

**IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY JURISDICTION**

I.A. No. OF 2025

IN

SPECIAL REFERENCE No. 1 OF 2025

IN THE MATTER OF:

**IN RE: ASSENT, WITHHOLDING OR RESERVATION OF
 BILLS BY THE GOVERNOR AND THE PRESIDENT OF
 INDIA**

**APPLICATION FOR DIRECTIONS ON BEHALF OF THE STATE OF
KERALA TO DECLARE THAT THE REFERENCE IS NOT
MAINTAINABLE AND SEEKING RETURN OF THE REFERENCE
UNANSWERED.**

PAPER BOOK

(FOR INDEX KINLDY SEE INSIDE)

ADVOCATE FOR THE APPLICANT: C.K.SASI

FILED ON:-27.07.2025

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To,

The Hon'ble Chief Justice of India

And his companion Justices of the Hon'ble Supreme Court of India

Humble Application of the Applicant above named.

MOST RESPECTFULLY SHOWETH:

1. The Hon'ble President of India has made the above Reference under Article 143 of the Constitution of India seeking the opinion of this Hon'ble Court on 14 issues, including on the powers of the Governor under Article 200 of the Constitution of India and the powers of the President under Article 201 of the Constitution of India. This Hon'ble Court, vide its order dated 22.07.2025, issued notice to all the States.

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2. The Applicant State of Kerala is filing the instant application seeking a direction from this Hon'ble Court to declare that the reference is not maintainable, and a further direction that the reference be returned to the Hon'ble President of India unanswered in whole or in part, for the facts and reasons set out presently.

3. Before going into the actual grounds of maintainability, it would be appropriate to set out the background based on which this reference has to be decided:

3.1 ***Cauvery Water Disputes Tribunal, Re, 1993 Supp (1) SCC 96*** has held:

83. ...We cannot, therefore, countenance a situation whereby question 3 and for that matter questions 1 and 2 may be so construed as to invite our opinion on the said decision of this Court. That would obviously be tantamount to our sitting in appeal on the said decision which it is impermissible for us to do even in adjudicatory jurisdiction. Nor is it competent for the President to invest us with an appellate jurisdiction over the said decision through a Reference under Article 143 of the Constitution.

85. ... When this Court in its adjudicatory jurisdiction pronounces its authoritative opinion on a question of law, it cannot be said that there is any doubt about the question

of law or the same is res integra so as to require the President to know what the true position of law on the question is. The decision of this Court on a question of law is binding on all courts and authorities. Hence under the said clause the President can refer a question of law only when this Court has not decided it. Secondly, a decision given by this Court can be reviewed only under Article 137 read with Rule 1 of Order 40 of the Supreme Court Rules, 1966 and on the conditions mentioned therein. When, further, this Court overrules the view of law expressed by it in an earlier case, it does not do so sitting in appeal and exercising an appellate jurisdiction over the earlier decision. It does so in exercise of its inherent power and only in exceptional circumstances such as when the earlier decision is per incuriam or is delivered in the absence of relevant or material facts or if it is manifestly wrong and productive of public mischief. [See: Bengal Immunity Company Ltd. v. State of Bihar [(1955) 2 SCR 603 : AIR 1955 SC 661 : (1955) 6 STC 446]]. Under the Constitution such appellate jurisdiction does not vest in this Court, nor can it be vested in it by the President under Article 143. To accept Shri Nariman's contention would mean that the advisory jurisdiction under Article 143 is also an appellate jurisdiction of this Court over its own decision between the same parties and the executive has a power to ask this Court to revise its decision. If such power is read in Article 143 it would be a serious inroad into the independence of judiciary."

3.2 Special Reference No. 1 of 2002, In re (Gujarat Assembly Election matter), (2002) 8 SCC 237

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After considering the judgment in *Cauvery*, this Hon'ble Court has held in para 9 that '*it is clear that this Court is well within its jurisdiction to answer/advise the President in a Reference made under Article 143(1) of the Constitution of India if the questions referred are likely to arise in future or such questions are of public importance or there is no decision of this Court which has already decided the question referred.*'

3.3 *Natural Resources Allocation, In re, Special Reference No. 1 of 2012, (2012) 10 SCC 1*

63. From the aforesaid analysis, it is quite vivid **that this Court would respectfully decline to answer a reference if it is improper, inadvisable and undesirable; or the questions formulated have purely socio-economic or political reasons, which have no relation whatsoever with any of the provisions of the Constitution or otherwise are of no constitutional significance; or are incapable of being answered; or would not subserve any purpose; or there is authoritative pronouncement of this Court which has already decided the question referred.**

65. We are, therefore, of the view that as long as the decision with respect to the allocation of spectrum licences is untouched, this Court is within its jurisdiction to evaluate and clarify the ratio of the judgment in 2G case [(2012) 3 SCC 1].

4. It is the submission of the State of Kerala that the reference is not maintainable and is liable to be returned, for the following reasons:

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- 4.1 The foundation of the reference is that Article 200 does not stipulate any timeframe upon the Governor for the exercise of his powers and functions thereunder. In paragraph 2 of the reference, it is stated that *‘WHEREAS Article 200 of the Constitution of India does not stipulate any time frame upon the Governor for the exercise of constitutional options under Article 200’*. This statement is repeated in queries 5 and 7 of the reference. This is amazing, and it is difficult to believe that the Council of Ministers, in advising the Hon’ble President, have not even cared to read the proviso to Article 200 which states that the Governor shall act “***as soon as possible after the presentation to him of the Bill for assent***”. That there is a timeline in Article 200 stands settled by no less than three separate judgments of this Hon’ble Court, including in ***The State of Telangana versus Secretary to her Excellency the Hon’ble Governor for the State of Telangana, WP(C) 333 of 2023***, and ***State of Punjab v. Principal Secretary to the Governor of Punjab W.P.(C) No. 1224 of 2023***, and ***The State of Tamil Nadu v. The Governor of Tamil Nadu, 2025 INSC 481***. If the reference itself is based on an erroneous statement, the entirety of the reference, which mainly relates to the time factor, should stand rejected.

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4.2 The present reference suppresses the single important aspect, namely, that the first 11 out of the 14 queries raised are directly covered by a judgment of the Supreme Court in ***The State of Tamil Nadu v. The Governor of Tamil Nadu, 2025 INSC 481***, delivered on 08.04.2025, merely 1 month before the reference was made on 13.05.2025. The existence of the judgment is suppressed in this reference, on which ground alone the reference has to be rejected. If a frank disclosure had been made of the judgment in the Tamil Nadu case (supra), queries 1 to 11 would no longer be res integra, and in any event, the foundational event of the time line has already been decided in the Punjab and Telangana cases (supra). These Queries 1 to 11 directly require the Supreme Court to overrule the findings in the judgment in the Tamil Nadu case(supra) and the other two cases, without letting the Court know that in fact, its exercise would result in overruling its own judgments, a power which is not available to the Supreme Court.

4.3 These questions 1 to 11 are no longer res integra and the instant reference seeks to use the jurisdiction of this Hon'ble Court under Article 143 to invest in the Supreme Court an appellate jurisdiction to overrule its own judgment, which is wholly impermissible. A reference under Article 143 of the Constitution

cannot result in the Supreme Court overruling the findings of law and fact delivered in the earlier judgments which have been pointed out above, but it can only clarify aspects where there is a doubt. The instant reference is thus a serious misuse of the power under Article 143 of the Constitution of India.

4.4 If the basic foundation is tainted and the majority of the questions are directed to the Supreme Court to overrule its judgments, the fact that there are two or three additional questions would not require the Court to answer any one of the questions.

4.5 The Union of India has not filed any review or curative petition against the judgment delivered by this Hon'ble Court in the Tamil Nadu case (supra), and has thus accepted the judgment. The judgment, having not been assailed or set aside in any validly constituted proceedings, has attained finality and is binding on all concerned under Article 141, and cannot be challenged obliquely in collateral proceedings such as in the instant reference. The President and the Council of Ministers have to act in aid of the Supreme Court under Article 144. Under the Constitution this Court cannot sit in appeal over its own

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judgments, nor can such a power be vested in it by the President under Article 143.

5. It is submitted that in view of the serious lacunae in the reference as pointed above, and the failure to mention that it really seeks to overrule undisclosed judgments of the Supreme Court, and by misinterpreting Article 200, by misstating that no timeline has been fixed by Article 200, the reference loses its legitimacy and seeks to mislead the Court into setting aside its own judgment, the existence of which, as mentioned, has been suppressed. The reference therefore deserves to be returned unanswered.
6. It therefore appears that the instant reference is being used as a device to obtain decisions on these vital issues, without disclosing and by suppressing the final findings already rendered on these issues by this Hon'ble Court, and to get this Hon'ble Court to deliver inconsistent judgments on the issue of time frame under Article 200, which is not *res integra*.
7. The Applicant reserves the right to take such additional grounds as may be advised at the time of hearing of the instant reference.

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PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Declare that the instant reference is not maintainable and has been filed suppressing material facts;
- (b) Return the instant reference to the Hon'ble President of India unanswered;
- (c) Pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

FOR WHICH ACT OF KINDNESS THE HUMBLE APPLICANT SHALL AS IN DUTY BOUND EVER PRAY.

FILED BY

A handwritten signature in blue ink, appearing to be 'C.K. Sasi', written over a horizontal line.

(C.K SASI)
ADVOCATE FOR THE APPLICANT

Filed on: 27.07.2025
New Delhi

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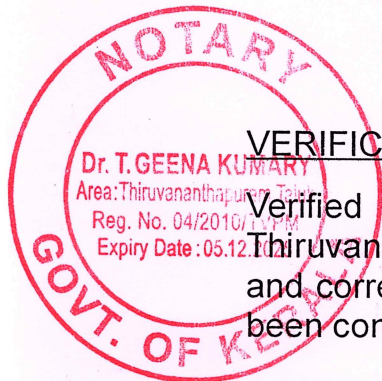
AFFIDAVIT

I, Dr. A. Jayathilak, IAS, S/o late M. Anirudhan, aged 59 years, Chief Secretary, Government of Kerala, Secretariat, Thiruvananthapuram, Kerala State do hereby solemnly affirm and state as follows:-

1. That I am the Chief Secretary to Government of Kerala and I am fully aware of the facts of this case as disclosed by the records available in my office. I am as such competent and authorized to depose this affidavit.
2. I state that I have read and understood the contents of the accompanying Application for Directions and I say that the contents thereof are true and correct to the best of my knowledge and belief.
3. The contents of para 1 and 2 above are true and correct to the best of my knowledge and nothing concealed therefrom.

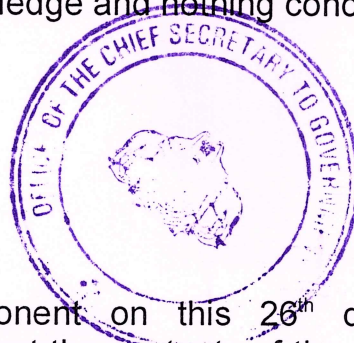
VERIFICATION

Verified by the deponent on this 26th day of July 2025 at Thiruvananthapuram that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.



Attested

[Signature]

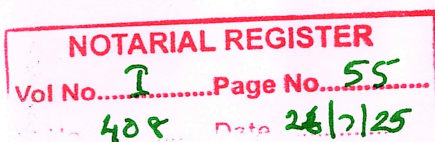


DEPONENT

[Signature]
Dr. A. Jayathilak
Chief Secretary
Government of Kerala
Thiruvananthapuram

DEPONENT

[Signature]
Dr. A. Jayathilak
Chief Secretary
Government of Kerala
Thiruvananthapuram



Dr. T. GEENA KUMARY
ADVOCATE & NOTARY
Roll No. K/1270/99
Reg. No. 04/2010/TVPM
THIRUVANANTHAPURAM-695 035