

THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SLP (CIVIL) NOS.26064-26069 OF 2024

IN THE MATTER OF:

DR.V.VENU IAS & ORS. ... PETITIONERS

VERSUS

**ST.MARY'S OTHODOX CHURCH
(ODAKALI PALLI) ORS. ... RESPONDENTS**

**AFFIDAVIT FILED BY RESPONDENTS 1 AND 2
CAVEATORS IN PURSUANCE OF THE ORDER OF
THIS HON'BLE COURT DATED 03.12.2024**

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ADVOCATE FOR RESPONDENTS : MR. E.M.S.ANAM

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SLP (CIVIL) NOS.26064-26069 OF 2024

IN THE MATTER OF:

DR.V.VENU IAS & ORS. ... PETITIONERS

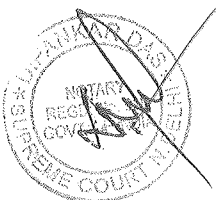
VERSUS

ST.MARY'S OTHODOX CHURCH
(ODAKALI PALLI) ORS. ... RESPONDENTS

**AFFIDAVIT FILED BY RESPONDENTS 1 AND 2
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THIS HON'BLE COURT DATED 03.12.2024**

I, Baselios Marthoma Mathew III, Catholicos of the East and Malankara Metropolitan of the Malankara Orthodox Church, residing at Aramana, Devalokam, Kottayam, Kerala State, at present in New Delhi, do hereby solemnly affirm and state as under:-

1. I am the Catholicos of the East and Malankara Metropolitan, the Supreme Head of the Malankara Orthodox Syrian Church consecrated and functioning under the 1934 Constitution of the Malankara Orthodox Syrian Church (Malankara Church). I know the facts of the case.



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The Malankara Church in these SLPs are represented by the Caveators in this case.

2. I am filing this affidavit as directed by this Hon'ble Court in para 3 of the order dated 03.12.2024, which is extracted below:-

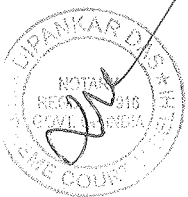
"The respondents-Malankara Orthodox Syrian Churches and their office bearers shall also give undertaking in writing to the effect that all public facilities in the Churches compound, like burial grounds, schools, hospitals etc. shall continue to be availed by everyone, including Catholics without insisting on a pledge of allegiance to 1934 Constitution for the said purpose of availing the public amenities and also subject to further directions that may be issued by this Court from time to time".

3. The disputes raised by the erstwhile Patriarch faction have been finally and conclusively settled by this Hon'ble Court by the judgment in K.S.Varghese case reported in 2017(15)SCC 333 and several other decisions of this Hon'ble Court. The judgment in K.S.Varghese has attained finality by the dismissal of a Review Petition and also Curative Petition. Now, towards the implementation of the said judgment this Hon'ble Court has passed the interim order dated 03.12.2024.
4. With great respect to this Hon'ble Court and for a fair and just implementation of the decisions of this Hon'ble Court,



the Malankara Orthodox Syrian Church (Malankara Church) represented by its Supreme Head, solemnly undertake that the public facilities in schools and Hospitals administered by the Malankara Church will be allowed to continue to be availed by everyone, including the erstwhile Patriarch group without insisting on a pledge of allegiance to the 1934 Constitution.

5. It is further respectfully submitted that the public facilities in Schools, and hospitals in the Church compound can be availed by all persons peacefully and in orderly manner for which the schools and hospitals are established and administered. The management and administration of Schools are governed by the Kerala Education Act and Rules. The schools are run in accordance with the said Act and Rules and are strictly supervised and enforced by the educational authorities of the Government. This Hon'ble Court has held in para 215 of K.S.Varghese reported in 2017 (15) SCC 333 at page 506, that educational institutions have to be run in accordance with provisions of the Kerala Education Act. Therefore, there is no question of insisting on a pledge of allegiance to the 1934 Constitution of the Malankara Church. There has not been

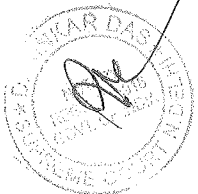


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any complaint of discrimination or denial of admission to the schools or in the impart of education, on the basis of religious faith or allegiance to the 1934 Constitution. In the services rendered by Hospitals also there is no and there will not be any discrimination on the basis of religious faith, caste, creed or allegiance to the 1934 Constitution which is not and will not be insisted. In fact, large number of poor patients are given free medical treatment in the hospitals irrespective of their religious faith and without insisting allegiance to the 1934 Constitution.

6. In the matter of burial of the dead in burial grounds attached to the parish Churches of the Malankara Church, the right to burial of a dead body is governed by the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox -Jacobite) Cemeteries Act, 2020. A true copy of the Act is produced as **Annexure-A** to this affidavit. It is respectfully submitted that by an in-advertent omission the said Act could not be brought to the notice of this Hon'ble Court. Burials are to be conducted in accordance with the provisions of this Act. Sec.6 of the Act, provides as under:

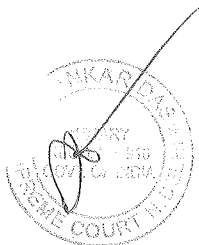
"maintenance of registers.- The Vicar of the parish shall maintain a separate register as may be prescribed for the burial of corpse conducted in



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the cemetery under section 3. The Vicar shall maintain such register as a permanent record in his office and he shall issue certificate in this behalf to any person on application made to him upon the receipt of fees as may be prescribed”.

7. Sec.3 of the Act provides for the Right to burial of corpse. Clause (2) thereof provides for the procedure. Where persons opt for funeral services at any other premises than a Church or its Cemetery, they can have funeral services at any other premises by a priest of their choice. Therefore, a strict compliance of Sec.6 read with Sec.3 of the Act is mandatorily followed for burial in the cemetery of a Church.
8. As per the 1934 Constitution, and as per the provision of this Act, it is the duty of the Vicar to maintain burial register. When the close relatives of a dead person furnishes to the Vicar the details regarding the identity, cause of death, other details of the dead person like the name and address of the dead, his close relatives like parents, wife, children, ancestors etc. to establish the identity of the dead person, the same is recorded in the register.



All the facts stated above are true and correct. That no facts which were not pleaded before the Courts below have been pleaded in this Affidavit.

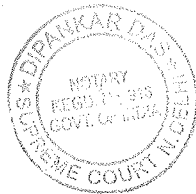
[Handwritten Signature]
DEPONENT

VERIFICATION:

I, the above named deponent do hereby verify that the contents of the above Affidavit para 1 to 8 are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

Verified at New Delhi on this the 13th day of December, 2024.

[Handwritten Signature]
DEPONENT



13.12.24
[Handwritten Signature]

ADVOCATE
DIBANKAR DAS
SUPREME COURT
NEW DELHI

[Handwritten Signature]
17.9.

7 ANNEXURE - A.

[Translation in English of “2020-ലെ കേരള ക്രിസ്ത്യൻ (മലങ്കര ഓർത്തോഡോക്സ്-യാക്കോബായ) സെമിത്തറികളിൽ മൃതദേഹം അടക്കം ചെയ്യുന്നതിനുള്ള അവകാശം ആക്ട്” published under the authority of the Governor.]

ACT 1 OF 2020

THE KERALA RIGHT TO BURIAL OF CORPSE IN CHRISTIAN (MALANKARA ORTHODOX-JACOBITE) CEMETERIES ACT, 2020.

An Act to provide for the burial of corpse and funeral services of Christians belonging to Malankara Orthodox-Jacobite denominations and for matters connected therewith or incidental thereto.

Preamble.-WHEREAS, it is expedient to provide for the burial of corpse and funeral services of Christians belonging to Malankara Orthodox-Jacobite denominations and for matters connected therewith or incidental thereto;

BE it enacted in the Seventy- first Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Kerala Right to Burial of Corpse in Christian (Malankara Orthodox-Jacobite) Cemeteries Act, 2020.

(2) It shall be deemed to have come into force on the 7th day of January, 2020.

2. *Definitions.*— In this Act, unless the context otherwise requires,-

(a) “cemetery” means a place set apart for burial of the corpses of parishioners in a concrete cell or pit made in the ground;

(b) “Christian” means any person belonging to the Orthodox-Jacobite denominations of Malankara Christian Church who believes in the Bible and accepts Jesus Christ as the only begotten Son of God and has been baptized;

(c) "Government" means the Government of Kerala;

(d) "parish" means a group of Christian families having a church or prayer hall for its members to offer worship;

(e) "prescribed" means prescribed by rules made under this Act.

3. *Right to burial of corpse.*- (1) All members of the families belonging to a parish shall have the right to be buried in the cemetery where their ancestors were buried.

(2) The relatives of the deceased member of a parish may forego funeral services in church or its cemetery or opt for funeral services at any other premises by a priest of their choice.

Explanation.-For the purpose of this section member of a family belonging to a parish includes descendants of all persons who have been buried in that cemetery but shall not include those who have left the faith of Orthodox-Jacobite Church and have embraced other denominations of Christian Church or other religions.

4. *Penalty.*- Whoever prevents or attempts or abets to prevent the burial of corpse in violation of the provisions contained in section 3 shall, on conviction, be sentenced to imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

5. *Offences shall be cognizable, bailable and compoundable.*- The offences under this Act shall be cognizable, bailable and compoundable by the family members of the deceased.

6. *Maintenance of registers.*- The Vicar of the parish shall maintain a separate register as may be prescribed for the burial of corpse conducted in the cemetery under section 3. The Vicar shall maintain such register as a permanent record in his office and he shall issue certificate in this behalf to any person on application made to him upon the receipt of fees as may be prescribed.

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7. Power to make rules.- (1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

8. *Repeal and saving.*- (1) The Kerala Christian Cemeteries (Right to burial of corpse) Ordinance, 2020 (1 of 2020) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

// True Copy //