പതിനാറാം കേരളനിയമസഭ

രണ്ടാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിടാത്ത ചോദ്യം നമ്പർ: 2271 **27-10-2026-ൽ മറുപടിയ്ക്ക്**

തിരുവനന്തപുരം കോർപ്പറേഷൻ കൗൺസിലർക്ക് ജയിലിൽ ഒരുക്കിയ സത്യപ്രതിജ്ഞാ ചടങ്ങ്

ചോദ്യം ഉന്നയിച്ച അംഗങ്ങൾ **മറുപടി നൽകിയ മന്ത്രി**

ശ്രീ. പി. മമ്മിക്കുട്ടി ശ്രീ. രമേശ് ചെന്നിത്തല
(ആഭ്യന്തര- വിജിലൻസ്, കയർ വകുപ്പ് മന്ത്രി)

(എ) തിരുവനന്തപുരം കോർപ്പറേഷൻ കൗൺസിലർക്ക് ജയിലിൽ സത്യപ്രതിജ്ഞാ ചടങ്ങ് ഒരുക്കിയ നടപടി സർക്കാരിന്റെ ആലോചനയോടെയാണോ; വിശദമാക്കാമോ;

മറുപടി: കേരള സാമൂഹ്യ വിരുദ്ധ പ്രവർത്തനങ്ങൾ (തടയൽ) ആക്ട് പ്രകാരം കരുതൽ തടങ്കലിലായിരുന്ന തിരുവനന്തപുരം കോർപറേഷൻ കൗൺസിലർ തിരുവനന്തപുരം കോർപറേഷൻ മേയർ മുൻപാകെ സത്യപ്രതിജ്ഞ ചെയ്യാൻ സൗകര്യമൊരുക്കണമെന്ന ആവശ്യവുമായി ബഹു. ഹൈക്കോടതി മുൻപാകെ റിട്ട് പെറ്റീഷൻ (സിവിൽ) നം. 23803/2026 ഫയൽ ചെയ്യുകയും, സർക്കാർ പ്രസ്തുത ആവശ്യം ബഹു. കോടതി മുമ്പാകെ എതിർക്കുകയും ചെയ്തിരുന്നു. എന്നാൽ ടിയാന് സത്യപ്രതിജ്ഞക്കായി ജയിലിൽ സൗകര്യമൊരുക്കുവാൻ ബഹു. ഹൈക്കോടതി 13.07.2026 -ൽ ഉത്തരവ് നൽകിയതിന്റെ അടിസ്ഥാനത്തിൽ ടി കൗൺസിലർ ജയിലിൽ നിന്നും സത്യപ്രതിജ്ഞ ചെയ്തിരുന്നു. ബഹു. ഹൈക്കോടതിയുടെ 13.07.2026-ലെ വിധിന്യായത്തിന്റെ പകർപ്പ് അനുബന്ധമായി ചേർക്കുന്നു.

സെക്ഷൻ ഓഫീസർ

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 13TH DAY OF JULY 2026 / 22ND ASHADHA, 1948

WP(C) NO. 23803 OF 2026

PETITIONER(S):

SUGATHAN R
AGED 43 YEARS
S/O RAVEENDRAN NAIR P, RESIDING AT PUTHANVILA VEEDU, TC 10/1223(33/170), VNRA 246-C, NEAR CPT, VATTIYOORKAVU P.O., THIRUVANANTHAPURAM, PIN - 695013

BY ADVS.
SHRI.SUVIN.R.MENON
SHRI.P.VIJAYAKUMAR
SHRI.T.C.KRISHNA
SMT.PARSHATHY S.R.
SHRI.GOVIND P.
SHRI.ACHUTH KRISHNAN R.
SMT.CRISTY THERASA SURESH

RESPONDENT(S):

1 **STATE OF KERALA**
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, DEPARTMENT OF HOME, ROOM NO. 357 A & 358, MAIN BLOCK, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM, KERALA, PIN - 695001

2 **MAYOR**
THIRUVANANTHAPURAM MUNICIPAL CORPORATION, OPPOSITE TO MUSEUM, VIKAS BHAVAN P. O. PALAYAM, THIRUVANANTHAPURAM KERALA, PIN - 695033

3 THIRUVANANTHAPURAM MUNICIPAL CORPORATION REPRESENTED BY ITS SECRETARY, OPPOSITE TO MUSEUM, VIKAS BHAVAN P. O. PALAYAM, THIRUVANANTHAPURAM KERALA, PIN - 695033

4 DIRECTOR GENERAL OF PRISONS & CORRECTIONAL SERVICES PRISONS HEADQUARTERS, POOJAPPURA THIRUVANANTHAPURAM, KERALA, PIN - 695012

5 THE SUPERINTENDENT CENTRAL PRISON & CORRECTIONAL HOME, VIYYUR, THRISSUR, PIN - 680010

6 STATE POLICE CHIEF POLICE HEADQUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM, KERALA, PIN - 695010

BY ADVS.
SRI. T. ASAF ALI,DIRECTOR GENERAL OF PROSECUTION
SRI. R. V. SRREJITH, SC, TVM CORPORATION

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

W.P.(C) No.23803 of 2026

Dated this the 13th day of July, 2026

JUDGMENT

The petitioner is an elected Councillor of the 3rd respondent Corporation. This Court, as per Ext.P1 judgment, declared that the oath taken by the petitioner and some others as councillors of the Thiruvananthapuram corporation is not in accordance with the provisions of the Municipality Act, and they have to take a fresh oath. All others accepted the judgment of this Court and took the oath as directed. But the petitioner is not able to take the oath because he is in jail based on a preventive detention order passed under the provisions of Kerala Anti-Social Activities (Prevention) Act, 2007 (for short 'KAAPA'). The petitioner seeks the indulgence of this Court for taking the oath, with the following prayers:

> *“i. issue a Writ of Mandamus, or any other appropriate writ, order or direction, directing the Respondents 1 and 4 to 6 to make necessary arrangements to produce the Petitioner before the 2nd Respondent on 14.07.2026 to take oath under Section 143 of the Municipalities Act, in compliance of Exhibit P1 Judgment of this Hon’ble Court;*
> *ii. Exempt the petitioner from filing English translated copies of the exhibits in vernacular language; And iii. Grant such other reliefs as this Hon’ble Court may deem fit and proper in the interest of justice” (SIC)*

2. The petitioner accepts the directions in Ext.P1 judgment, and he intends to take a fresh oath, but he is not in a position to take an oath because he is in jail. Hence, this Writ petition is filed.

3. The petitioner contested for election to the Local Bodies from Ward No.20 (Vazhottukonam) of the Thiruvananthapuram Municipal Corporation, and he got elected. The election was held on 09.12.2025, and the result was declared on 13.12.2025. The petitioner took the oath on 21.12.2025 and assumed office as a Councillor.

Subsequently, as mentioned above, this Court, as per Ext.P1 judgment, held that the oath taken by the petitioner and some others is invalid, and this Court observed that the competent authority will make necessary arrangements to facilitate the petitioner and others to take the oath once again within four weeks. Subsequently, the petitioner was involved in two other criminal cases (Crime Nos. 334/2026 and 696/2026). The Judicial First Class Magistrate Court-II, Nedumangad, as per Ext.P6 order, granted interim bail to the petitioner for taking oath because, as per Ext.P4, the swearing-in ceremony is fixed at the Conference Hall of Thiruvananthapuram Corporation on 14.07.2026. Now, the petitioner is unable to attend the swearing-in ceremony scheduled for tomorrow (14.07.2026) because he is detained under preventive detention under the KAAPA. Hence, this Writ Petition is filed.

4. Heard the learned counsel appearing for the petitioner, the learned Director General of Prosecution

(DGP) and also the learned Standing Counsel appearing for the Corporation.

5. Since the petitioner is detained under the KAAPA, this Court cannot release the petitioner to attend the swearing-in ceremony. But, it is submitted before the Court that, if the petitioner is not able to swear as a Councillor, even the majority of the present ruling party will lose. In such circumstances, whether this Court should step in to redress the petitioner's grievance is the question. I am of the considered opinion that, in a Democracy, the people's mandate is to be respected. Keeping in mind the same, when this Writ Petition came up for consideration on 10.07.226, this Court directed the DGP to find out whether an arrangement can be made in the jail itself for conducting the swearing-in-ceremony. Today, the DGP submitted that the petitioner is in detention under the KAAPA and cannot be released from jail. The DGP also took me through Article 22 of the Constitution of India and

submitted that as per Article 22(3) of the Constitution, even clause (1) and (2) of Article 22 of the Constitution are not applicable to persons who are detained under preventive detention, but the DGP submitted that, if this Court orders, the state is ready to do the needful for taking oath from the jail.

6. While issuing directions by this Court as per Ext.P1 judgment, this Court neither conceived nor intended to massacre democracy; rather, the directions are issued in the background of the constitutional mandate to preserve and strengthen the rule of law. Democracy, as envisaged under the constitution, is not a mere majoritarian exercise, but a structured process governed by established procedures and normative principles. Therefore, this Court issued directions in Ext.P1 judgment to see that the democratic process is conducted in a manner consistent with constitutional discipline, institutional integrity and the fundamental value of democracy.

7. In this case, if the petitioner is not allowed to take the oath, serious consequences will follow. When the very pulse of democracy is made to collapse over a solitary, disputed oath, the duty of this court is to uphold the democracy. The Court's intention is only to see that the democratic procedures are strictly followed. But the people's mandate cannot be massacred by a procedural lapse. The petitioner accepts the directions in the Ext P1 judgment. Then what is the remedy? When extraordinary situations arise, this Court must take extraordinary decisions to protect democratic principles and the people's mandate.

8. Therefore, I am of the considered opinion that this is a fit case in which the petitioner should be allowed to take the oath inside the jail. The 2nd respondent and the minimum required officers can be allowed to visit the Central Prison, Viyyur, where the petitioner is detained, and the petitioner can be allowed to take the oath as

directed in Ext P1 judgment in the presence of the 2nd respondent in the jail itself. The Standing Counsel appearing for the 2nd and 3rd respondent submitted that the 2nd respondent and his officers will go to jail and complete the procedure on tomorrow (14.07.2026) itself. If that is the case, necessary orders can be passed. Since the swearing-in ceremony of a councillor is part of the democratic process, accredited media persons should also be allowed to cover the swearing-in ceremony by the 5th respondent.

Therefore, this Writ Petition is disposed of with the following directions:

1. The 5th respondent is directed to make necessary arrangements to conduct the swearing-in ceremony of the petitioner inside the Central Prison, Viyyur, on 14.07.2026 at 11.00 AM.

2. The 2nd respondent and the minimum required officers of the 3rd respondent shall be allowed to enter the jail premises to complete the procedure. The accredited media persons should also be allowed to participate in the ceremony by the 5th respondent.

Sd/-

P.V.KUNHIKRISHNAN,
JUDGE

nvj

Judgment reserved	NA
Date of Judgment	13.07.2026
Judgment dictated	13.07.2026
Draft Judgment placed	13.07.2026
Final Judgment uploaded	13/07/26

APPENDIX OF WP(C) NO. 23803 OF 2026

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE JUDGMENT DATED 24.06.2026 OF THIS HON'BLE COURT IN WP(C) NO. 1502 OF 2026**
Exhibit P2	**TRUE COPY OF THE REPRESENTATION DATED 25.06.2026 SUBMITTED TO THE 1ST RESPONDENT**
Exhibit P3	**A TRUE COPY OF THE REPRESENTATION DATED 25.06.2026 SUBMITTED TO THE 3RD RESPONDENT**
Exhibit P4	**TRUE COPY OF THE LETTER DATED 04.07.2026 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER ALONG WITH THE ENCLOSED LETTER OF THE 2ND RESPONDENT**
Exhibit P5	**TRUE COPY OF THE LETTER DATED 05.07.2026 SENT BY THE PETITIONER TO THE 1ST RESPONDENT THROUGH PROPER CHANNEL**
Exhibit P6	**A TRUE COPY OF THE COMMON ORDER DATED 09.07.2026 IN C.M.P NO. 6 OF 2026 AND C.M.P NO. 7 OF 2026 IN CRIME NO. 334 OF 2026 OF VATTIYOORKAVU POLICE STATION**