the Kerala Police Association Secretary by way of donation to the annual State Conference of the Association held in May, 2013 at Kollam. She had also stated in her deposition on 6th February, 2016 that the Association had demanded Rs.40 lakhs but due to the financial crisis of the company, she could give only Rs.20 lakhs. The statement given by Smt.SarithaS.Nair was widely reported on the same day in the visual media and on the next day by the print media. Thereupon, I filed an application before the Commission seeking permission for cross examining Smt.SarithaS.Nair. I.A.No.4 of 2016 was filed before the Commission seeking



direction to the Director General of Police to provide the call details of certain numbers mentioned in the said application. That application was considered by the Commission and the request was declined by stating that it is for the applicant to approach the said authority for relief.

2. Apart from the fact that the applicant herein was the General Secretary of the Kerala Police Association, as a citizen, the proceedings of the Commission as reported by the visual and print media were closely observed. On such observance, the irresistible conclusion, which the applicant had formed, was to the effect that the Commission was acting far beyond the terms of reference and issuing orders which had been violated the requirements of law by directing the police to accompany a convict to Coimbatore, without obtaining the required permission of the custodial court



as mandated under law. The order thus passed by the Commission was executed by the police in obedience of the direction contained therein by spending huge amounts of the State exchequer and without taking care of the security aspects when a convict is virtually released and taken out of State, as it violated the due process of law. Apart from the above, the reports that appeared in the newspapers, the contents of which were not denied by the Commission at any point of time, had created an impression in the mind of the applicant as a citizen residing in the State that the Commission had functioned as a forum for explaining and exposing the sexual acrobaticism of Smt.SarithaS.Nair with a view to blackmail persons who commanded respect and having standing in the public. In connection with the application filed, viz. I.A.No.4 of 2016, the applicant was physically present



before the Commission. On observing the proceedings, the impression of the applicant as regards the proceedings of the Commission had only cemented.

3. As the request given by the applicant was declined by the Commission, the applicant decided to challenge the validity of the said order by filing a writ petition before the Hon'ble High Court of Kerala. WP (C) No.5555 of 2016 was accordingly filed. In the writ petition, averments were made by the applicant regarding the manner in which the proceedings of the Commission are being carried out. The writ petition was heard in detail by the learned Single Judge, before whom the case came up for hearing. The pleadings in its entirety were read in court. Having realized that there are substances in the averments, the learned Single Judge was pleased to dispose of the writ petition granting the reliefs sought by



the applicant as regards the relief declined by the Commission. The direction given by the learned Single Judge was also widely reported in newspapers. Though the Commission was made a party respondent, the writ petition was disposed without notice to the Commission since no adverse order has been passed as against the Commission. However, it is understood that a copy of the writ petition was collected by the Commission through its Secretary, who was earlier the Registrar of the Hon'ble High Court. Thereafter, the applicant was given chance to give evidence before the Commission on 03-06-2016, 08-06-2016, 09-06-2016, 10-06-2016 and 16-06-2016. The applicant was required to be present before the Commission subsequently as well. On 03-06-2016, the applicant was examined by the Commission in detail as well as on 08-06-2016. The questions were mainly with



reference to the averments in the writ petition. During the course of the said examination, it was said in open, during the course of the proceedings of the Commission, that even though there is no material to substantiate the allegations of Smt. Saritha S. Nair, the Commission will be making adverse report against the applicant while submitting the report for the averments in the writ petition. Further, it was said that the allegations were made against the Commission by a civil police officer. According to the Commission, such a person cannot make an averment against a Commission. The statement made by the Commission, the legal impact and further steps to be taken, in the background of the open statement of the Commission and the explicit prejudice of the Commission as against the applicant was discussed with my counsel. I was advised to co-operate with

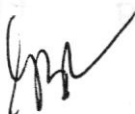


the proceedings of the Commission till the recording of evidence of the Commission is over as otherwise any application given before the Commission expressing lack of faith will be constructed as an attempt to scuttle the recording of evidence by the Commission. As a matter of fact it was expected that the recording of evidence will be over by August, 2016. However, that process continued and the term of the Commission was extended. It was only on 15-02-2017, the process of recording of evidence was completed. The proceedings of the Commission being a quasi-judicial proceedings and the recording of evidence having been completed in a manner as schemed by the Commission, what remains is only the submission of the report based on the evidence already recorded.

4. As a person who participated in the proceedings, I have every right to inform



the Commission regarding the fairness of the proceedings and the absence of confidence in the functioning of the Commission more especially in view of the open declaration by the Commission on 03-06-2016, 08-06-2016, 09-06-2016, 10-06-2016 and 16-06-2016 at every now and then that the Commission will be giving an adverse comment against the applicant while submitting the report for the averments in the writ petition even though there is no evidence substantiating the allegation made by Smt. Saritha S. Nair as against the applicant. The applicant as a matter of fact participated in the proceedings as the Commission is headed by a retired Judge of the High Court, who will be appreciating legal contentions without preconceived notions as well as by recognizing the legal and constitutional rights of a citizen when he has a legal grievance. However, from the open



declaration of the Commission, aggrieved by the averments contained in the writ petition, it has become evident that the Commission is not fair and dispassionate in the conduct of the proceedings. It has also come out from the Commission, as the disclosure of the mind, while examining the applicant to assist the Commission that the question posed by the Commission were mainly in relation to the averments contained in the writ petition and belittling the applicant as the applicant is only a civil police officer. The Commission was observing off and on that adverse comments will be there in the report as against the applicant though there is no evidence in relation to the allegation made by Smt. Saritha S. Nair regarding the alleged payment of Rs. 20 lakhs.

5. It is submitted further in this connection that after examining the



applicant before the Commission, several dignitaries and high ranking police officials were examined by the Commission. During the said examination also, the Commission had put questions to those dignitaries and high ranking police officials as regards the applicant, even though they were examined on issues unconnected with the allegations made by Smt.SarithaS.Nair as against the applicant. From the above conduct of the Commission, it is further evidence that the Commission is carrying prejudice of a substantial nature as against the applicant for challenging the order passed in I.A.No.4 of 2016 and the averments made in the writ petition. It is submitted that it is finding substance in the averment and the denial of the rights of the applicant, the learned Single Judge of the Hon'ble High Court granted the reliefs as sought by the applicant in WP (C)



No.5555/2016. If the Commission was aggrieved in any manner, there was legal remedy available, as there is no constitutional embargo for the Commission in availing the said remedy. With availing the said remedy, the Commission is attempting to act in a vindictive manner as against the applicant to make use of the report as a tool to make adverse observation against the applicant though not in connection with the allegation made against the applicant by Smt.SarithaS.Nair.

6. The above conduct of the Commission would attract the principle of judicial malice and bias. Further, without resorting legal recourse, if aggrieved by a judgment of the High Court, if comments are made in regard to an averment of the writ petition, which was made subject matter of scrutiny by the High Court, such conduct will also tantamount to lowering the authority of the



High Court and a further device to question the jurisdiction of the High Court in exercising its constitutional function. The said conduct of the Commission would in a way lower the majesty of the High Court.

7. Under the above circumstance, the applicant seeks the leave of the Commission and requesting to recuse from proceeding further with the functions of the Commission, since admitted bias and judicial malice will disentitle a judicial or a quasi-judicial authority from functioning or discharging his/her duty in a dispassionate manner.

The relief portions in the affidavit reads thus:

As such it is prayed that Justice G.Sivarajan, (Retired), who has been appointed as the Commission by Government notification dated 19th April, 2014, to



recuse from proceedings further pursuant to his appointment through Government Order No.Judl.1/SC/2014 dated 5th March, 2014. A separate petition is filed seeking the above relief. Sri.G.R.Ajith, it would appear, on the same day gave the contents of the same to the media and to the Press. The leading newspapers have reported the same on the next day.

On 14-03-2017 the sitting of the Commission was convened for hearing the arguments of Sri.OommenChandy, former Chief Minister through his Advocate Sri.S.Sreekumar, Senior Counsel.

Before commencement of the arguments Sri.B.Rajendran, Advocate, Secretary, AILU, the E Party wanted to bring to the notice of the Commission a serious matter relating to the functioning of this Commission which came in the media and that days leading



newspapers. The Commission, in its proceedings dated 14-03-2017, noted his submission thus:

The report is that Sri. G.R.Ajith, former State General Secretary of the Kerala Police Association has filed a petition before this Commission alleging that the Commission is biased and therefore this Commission must recues from proceeding with the Inquiry. He submitted that the allegations made as above are the result of a conspiracy which he had foreseen and mentioned in the argument note submitted by him.

He submitted that the purpose was to malign the Commission before the public and an affront to the Commission and requested for initiating Contempt proceedings against him. It is true that such a petition is received in the Office.



The Senior Counsel present also submitted thus:

Senior Counsel Sri. S.Sreekumar, on noting that this petition is filed through a fairly Senior Advocate, felt that it is a matter for taking contempt proceedings against Sri.Ajith and also submitted that he on behalf of the entire bar tenders unconditional apology for the inconvenience caused to the Commission.

While Sri.Oommen Chandy former Chief Minister was examined on 23-12-2016 he was asked about G.R.Ajith, former State Secretary of the Kerala Police Association.

He said G.R.Ajith had met him with the representations and other matters of the Kerala Police Association. When he was an MLA in 1980 his room in the MLA quarters was used as his office. KSU workers in plenty used to come there. He is not in a position



to say now whether Ajith had been to his office at that time.

He was asked whether he knew about WP (C) No.5555/2016 filed by the Association in the High Court abusing the Commission and its activities without any valid reasons. He said he does not know the details/contents of the writ petition. If the Association had made any such allegations he fully disagrees with it. It is at the initiative of the State Government this Commission is appointed. He did not get any information from the Advocate General Office about the filing of a writ petition making the Government a respondent. He also did not know the directions of the High Court in that case. He knew from the media only an observation against Ajith in the print media.



The whole attempt of the petitioner in the Writ Petition filed before the High Court was to question the entire procedure adopted by the Commission characterising it as 'a mockery of the proceedings'. Allegations made by the Police Association, it has to be said is (1) based on lack of proper understanding about the powers and functions of the Commission under the Commissions of Inquiry Act, 1952 and the Rules made there under and (2) the activities of the Commission with reference to law governing the Commission.

The allegations in the Writ Petition are made wrecklessly, with some layman view of matters without any bonafides and malafide to bring disrepute to the functioning of the Commission.

The members of the disciplined force, that too in the lower category of the said



force bound to uphold and maintain the standards of internal discipline governed by its constitution /bylaws of the Association approved by the Government making baseless allegations against a Commission presided over by a retired High Court Judge and appointed by the State Government is a matter, according to the Commission, would adversely affect the faith and discipline of the police force. If there are no existing measures provided either in the Police Act, Police Manual or in the orders recognising the Association contemplated under Section 107 of the Police Act severe measures have to be provided.

This is all the more so that even after reminding the General Secretary G.R.Ajith of the consequences of making allegations which have no basis and which has the effect of bringing disrepute to the Commission by way of taking steps for prosecution in the



Association has chosen to repeat this in the form of a petition supported by affidavit.

This would indicate, a conspiracy, as suggested by AILU. G.R.Ajith, a civil police officer, in the name of the Police Association would not dare to make allegations of the nature made in the Writ Petition and particularly in the affidavit in support of I.A.No.5/2017 which have already been extracted against the Commission suomotu. The person's responsible, if any, behind this has to be found out by a proper enquiry as otherwise, the reputation of Police will be a casualty.

A question may arise as to -

'all these are but part of a scheme'.



Sri.G.R.Ajith when he was examined before this Commission on 03-06-2016 was asked about it. (Vol.XIV Pp 84 - 121 at Pp 117 - 120).

His answer was that the news paper publication was not noticed. The Association could have filed statement and established by adducing evidence that the allegations raised against the Association are baseless and false. He has further stated that the allegation against the Kerala Police Association was enquired into at the instance of the DGP and found that there is no substance in the allegations and such a report was placed before the Assembly. In such circumstances, the Association thought that it may not be necessary for them to appear before the Commission to establish that the allegations raised against them are baseless and false.



It is an admitted position that Smt.Saritha S.Nair was not disclosing matters which may go against high dignitaries, police officers etc. until 27-01-2016. In spite of her being arrested and kept in jail and cases registered against her being investigated with the hope of settling all her cases, she has been acting as per the instructions of persons in political field.

Saritha S.Nair, for the first time, it appears, speaks about the allegation against the Kerala Police Association in public before this Commission on 05-02-2016.

The State General Secretary of the Kerala Police Association denies the allegation that Saritha S.Nair has paid Rs.20 lakhs in cash to him for the Association.



According to him, he had not seen Saritha S.Nair and that for the first time he saw her in this Commission while giving evidence. The deposition of Smt.Saritha S.Nair given before this Commission on 05-02-2016 the relevant portion has already been dealt with.

The allegation against the Kerala Police Association and its State General Secretary Sri.G.R.Ajith is that Saritha S.Nair has paid a sum of Rs.20 lakhs to G.R.Ajith in cash by way of donation for sponsoring the 30th Annual Conference of the Kerala Police Association held in May, 2013.

The news that Team Solar Company by spending lakhs of rupees received from customers had sponsored the function of the Kerala Police Association was raised in the Legislative Assembly on 13th June, 2013 and this news in detail has come in the Mangalam



daily also. At that time the allegation was that Rs.40 lakhs was paid to the Association for sponsoring their function.

The complaint then filed by AILU, Thiruvananthapuram Branch through its Secretary Sri.Pallichal Pramod to the State Police Chief was got enquired at the instance of then ADGP (SZ) Sri.A.Hemachandran, IPS, head of the SIT constituted by State Police Chief through a member of the Team Sri.Reji Jacob, Assistant Commissioner DCRB, Thiruvananthapuram City and obtained a report. As per this report dated 19-11-2013 the allegation was not substantiated. As such no further steps were taken against the Association.

It is relevant to note that this was not an allegation of Saritha S.Nair or Team Solar Company when it was discussed in the Assembly and the news reported in the media.



No efforts seen made to ascertain the true position of the allegation by questioning Saritha S.Nair, her office staff or verifying Team Solar records and accounts. The report dated 19-11-2013 of Sri.Reji Jacob is Ext.X 704 (b).

According to G.R.Ajith, State General Secretary of the Kerala Police Association he has not seen Saritha Nair either in the C.M's office or elsewhere except in this Commission when she appeared. He had no occasion to talk to her either in phone or otherwise. The alleged payment of Rs.20 lakhs to him in connection with the 30th Annual function of the Association is false. No advertisement charge was received from Team Solar or Saritha and that the advertisement at page 103 of the Smaranika published by the Association as 'A Well Wisher' is of Skyline Builders supported by documents.



Sri.G.R.Ajith has alleged that Saritha S.Nair happened to make the allegation before this Commission on 05-02-2016 and 06-02-2016 that she has paid Rs.20 lakhs to G.R.Ajith for the Association in collusion / due to conspiracy with the Association's former State Secretary Sri.C.R.Biju and Treasurer Sri.C.T.Baburaj. For establishing this allegation of conspiracy he filed a petition for direction to the State Police Chief to furnish the call records of the mobile phones, 3 in number used by Saritha and two each of Biju and Baburaj for the period from September 2015 to February, 2016.

The Commission by order dated 10-02-2016 rejected the said request mainly for the reason that the question is whether there is any substance in the allegation and that this allegation was there as early as in June, 2013.



However, based on the directions of the Honourable High Court in the judgment dated 12-02-2016 in W.P (C) No.5555/2016 filed by the petitioner Association the State Police Chief had furnished the call details of the mobile phones used by Saritha S.Nair, C.R.Biju and C.T.Baburaj.

The letter No.T8-24886/2015/PHQ dated 17-02-2016 of the State Police Chief Ext.X 560 to the Secretary of the Commission reads thus:

"As per Judgment in WP(C) No.5555 of 2016 dated 12/02/2016 the Hon'ble High Court directed that 'The Director General of Police is directed to place the details as sought by the petitioner in Ext.P6 before the Commission at the earliest at any rate within one week'. In compliance with the above order the CDR details obtained from



Assistant Commissioner High-tech Cell, PHQ
is submitted herewith.

I am also submitting the Call Data
Records for the period from 15/02/2015 to
14/02/2016. The report of AC High-tech Cell
is attached herewith".

The letters dated 17-02-2016 (Ext.X
560(2) and Ext.X 560 (3) from the AC, High-
tech Crime Enquiry Cell, Police
Headquarters, Thiruvananthapuram to the DGP
and State Police Chief would show that the
service providers were requested for the CDR
of the 3 mobile phones used by Saritha
S.Nair for the period from 15-02-2015 to 14-
02-2016. This (Ext.X 560(2) it must be
noted, is pursuant to the request of the
Commission independent of the directions in
the judgment of the High Court in WP(C)
No.5555/16 filed by the Association.



Ext.X 560(3) CDR details of 7 mobile numbers of which the first three numbers are used by Saritha S.Nair. Items 4 to 7 mobile phones are not that of Sri.C.R.Biju or C.T.Baburaj.

It is further stated that CDRs of C.R.Biju 2 Nos., C.T.Baburaj one No. and 2 nos. of Georgekutty for the period from 01-11-2015 to 10-02-2016 were called for from its service providers.

It is stated that on analysing the CDRs of the first 7 numbers for the period from 01-11-2015 to 10-02-2016 no calls or SMS seen sent or received from any of the numbers of Sri.C.R.Biju (9447050211, 9495925175) and Sri.C.T.Baburaj (9497963111, 9447330320) and Sri.Georgekutty (8289819410, 9895610051) to/from the above seven numbers.

With reference to the 5 mobile numbers of C.R.Biju, C.T.Baburaj and Georgekutty it



is stated that on analysing the CDRs. of all the above numbers for the period from 01-11-2015 to 10-02-2016 using 'Adwik CDR analysis tool' to ascertain whether any common number is involved or not, it is seen that the numbers 9349262604 (belongs to Mr.Johny) and 8289819410 (belongs to Mr.Georgekutty) have contacted a common number 9447743103, the address of this number is found to be Mr.Rajendran.B., Rareeram, Muttom.P.O., Haripad, Alappuzha-690511.

Calls from C.R.Biju 9447050211 to Georgekutty 8289819410, three outgoing and four incoming are made between 01-02-2016 to 05-02-2016 and the last call incoming was on 05-02-2016 at 13.45 hrs.

Similarly calls from C.R.Biju (9447050211) to C.T.Baburaj (9447330320) four outgoing and six incoming calls made between 04-02-2016 to 06-02-2016.



Calls from Georgekutty (8289819410) to Mr.Rajendran (9447743103) one incoming and two outgoing on 3rd, 5th and 6th of February, 2016.

Calls from Mr.Johny (9349262604) to Mr.Rajendran (9447743103) two outgoing and one incoming on 3rd, 4th and 6th February, 2016.

Based on the above analysis, it is stated, it shows that there is a connection between C.R.Biju and C.T.Baburaj, C.R.Biju and Georgekutty, Georgekutty and Rajendran and Rajendran and Johny as there are calls between them for the period from 01-02-2016 and 06-02-2016.

Here it must be noted that what was required by the Police Association before this Commission and what was directed by the Hon'ble High Court in the judgment dated 12-02-2016 in WP(C) No.5555/16 filed by the

hjb

Association was only for furnishing the call details of mobile phones three numbers used by Saritha S.Nair and mobile phones two each of C.R.Biju and C.T.Baburaj for the period from 01-11-2015 to 10-02-2016. The allegation of the Association is that it is in collusion with Biju and Baburaj that Saritha S.Nair has deposed before the Commission that Saritha S.Nair has paid Rs.20 lakhs to the Associations General Secretary G.R.Ajith.

There was no direction whatsoever in the judgment of the High Court to collect the CDRs of any other persons or to analyse the CDRs got collected.

Fact remains verification of the CDRs of the three mobile phones used by Saritha S.Nair for the period from 01-11-2015 to 10-02-2016 no call or SMS is seen sent or



received from any of the mobile phones of Biju and Baburaj.

The Association had no case in the petitions filed before this Commission, before the High Court and even in the complaints filed before the DGP and State Police Chief on 05-02-2016 that the collusion was through Georgekutty, Johny and Rajendran.

Sri.Vinayakumaran Nair, Assistant Coimmandant, High-Tech Cell, Thiruvananthapuram from 01-03-2009 to 22-08-2016 was examined as CW 191 before this Commission on 08-11-2016 and his deposition recorded. (Depo. Vol.XX Pp 166 - 200). He said:

One of the main functions of the High-Tech Cell is to collect the CDRs of phones as per request of authorised Police Officers, analyse the same and report it to



them. High-Tech Cell is under the Crime Branch. It is situated in the Police Headquarters. The powers are vested in the State Police Chief.

He said as per the directions of the State Police Chief he had collected the phone call details of Saritha S.Nair, C.R.Biju and C.T.Baburaj from its service providers, analysed the same and a report is submitted to the State Police Chief. He was shown the letter of the State Police Chief and the two letters sent by him to the State Police Chief on 17-02-2016 (Ext.X 487 (1) (2) and (3) as also the copy of the judgment dated 12-02-2016 of the High Court in WP(C) No.5555/2016 filed by the Kerala Police Association Ext.X 563).

"The direction in the judgment was 'The Director General of Police is directed to place the details as sought by the



petitioner in Ext.P6 before the Commission at the earliest, at any rate within one week'.

The requirement of the Association was stated in para 4 of the judgment as per which the DGP must be directed to collect the phone call details of three mobile phones used by Saritha S.Nair and the two mobile phones each of C.R.Biju and C.T.Baburaj and give it to this Commission. He had collected the CDRs of three mobile phones used by Saritha S.Nair for the period from 15-02-2015 to 14-02-2016 (Ext.X 487 (2)) and sent it in a CD to the State Police Chief.

Based on the directions of the High Court as per the request of the State Police Chief in his letter dated 13-02-2016 and subsequent instructions he collected the CDRs of seven mobile phones - three numbers



of Saritha S.Nair and four other numbers for the period from 01-11-2015 to 10-02-2016. These CDRs. were analysed with reference to the mobile phones two numbers of C.R.Biju, two numbers of C.T.Baburaj and two numbers of Georgekutty. The result was that there were no calls from the seven numbers or back to those numbers.

He further collected the CDRs of C.R.Biju's two numbers and C.T.Baburaj's one number as also Georgekutty's two numbers for the period from 01-11-2015 to 10-02-2016 and by using 'Adwik CDR analysis tool' verified whether any common number was there and found that there was contact between the numbers of Johny and Georgekutty to a common number which is of Advocate Rajendran. He had recorded the call details separately. It was found that there was contact between C.R.Biju and C.T.Baburaj, Biju and Georgekutty, Georgekutty and Rajendran and



Rajendran and Johny between 01-02-2016 and 06-02-2016. He was not given the copy of the High Court Judgment. Only the judgment is mentioned in the letter of the State Police Chief. He did not know the details of the directions of the High Court. He has sent the report as per his letter dated 17-02-2016 based on the letter of the State Police Chief dated 13-02-2016 and subsequent instructions. He has stated so in his letter dated 17-02-2016 (Ext.X 560 (3)) under reference. The subsequent instructions given to him by the then State Police Chief was that the matters stated in the letter must be dealt with seriously and speedily. State Police Chief also impressed upon him the need for analysing and the phone call details of Georgekutty and Johny must also be collected and analysed. He had done accordingly.



He further said that G.R.Ajith, General Secretary of the Association used to meet him and that during this time also he came and met. Georgekutty, he knows, is a police officer. He in this connection called him and threatened him but he did not make any complaint against Georgekutty. He had collected the CDR of Sri.Rajendran's mobile phone as per the directions of the State Police Chief. He said he does not know whether it was at the instance of the then Chief Minister Sri.Oommen Chandy, Rajendran's phone calls were analysed.

From the letter of the AC, High-Tech Cell dated 17-02-2016 and his deposition as above it would appear that an effort has also been made by the State Police Chief, independent of the factual situation stated by the Police Association to find out the alleged conspiracy by remote connections also.



It is relevant in this context to note that the very allegation of the conspiracy/collusion alleged before the Commission was raised in the two complaints filed by G.R.Ajith for the Kerala Police Association before the State Police Chief on 05-02-2016. This representation was sent by the ADGP, SBCID, Thiruvananthapuram to Dy.S.P., SBCID, City Detachment, Thiruvananthapuram for enquiry and report. Sri.Mohammed Shaffi.K., Dy.S.P., SBCID by his letter dated 22-02-2016 (Ext.X 525(3) sends his report. In para 2 of this report the allegation of collusion of Sri.Biju and C.T.Baburaj, it is stated, was doubted and therefore it has to be enquired.

He has noted the directions of the High Court in the judgment in WP(C) No.5555/2016 and said the State Police Chief has forwarded the report to this Commission in sealed cover. The Dy.S.P., regarding the



case of the Association that there is conspiracy/collusion by Biju and Baburaj, observed that when the allegation of payment of money to the Police Association was raised in 2013 the Association had no such case.

In short, the evidence in the form of CDRs of the mobile phones used by Saritha S.Nair, C.R.Biju and C.T.Baburaj as already noted, supported by the deposition of Sri.Vinayakumaran Nair, AC, High-Tech Cell and the report of Sri.Mohammed Shaffi, Dy.S.P, SBCID do not support the doubt entertained by G.R.Ajith, General Secretary of the Kerala Police Association that Saritha S.Nair had alleged before this Commission that she has paid Rs.20 lakhs to G.R.Ajith for the Association as a result of collusion with Biju and Baburaj.



The attempt of the State Police Chief to make out a case of collusion is a farfetched one.

As the Commission has observed in its order dated 10-02-2016 in Petition No.35/2016 in I.A.No.4/2016 rejected the request for directing the State Police Chief to furnish the CDRs of the mobile phones used by Saritha S.Nair, C.R.Biju and C.T.Baburaj stating that what is relevant is whether the allegation made by Saritha S.Nair before this Commission on 05-02-2016 and 06-02-2016 is based on materials or not. In other words, the true factual position has to be ascertained.

Saritha S.Nair, in her deposition dated 05-02-2016 and 06-02-2016 for the first time raised this allegation that she has paid to G.R.Ajith Rs.20 lakhs by way of donation to the Annual function of the Kerala Police



Association; she has explained the purposes for which Team Solar Company has paid this amount.

The relevant averments in her deposition have already been dealt with earlier and hence not repeated.

However, the allegation in brief is that she paid a sum of Rs.20 lakhs to Sri.G.R.Ajith, General Secretary of the Kerala Police Association by way of donation in connection with the 30th Annual Conference of the Kerala Police Association held in May 2013 at a place near the car parking area on the northern block of the Secretariat as demanded by him. He had undertaken to her that a resolution can be passed in the Annual General Body meeting for installation of solar panels in all police stations in the State and based on that orders can be got issued assigning the said work to Team



Solar Company. Advertisement of Team Solar Company in the Smaranika published by the Association was also part of the deal. Since by the time, the Smaranika was published she was arrested in solar criminal case the advertisement in the Smaranika was shown as "Best Wishes from a Well Wisher".

Sri.G.R.Ajith, General Secretary of the Association has totally denied the allegations made by Saritha S.Nair against him.

While Saritha S.Nair was cross-examined by the Advocate for the Association she was asked about the date on which the alleged payment to G.R.Ajith and the place at which it was paid. She, from her memory, has stated that it was on 22nd January, 2013. She also said money was demanded for the Association by way of sponsorship including advertisement. She said it included



advertisements in their banners, flex boards, notices etc. and a quarter-page advertisement in their magazine to be published. Besides, they offered as complements orders from the DGP for solar electrification of all police stations in the northern parts of Kerala by passing a resolution to that effect.

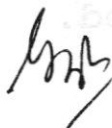
The attempt of Sri.G.R.Ajith for the Association was to demonstrate that the allegation made by Saritha S.Nair was absolutely false by adducing evidence.

1. As already noted, allegation is made by Saritha S.Nair, result of collusion with the erstwhile office bearers of the Kerala Police Association - Sri.C.R.Biju and C.T.Baburaj then General Secretary and Treasurer respectively. This aspect of the matter has already been considered



with reference to the telephone call details furnished by the State Police Chief the enquiry report of Sri.Mohammed Shaffi, Dy.S.P. and found that those materials do not support the case of the Association. In the absence of materials to show that the erstwhile office bearers had any prior contacts with Saritha S.Nair collusion or conspiracy alleged cannot be sustained.

Of course, there was an effort by G.R.Ajith to show that C.R.Biju and C.T.Baburaj had personal ill-will against him which provoked them to instigate Saritha S.Nair to make false allegations against him and the Association. Evidence both oral and documentary are produced.



2. The case of Saritha S.Nair was that she had paid the amount to G.R.Ajith on 22-01-2013 at a place near the northern block of the Secretariat. He has produced the tower location of the mobile phones used by Saritha S.Nair on 22-01-2013 and Road-map.

3. Saritha S.Nair used to see G.R.Ajith in the Chief Ministers office in the Secretariat whenever she visited there and got acquainted with him there. She said she had contacted G.R.Ajith in the Chief Ministers Office land phone more than 15 times. The telephone call details collected would show that from Saritha S.Nair's two mobile phones there are total calls to the C.M's office land phone and further those phone calls do not relate to the period concerned.



4. Regarding the advertisement in the Smaranika the Association has produced evidence to show that the quarter page advertisement at page 103 of the Smaranika was given by Skyline Builders. Documents in support are produced. Evidence to the effect that the Smaranika was published by giving a copy of the same by the Chief Minister Sri.Oommen Chandy to the State Police Chief on May, 2013 before the arrest of Saritha S.Nair. It is not the advertisement given by Team Solar.

Saritha S.Nair has a case that Team Solar Company had prepared a project report for installing solar panels in one Harijan colony each in the 14 Districts of Kerala at their expenses and also for installing solar panels in all the police stations in the Northern Region of Kerala with Government



participation. This project report was submitted before the Chief Minister Sri.Oommen Chndy in 2011 along with a covering letter. A cheque for Rs.2 lakhs to the Distress Relief Fund of the Chief Minister was enclosed. They had also requested the C.M. to inaugurate the State Conference of this Project. It has also come out that this function was inaugurated by the then Planning Minister Sri.K.C.Joseph at Kadaplamattom in Kaduthuruthy Constituency presided over by its MLA Sri.Mons Joseph. A copy of the resolution approved by the State Committee presented to General Body meeting of the Association conducted on 24-05-2013 in Ext.X 526. Item No.39 is for taking steps regarding installation of solar panels in all the police stations as a solution for shortage of electricity. Proceedings of Senior Police Officers Conference held at Police



Headquarters on 16-05-2013 where the Minister for Home and Vigilance, State Police Chief, Home Secretary and others were present.

The Home Minister said that Solar Panelling System has to be done in police stations and police Headquarters. Proposal already sent for Police Headquarters. A COB message of ADGP (NZ) dated 17-05-2013 (Ext.X 528) calling for a preliminary study report to be submitted to the Government by the end of that month.

This, prima facie, would show that Saritha's project report submitted to the Chief Minister in June 2011 can be related to this. It has also come out that this proposal/decision has not so far been implemented.

The position now obtained is:



An allegation came in the Kerala Legislative Assembly on 13-06-2013 and in Mangalam Daily immediately thereafter that Team Solar Company had sponsored the Annual Conference of the Kerala Police Association by spending lakhs of rupees collected from the solar scam customers by Saritha S.Nair and Biju Radhakrishnan. Sariha S.Nair has paid this money. Then, on 05-02-2016 and 06-02-2016 Saritha S.Nair has deposed before this Commission that she has paid Rs.20 lakhs to G.R.Ajith, General Secretary of the Kerala Police Association as requested by him by way of donation.

These allegations, at the instance of the State Police Chief and as per directions of ADGP (SZ) Sri.A.Hemachandran, IPS, head of the SIT constituted by the State Police Chief got enquired by Sri.Reji Jacob, AC, DCRB, Thiruvananthapuram City in 2013 and



later by Sri.Mohammed Shaffi, Dy.S.P.,
SBCID, Thiruvananthapuram.

These allegations, needless to say, had to be got verified by asking Saritha S.Nair, her office staff and by verifying the Companies Accounts, bank account etc. which were in the possession of the investigating officers of the SIT. Mr.Reji Jacob, AC was one of the members of the SIT. Admittedly, this have not been done. The answers of the two Dy.S.Ps. for not doing so are curious which has already been noted. Saritha S.Nair in her deposition before the Commission has stated that this Rs.20 lakhs paid to G.R.Ajith is the amount received from the customer Sri.T.C.Mathew in two instalments.

Both the officers entrusted with the enquiry regarding the allegation of payment of Rs.20 lakhs in their reports Ext.X 564

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and Ext.X 525 have confined their enquiry to matters connected with the advertisement in the Smaranika published by the Association.

The fact that on the date of alleged payment of money on 22-01-2013 she was not in the Secretariat premises as per phone location etc. by itself or that G.R.Ajith was elsewhere at that time by themselves that it need not negate the allegation.

It is to be noted that as per clause 12(3) of the Constitution of the Association (Ext.X 529) they shall not collect donations from any individual, organisations or others.

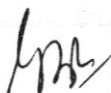
Clause 12 (1) clearly says that its capital fund consists of membership fee, grants, if any, from Government and money collected with the prior permission of the Government.



In view of the provisions of Section 109 of the Kerala Police Act, 2011 and the Government Order - G.O.(MS) Bi,134/79/Home dated 04-10-1979 issued by the Government of Kerala, Home (SSC) Department granting permission to the Police Personnel to form Associations under which in the Constitution of the Kerala Police Association.(Ext.X 529), is made the Secretary of the Commission, in writing, requested the State Police Chief, Kerala to furnish a copy of the Government Order mentioned above.

Now, the State Police Chief by letter No.T8-24886/2016/PHQ dated 20-04-2017 has forwarded a copy of the Government Order dated 04-10-1979 for the Constitution of the Kerala Police Association.

This order says -



Government are pleased to grant permission to the Police Personnel to form association on the broad guidelines recommended by the National Police Commission. One for Police Constables and Head Constables, one for Assistant Sub Inspectors, Sub Inspectors and Circle Inspectors and one for State Police Officers of the rank of Deputy Superintendents of Police and Superintendents of Police (Non-IPS). Government also accept in Principle the establishment of staff councils and a Joint consultative Council at the State headquarters. Orders on the details of the Constitution and the functioning of the staff councils and the Joint Consultative Council at the State level will be issued separately by the Government.

The Inspector-General of Police in his letter read above has forwarded the draft rules for the constitution of the following three Associations for Policemen:-

(1) The Kerala Police Constabulary Association for Constables and Head Constables.

(2) The Kerala Police Inspectors' Association for Assistant Sub



Inspectors, Sub Inspectors and Circle Inspectors.

Rule 5 - Aims and objects says -

(1) The Association is a totally non-political body functioning within the provisions of the Police Forces (Restriction of Rights) Act, 1966 (Act 33 of 1966) and Rules framed there under, the Kerala Police Act, 1960 (Act 5 of 1961) and any other Act or Rule governing the rights, duties, discipline and conditions of service of the Police Force of the State existing or enacted by the Government from time to time.

(2) The members shall not have the right to strike work, withhold their services, or otherwise delay the performance of their duties, or the right to resort to any other form of coercive method or agitation and shall not engage in demonstration or any other similar activity which will undermine the discipline, efficiency or impartiality of the Police Force or of any individual member.



Rule 5 (5) (e) and (f) reads -

(e) to safeguard the collective interests of the members of the Police Force through the means provided under the rules governing the Association;

(f) to effectively voice and seek redressal of the genuine grievances of the members of the Police Force;

Rule 10 deals with the duties, functions and responsibilities of the Office-bearers.

The General Secretary as per rule 10(3) inter alia is to conduct correspondence pertaining to the Officers of the State Association and in General manage the various activities of the Association.

The Supreme authority of the Association as per rule 10(7) is vested in the General body.

Rule 11 dealing with meetings sub-rules 7 and 11 are relevant - reads

-



(7) The agenda for meetings shall be circulated along with the notice for the meeting and copies of the same shall be furnished to the Unit Head/Head of the Department simultaneously;

(11) Copies of all the resolutions moved and lost or carried shall be furnished to the Unit Head/Head of the Department as the case may be for information and further action.

Rule 12 deals with Finances.- Sub rules (1), (2) and (3) reads -

(1) The funds of the Association shall consist exclusively of subscriptions from members and grants if any made by the Government or the money collected with prior sanction of the Government and shall be used only for the furtherance of the objects of the Association.

(2) The Association shall not ask for or collect money other than



subscriptions from members of the Association.

(3) No donation shall be accepted by the Association from any individual, voluntary agency or organisation.'

Government by G.O.(MS) No.155/79/Home dated 17-11-1979 approved the draft rules for the Constitution of three Police Associations including the Kerala Police Association.

From the report of Sri.Reji Jacob, AC (Ext.X 564) it is seen that the State Police Chief vide order NO.C4/27575/2013 dated 01-04-2013 has accorded sanction to the association to accept donation for advertisement in the Smaranika 2013 at moderate rate (മിതമായ നിരക്ക്). The State Police Chief also instructed the General Secretary of Kerala Police Association to keep proper accounts and produce the



statement of accounts for inspection on demand. From the statement of accounts produced the maximum amount by way of advertisement collected from a party is Rs.2 lakhs.

If, as a matter of fact, the allegation made by Saritha S.Nair that she has paid Rs.20 lakhs to the Police Association by way of donation is true the receipt of which is in clear violation of clause 12(3) of the Bylaws of the Association and Rule 12 (3) in the Government order. If it is for the advertisement even going by the orders of the State Police Chief mentioned above this Rs.20 lakhs is not a moderate amount. Then, if it is also in consideration of passing a resolution for installing solar panels in the police stations in the State and for getting orders obtained from the State Police Chief/Government then it may amount to a serious offence attracting the



provisions of the P.C.Act. It is not clear as to whether the ADGP (SZ) Sri.A.Hemachandran, IPS, head of the SIT had borne in mind any of these matters while entrusting the enquiry with his subordinates or considered it after receipt of the reports for them.

There is allegation in the Legislative Assembly itself that responsible police officers were assisting Saritha S.Nair for not taking legal steps by way of complaints before police and for settling the cases; instance pointed out is Aranmula Baburaj case where a Dy.S.P. stated to have dissuaded him from filing complaints.

Sri.C.Mohandas, Purchase Manager of Team Solar Company was examined before this Commission as CW 48 on 26-05-2015. In answer to a question by the Advocate for the Commission at page 44 - 45 regarding



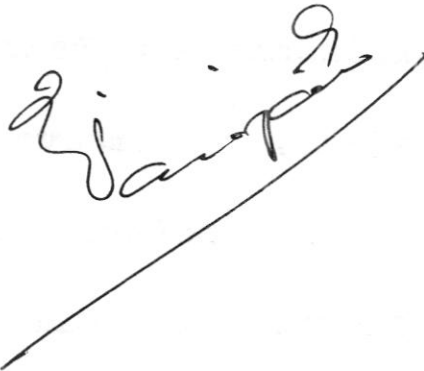
settlement of cases by paying money he answered that lot of complaints came before the police; Saritha S.Nair through phone settled the matters and for payment of the settled amount he went to the office of the Assistant Commissioner of Police Sri.Sunil Jacob. This prima facie shows that Saritha S.Nair had some influence with police.

It is also worthwhile to note that complaint against Saritha S.Nair, Biju Radhakrishnan and Team Solar Company made by Sri.Sajaad, Perumbavoor, come in February, March, 2013 before the Ministers, I.G. and the Supdt. of Police (Rural), Aluva and serious enquiries were made which must be known to the police officers. This is also relevant to be considered in the background of the statement made by Saritha that in the Smaranika instead of Team Solar 'A Well Wisher' was given since by then she was arrested. Though her arrest was on



03-06-2013 one or two months prior to that complaints against her were kept pending.

Considering all these circumstances the Commission is of the definite opinion that a detailed enquiry in this matter by a competent forum with all powers is an absolute necessity to maintain the morale, dignity, discipline and reputation of the police force in the State.

A handwritten signature in cursive script, possibly reading 'S. J. Singh', is written over a long diagonal line that extends from the bottom left towards the middle right of the page.

Sri.Mohammed Shaffi - (CW 172) Deposition
dated 23-08-2016 - Exts.X 689 to X 690 (Depo.
Vol. XVIII Pp 290 - 370)

He is the Dy.S.P., SBCID, Thiruvananthapuram City from 14-11-2012 and his having the charge of Thiruvananthapuram City as Dy.S.P. His duty is collect confidential details political, communal and trade union and organised crimes to intelligence ADGPs from 2011 he worked under Sri.T.P.Senkumar, IPS, Sri.Ananthakrishnan, IPS Sri.A.Hemachandran, IPS and now Smt.Sreelekha, IPS working as ADGP Intelligence. There was an allegation he knows that in the Legislative Assembly on 18th June, 2013 that the Team Solar Company had sponsored the 30th Annual Conference of the Kerala Police Association held at Kollam on 21 - 24th May, 2013 by spending Rs.40 lakhs. This news was reported in Mangalam 19-06-2013. He knew that the news that based on a complaint filed by Sri.G.R.Ajith for the Kerala Police Association was got inquired by Sri.Reji Jacob, Dy.S.P.,

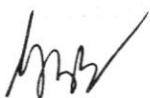


Thiruvananthapuram and found to the allegation has baseless and false.

He was not a member of the SIT investigating the solar cases in which Saritha Nair and Biju Radhakrishnan are the accused. Sri.G.R.Ajith, General Secretary, Kerala Police Association on 05-02-2016 made a complaint to the State Police Chief which was forwarded to ADGP (Int.) Sri.A.Hemachandran, IPS and he entrusted the same to him with number 16/PTN/ADGP (Int.)/2016 dated 08-02-2016 for enquire. The complaint filed by G.R.Ajith before the State Police Chief is produced (Ext.X 688) the main complaint was that in connection with the State Conference of the KPA the souvenir published in 2013 at page 103 an advertisement 'a well wisher' for which Saritha S.Nair has paid a sum of Rs.20 lakhs to him and that since she was arrested it was shown as 'a well wisher' as stated by Saritha Nair before this Commission on 05-02-2016. It is also stated in the complaint that which is as a



result of the conspiracy between Saritha Nair and Ex-office bearers of the Association Biju and Baburaj. He was directed to enquire into these two matters. He did not see the report of the enquiry conducted by Dy.S.P. Sri.Reji Jacob on the complaint made by G.R.Ajith based on the discussion in the Assembly. He talks to Sri.Reji Jacob on the subject. He had considered two matters already stated for which the details of the advertisement in the smaranika he had collected and found that the advertisement has a well wisher was given by Skyline Builders and a cheque for Rs.10,000/- for inner black & white half page was received from them. The next item considered by him was regarding the 39th resolution accepted by the Association on 24-05-2013 regarding installing solar panels in all police stations by way of relief to the power shortage and the COB message No.B1/9062/2013 dated 17-05-2013 of ADGP (NZ). It is for submitting a report to the Government after a preliminary study regarding the



feasibility of installing solar panels in all police stations before 31-05-2013. He said on further enquiry it is understood that no further action was taken therein for installing the solar panels. A message sends by Biju.C.R. through whatsapp was considered mainly for the alleged conspiracy. He said except Saritha Nair others namely Biju, Baburaj and staff of the company were met and details collected, he had maintained a file in this regard but in the intelligence. There is no recording of the details so collected except to keep it by way of a kurip. Therefore it will not be seen from the file that for about the persons who were conducted and what are all the details collected from them.

It was brought to his notice the deposition of Sri.C.R.Biju before the Commission that a statement was taken by him. He answered that, he met Sri.Biju; asked questions and answers obtained. He took down only the required the details but not recorded by way of a statement.



He also admitted that while questioning Biju.C.R. on 25-07-2016. He did not ask about Georgekutty and Advocates Sri.Rajendran and Sri.C.D.Johnny. He also said that he did not question Georgekutty. It was brought to his notice that he in paragraph 1 of the report submitted ADGP (Int.) on 22-02-2016 has stated the details of the deposition of Saritha Nair regarding payment of money to the KPA, but in the enquiry he had confined it to the advertisement in the souvenir and the resolution 39 and the COB of ADGP (NZ) Sri.Sankar Reddy and the inconsistency and came to the conclusion that there is no substance in the allegation made by Saritha S.Nair. He said he did not enquire into the entire allegation made by Saritha Nair before the Commission about the Police Association and he had enquired only about the complaint made by G.R.Ajith on 05-02-2016. He was asked why Saritha Nair was not question to ascertain the truth of the allegations. His reply was the enquiry being



made by them Intelligence is a confidential nature, to Saritha Nair to the office and collect details confidentially is difficult. It is for this reason he did not either see Saritha S.Nair or question her. He said the enquiry by DCRB is open while by the Intelligence is confidential. He has also produced the details collected by him X-690. There was no allegation in the complaint of the Police Association about Georgekutty, Advocates B.Rajendran and C.D.Johnny and hence they were not contact. He knows that Sri.Ajith frequently comes to the office of the Chief Minister.

Intelligence department, he said, used monitor the persons who are involved in serious crimes particularly monitor communal gundaas. There was no system of gathering information regarding the activities of the personal staff of the Ministers. Now on account of such events while making appointment of personal staff scrutiny is being made. He further said that it is the duty of the Police to prevent crimes



accordingly if the news regarding the meeting of persons like Saritha Nair who are involved in a number of criminal cases meets the C.M., Ministers and other officers. It is the responsibility of the police officers who knows the antecedents' to bring it to the notice of such officers.

hpc

DEPOSITION OF SRI.S.SATESH BINO, IPS - CW 186

Sri.Sathish Bino, IPS, City Police Commissioner, Kollam was examined before this Commission as CW 186 on 28-10-2016 and his deposition recorded. (Depo. XX Pp - 1- 38).

He was the Superintendent of Police, Ernakulam Rural, Aluva from 1st January, 2013 to January, 2015. He said he is aware of the allegation regarding solar scam of Saritha S.nair and Biju Radhakrishsan as Lakshmi Nair and Dr.R.B. Nair discussed in the Assembly and outside. He is also aware of the constitution of the SIT for inquiring into solar scam criminal cases in which Saritha S.Nair and Biju Radhakrishnan are involved and that one of the important cases investigated by the SIT is Cr.No.368/2013 of Perumbavoor Police Station registered on the complaint of Sri.Mudikkal Sajjad. Sri.Sajjad submitted a complaint dated 27-02-2013 (Ext.X 726) with the allegation that Biju Radhakrishnan and Saritha together had undertaken to establish Solar Plant and Wind



Mill working and obtained Rs.47 lakhs 50 thousand from him as consideration and cheated him by not complying with the said contract. He wanted the S.P. to summon the accused and on mediation get back the money to him. In the said complaint Sajjad had stated that R.B.Nair and Lakshmi Nair told him that they have connection with Kerala Chief Minister Sri.Oomman Chandy, Central Minister Dr.Farooq Abdulla, that Biju Radhakrishnan is the Principal Advisor of Dr.Farooq Abdulla and that Biju Rshakrishnan has got a Doctorate in Renewable Energy. Sajad had also stated in the complaint that he was led to believe that their business has got Kerala Government recognition evidenced by record and that Biju is the Personal Advisor of the C.M. Sajjad had further stated in the complaint that on enquiry made by him it is understood that the accused in the name of Team Solar Company had collected lot of money from various persons by telling them that they have got connection with the C.M.

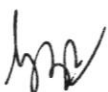


The witness has stated that the request of Sajjad was to summon the accused and take necessary steps by mediation to get back the money from them. Because of the criminal nature of the complaint, for finding out the steps that can be taken in the matter, he requested the Dy.S.P. (Narcotic Cell), for necessary action and report and to discuss with him in the matter. His idea was to take a decision as to further steps to be taken after obtaining report. Copy of the complaint of Sajjad was given to the Dy.S.P. who submitted a report on 11-03-2013 (Ext.X 727). Copy of the statement taken from Sajjad was enclosed. In the statement of Sajjad given to the Dy.S.P. it is stated that R.B.Nair is an IPS Officer; Principal Advisor to Central Minister Farooq Abdulla and had connections with Kerala C.M. Sri.Oomman Chandy. He was led to believe these connections and told him that a solar power plant can be established in his residential compound at Government expense. On the 2nd day



when R.B.Nair came to his residence he was shown a letter recommending the inclusion of Mudikkal Power Plant in the Emerging Kerala Project. He was also told that the inauguration of the construction of the solar power station can be got done by the C.M. on 10th November.

Copy of the report dated 11-03-2013 of the Dy.S.P., was shown to the witness and asked him whether any of the matters stated by Sajjad regarding the high dignitaries and their connection with the accused were mentioned in the report. His answer was that the officer who enquired with reference to the facts available before him was of the view that there is no evidence to support the higher connection and based on the documents submitted by Sajjad suggested for registering FIR in the matter. It is only in view of the seriousness of the allegation made in the complaint that he got the matter enquired into by a Dy.S.P., and based on the report issued directions to register a case and conduct a detailed enquiry. He was informed



that Sajjad in his deposition before this Commission made on 12-01-2015 has stated that his intention in filing the complaint before the S.P., Aluva (Rural), Kochi was to get back the money only and that the S.P. had told him that there is no possibility of getting back the money and therefore he was asked to proceed in accordance with law. Based on that, he gave a statement before the SHO, Perumbavoor on 20-03-2013. The witness said that he instructed Sajjad to file complaint before the SHO and he does not remember the other matter stated by Sajjad. It was brought to the notice of the witness that the Dy.S.P. who was examined before this Commission on 14-10-2015 has deposed that he contacted Saritha Nair over phone three times; first time her reply was that she is in the midstream installing Wind Mill in Tamil Nadu and therefore time must be granted to for appearance; the second time she said if required he will be contacted from the C.M's office .On the third occasion Saritha said that she was



advised by the Advocate General that she need not go to the Dy.S.P. The witness said that the Dy.S.P. did not tell all these matters to him. The Perumbavoor Dy.S.P. Sri.K.Harikrishnan was his immediate subordinate officer. Sri.Padmakumar was the I.G. of Police, Kochi Range. The I.G. did not tell him about the Perumbavoor case in which Saritha Nair is involved. Sri.Harikrishnan, Dy.S.P. had told him that a lady who is involved in a cheating case is arrested and that steps are being taken to get her in custody for questioning. He knew that it was Lakshmi Nair. Many of the subsequent events such as production of Saritha Nair before the ACJM (EO) Court, Ernakulam, the letter alleged to have been seized from her in the Pathanamthitta jail etc. he said he was not informed and therefore he does not know. He does not remember about the instructions given by the Kochi Range I.G. Sri.Padmakumar, IPS to take over the investigation of Crime No.368/13 from Sri.V.Roy, Inspector of Police and to take



urgent steps for arresting Saritha Nair. He said he does not remember whether he was informed of these matters. The details of the arrest of Saritha from Edappazhanji, Thiruvananthapuram, he said, he was not aware. He does not remember. He said he did not participate in any of the proceedings in Cr.No.368/2013. Neither the State Police Chief nor ADGP Sri.A.Hemachandran, IPS had contacted him before constitution of the SIT. Likewise, then C.M., Home Minister, their Private Secretaries none had contacted him in the matter. Since, the Dy.S.P. who enquired the complaint of Sajjad said that there is no document or other evidence regarding the involvement of the higher ups he did not deal with it anymore. He said, he understood that steps for arresting the main accused Biju Radhakrishnan were also taken. He knows that under section 4 (J) of the Kerala Police Act, Police Officers are obliged to take preventing crimes and to settle the dispute between parties by taking steps for necessary



steps. He understood that serious efforts has been made in this case to arrest Saritha Nair. The information that Saritha S.Nair was arrested from her rented house at Edappazhanji, Thiruvananthapuram on 03-06-2013 might have been given from his office for the Chief Minister to answer it in the Legislative Assembly.

A handwritten signature in black ink, appearing to read 'Saritha Nair', with a long diagonal stroke extending from the bottom right of the signature.

SRI.A.C.JOSEPH, DY.S.P., CO-OP: VIGILANCE

(CW 182)

Sri.A.C.Joseph, Dy.S.P., Co-op.
Vigilance(SZ), Alappuzha was examined before
this Commission as CW 182 on 14-10-2016 and his
deposition recorded. (DW Vol.XIX Pp 174 - 193).

He has stated thus:

He was the Dy.S.P., Narcotic Cell, Aluva,
during the period 22-02-2013 - 27-04-2013. He
knew Mudikkal Sajjad of Perumbavoor while he was
working there. Sajjad made a complaint to
Ernakulam Rural S.P. that the CEO of Team Solar
Renewable Energy Solutions Pvt. Ltd. R.B.Nair
and Lakshmi S.Nair two persons undertook to
establish solar plants and three Wind Mills at
Radhapuram in Tamil Nadu for him and obtained
Rs.40,50,000/- from him and cheated him. The
said complaint was sent to him as per
No.575/Camp./PTN/13/ER for enquiry and report.
Copy of the complaint filed by Sajjad before the
S.P. on 27-02-2013 marked as Ext.X 726. He



enquired into the case took the statement of the complainant and submitted a report No.3/PTN/NCA/13/ER dated 11-03-2013 containing his conclusions together with enclosures. Copy marked as Ext.X 727. The request of Sajaad in the complaint submitted to S.P. was only to take action for getting back the money paid by him to them; it is so stated in the last paragraph of the complaint. He made attempts to contact R.B.Nair and Lakshmi Nair to ascertain the possibility of returning the money taken from Sajaad. He tried to contact the mobile phone used by R.B.Nair. It was always seen switched off. He could not get the whereabouts of R.B.Nair from anybody. He contacted Lakshmi Nair over phone. She said that she is busily engaged in establishing Wind Mills in Tamil Nadu and on all the days fixed for her presence before him she was avoiding it by telling excuses. He could understand from the telephone talks with her, she had cheated many others just as Sajaad and that due to heavy



financial liabilities, the possibility of settling the case is removed.

At that time Lakshmi Nair told him that it necessary he can be called from the Chief Minister's office. She also told that the A.G. (Advocate General) told her not to go and therefore she did not attend. He, in answer to a question said that he felt in the enquiry that Lakshmi Nair had connections with Chief Minister and other higher ups. He said, in the statement taken from Sajjad enclosed with the report Sajjad had stated that no legal action is required to be taken against Lakshmi Nair and R.B.Nair. It was suggested to him that in spite of that, in the report filed by him, he had stated that legal steps must be taken by registering the complaint against them. He said, it has been stated so.

What he stated, in the report was by taking statement from the complaintant case has to be registered against them and instructions



has to be given to the SHO, Perumbavoor in that regard.

Since he had been transferred from Aluva he did not enquire about it further but, from newspapers he understood that case has been registered and steps taken. He was asked, whether he had discussion in this matter with the S.P. Rural to which his answer was he does not remember it now. He said, he did not see Saritha S.Nair either at that time or subsequently. But, since, she did not appear before him, he over phone thrice contacted her and collected certain details from her.

Advocate for the Commission sought certain clarifications.

He was asked whether Sajjad had told him about the connections, if any, Lakshmi Nair had with the Chief Minister's office. Sajjad stated, he answered, that R.B.Nair and Lakshmi Nair told their connection with higher ups, he believed, but after the cheating when he talked



to the owner of the school in which his children were studying Mrs. Indira Rajan she told him that it may not be true and thereafter he lost confidence in them.

He was told that in the deal of Team Solar Company with Sajjad out of the 40 and half lakhs excepting Rs.6 lakhs the amount was received by R.B.Nair. He was asked from this could he understand that the main accused in this case is R.B.Nair. He said he felt so. He said, nobody from the C.M's office had contacted him. He told Saritha that it was not necessary. None of his superior officers contacted him in this matter. He said, he did not collect the CDRs. of Sajjad, Lakshmi Nair and R.B.Nair in connection with the investigation of this case. He was asked, in the circumstances that he could get Saritha over phone, having regard to the seriousness of the matter, should he not find out her location and meet her to collect her statements. He was also asked whether there was any reason for not doing so. During that period,



if it is required to talk to a person outside Kerala, permission of the DGP has to be obtained. Considering delay likely to occur he did not make any attempt.

The AILU sought certain clarifications.

He was asked, whether Saritha was directed to appear in his office. He said, yes. He did not remember the date on which Saritha Nair told him that he can be called from the office of the C.M. as also about the A.G.'s instructions. But, it was just before the preparation of the report is his memory.

He understood that A.G. mentioned by Saritha is the Advocate General. He said, to his knowledge as per the provisions of the Cr.P.C. there is no provision for summoning a person before registering a crime.

He said that Sri.Satheesh Bino, IPS was the District Police Chief (Rural) Aluva at that time. He did not tell the S.P. about the statement of Saritha that the A.G. told her she



need not appear before him. To a question whether the stand taken by Saritha Nair will amount to disrespect to the Dy.S.P. in refusing to attend his reply was that people who commit crime ordinarily used to take such a stand and therefore he did not feel anything special. He was asked whether he was not obliged to intimate the S.P. who entrusted the case for enquiry to him when Saritha S.Nair neglected the request for her appearance on the pretext that he can be called from the office of the C.M. and that the A.G. had told her that she need not go. He answered that he did not think at that time, that it is required.

It was suggested to him that he had completed the enquiry and submitted the report without Lakshmi Nair based on the instructions received from the office of the C.M. He answered that it was his suo motu decision in the circumstance that she, as the opposite party, did not co-operate with the enquiry. He was told that though in the complaint filed by



Sajjad before the District Police Chief and in the statement taken by him after questioning Sajjad, it is stated that R.B.Nair had good connection with the C.M., that the Solar plant proposed to be installed in the precincts of his house can be got established at Government expense and that its inauguration can be got done by the Chief Minister and further a recommendation letter in the letter head of C.M. was shown to Sajjad any steps taken to ascertain the truth of such statement. Nothing is stated in the report submitted by him.

He said that he understood in the enquiry that the complainant was cheated and therefore in his report he has stated that a case must be registered against the persons responsible and conduct investigation. He said, he did not contact the office of the Adv. General to ascertain whether a lady by name Lakshmi Nair was given an instruction not to appear before the police. It was suggested to him that when he had informed the S.P. about Saritha telling



him that he can be called from the C.M.'s office and that the Adv. General had told her not to attend the police, the Dist. Police Superintendent told him that he need not conduct more enquiry in the matter which will create a situation of dragging the C.M. and the Adv. General in it and therefore without mentioning the name of the C.M. and A.G. a report and prepared and submitted.

He did not record this in his report for the reason that he did not believe what she had said. As already stated he did not tell the details given by Saritha to the S.P. The S.P. did not give any instructions and the report was filed on the basis of the enquiry conducted by him.

He knows about the provisions for prosecuting and punishing a person who purposely disobeys the summons/notice or order issued under S. 174 of the I.P.C. He said summons for notice etc. sent before registration of the



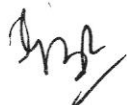
crime the said provision is not applicable, as
he understands.

Zia⁹³

DEPOSITION OF SRI.BIJU JOHN LUKOSE, INSPECTOR -
CW 77

Sri.Biju John Lukose, who was the Station House Officer of Thalassery Police Station and now working as Inspector in NIA is examined as CW 77 on 07-08-2015 and his deposition recorded. (Depo. Vo.VII Pp 281 - 312).

He had worked as Station House Officer, Thalassery Police Station for almost 1 ½ years immediately prior to July, 2013. Saritha S.Nair and Biju Radhakrishnan were accused 1 and 2 in Thalassery PS Crime No.1647/2012. The complainants were 16 Doctors. This crime case was registered as per reference from Court. He explained the procedure for the registration of a crime case and the recording of details in the CD. The copy of the CD recording then and there will be sent to Dy.S.P. through the C.I. If any instruction in the matter has to be given by the superior officers it can be done. He remembers, in the inspection remarks of the C.I. which is recorded in May, 2013 it is recorded that the accused in this case have to be arrested



expeditiously. At the time of registering the case it was treated only a cheating case and not as a solar cheating case. He, after, the inspection report of the Circle Inspector, for arresting the accused in Crime Case No.1647/2012 Saritha Nair @ Lakshmi Nair and Biju Nair @ R.B.Nair after getting permission from the superior officers had proceeded to Thiruvananthapuram in a private Innova car along with five CPOs and a woman CPO at 11 P.M. on 1st June, 2013. They reached Thiruvananthapuram by about 7 A.M. and after refreshing based on information received earlier they visited a flat where Saritha Nair was known to be residing. On verification with reference to the photos available they knew that Saritha was not residing there. They again, for identifying the residence of Saritha Nair, contacted the cyber cell, took her CDRs and examined the tower location from which it is understood that they are in the Chenganoor-Mavelikkara route. Thereafter, they enquired about the location in



the Edappazhanji area and by about 8 P.M. they located the residence of Saritha Nair. In the meantime he received a call from cyber cell and which conveyed to him another team of Kerala Police is also is enquiring about this location and asked him to co-ordinate with them. Based on this, he contacted the C.I. Perumbavoor over phone in the afternoon on 02-06-2013. He got the reply that the case is being investigated by the Dy.S.P. and therefore he cannot say anything more in the matter. He then contacted the Dy.S.P over phone but did not get the phone connected. He again called the C.I. and told him that he has also got a similar case. If the accused is arrested it must be intimated to him. He was making attempts to locate the place of her residence by taking the CDR location from the morning. Based on the CDR location for finding out Saritha Nairs house he made efforts at Edappazhanji from 3 P.M. onwards, and by about 7 P.M. found out the location and reached there. Perumbavoor Police Station team was seen



there. They were Civil Police Officers. From them it is understood that they are camping there for the last one week to arrest the accused in a cheating case of Perumbavoor P.S. Then, since as per the tower location Saritha Nair was in the Chenganoor location and since it was night time he told them to intimate him if Saritha is arrested by them. He also told them that unless they arrest the next day morning after 6 A.M. he will arrest her. He said he alone felt that there is objection in a woman being arrested during night time. By about 11.30 P.M. on that day police men in the squad called him and told that Saritha was arrested and will take her to Perumbavoor during night itself. Hearing this news he slept in the lodge and next day on way back to Thalassery he got down at his residence at Kollam took food and went to C.I. office, Perumbavoor. He met and questioned the accused there and returned to Thalassery. He made oral questions only to her; did not take her statement. For, at that time



Saritha was kept ready for taking her to court. He said he did not arrest Saritha on June 2nd night for the reason that if the court asks the need for compulsorily arresting a woman during night it will be possible to give a proper answer. He knew later, that a comping operation was conducted by Thirunvananthapuram Range for locating Saritha Nair. He said he had obtained orders from the SP, Dy.S.P. and C.I before proceeding to TVM for arresting accused Saritha Nair and Biju Radhakrishnan. He said the I.G. of Police issue orders for Range level comping operation. For locating Saritha he had obtained the CDR location by giving the mobile numbers of Saritha many times. He had obtained the CDR details of mobile phones understood to be used by Saritha Nair and they were analysed by him and verified. It is only when enquiry was made about tower location, it was found that another team has also requested for that. The CDR details collected from the service providers is not part of the CD. It is received as software



copy which will be available in the police station computer. It will also be available in the cyber cell, Kannur. He had collected the CDR details of Saritha only to ascertain the tower location and therefore did not enquire into other matters. That apart, to find out the names of persons whom Saritha called can again the service have to be contacted providers which he did not. He had obtained the CDR details of Saritha only for one month.

He said he met Saritha Nair at Perumbavoor during night time. He said an enquiry at the official level on the allegation that the phone call details of Saritha Nair collected by him has been leaked out and recommendation was for removing a CPO who was with him by name Nijesh from service.

He said Thaliparambu Dy.S.P. Sri.Sudharshanan called him and recorded his statement.



DEPOSITION OF SMT.SREEJA.A.R. WCPO - CW 76

Smt.Sreeja.A.R. WCPO 5077 of Kannur Police Station was examined before this Commission on 7th August, 2015 and her deposition recorded. (Depo. VII Pp 270-280).

She knows about the cheating case against Saritha in the Thalassery Police Station.

She said that she was also in the team of Sri.Biju John Lukose., S.I. of Police, Thalassery who went in a Innova car by about 10 - 11 at mid night on 1st June, 2013 to Thiruvananthapuram. She was not told the purpose except that in connection with a case. They reached on 2nd morning. They went to SAP Police Club there; she was left there, for, there was only one room at that time. 6.00 hrs. went out. They came back after some time they all went near to Museum police station she was asked to go to the dressing room to wear the police uniform. They all went to a flat in the City. In the flat there was only a mother and son. Realising that it is a different house they



returned to Museum PS and took rest. Had breakfast. By about noon she was asked to go to her house and told her that if her presence is required she will be called, she went home. Her presence was not required. She stayed in her house for two days. She did not know what happened thereafter. She returned Thalassery after two days.

Clarifications sought by the advocates for the Commission, the E Party and the F Party.

W. Varghese