

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 10TH DAY OF FEBRUARY 2021 / 21ST MAGHA,1942

WP(C). No. 9001 OF 2019(S)

PETITIONER:

SUO MOTU PROCEEDINGS INITIATED BASED ON A REPRESENTATION SUBMITTED BY SRI. N. RAMACHANDRAN I.P.S. (RETIRED), REGARDING THE EFFORTS TO BE UNDERTAKEN TO CURB THE INCREASING MENACE OF DRUG ABUSE.

BY SUO MOTU

RESPONDENTS:

- 1 STATE OF KERALA,  
REPRESENTED BY THE CHIEF SECRETARY,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
- 2 UNION OF INDIA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
MINISTRY OF HOME AFFAIRS, NORTH BLOCK,  
NEW DELHI-110001.
- 3 THE STATE POLICE CHIEF/DIRECTOR GENERAL OF POLICE,  
POLICE HEADQUARTERS, THIRUVANANTHAPURAM-695001.
- 4 EXCISE COMMISSIONER, DEPARTMENT OF EXCISE, NANDAVANAM,  
THIRUVANANTHAPURAM-695033.
- 5 DIRECTOR OF HEALTH SERVICES,  
HEALTH DEPARTMENT, DIRECTORATE OF HEALTH SERVICES,  
GENERAL HOSPITAL JUNCTION, THIRUVANANTHAPURAM-695035.
- 6 DRUGS CONTROLLER AND LICENSING AUTHORITY,  
DRUGS CONTROL DEPARTMENT, VANCHIYOOR P.O.,  
THIRUVANANTHAPURAM-695035.
- 7 DIRECTOR GENERAL OF NARCOTIC CONTROL BUREAU,  
MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA,  
R.K. PURAM, NEW DELHI-110066.

R1, R3 & R6 BY SRI. SUMAN CHAKRAVARTHY, SENIOR GOVT. PLEADER  
R2, R7 BY ADV. SHRI P.VIJAYAKUMAR, ASG OF INDIA

THIS WRIT PETITION(CIVIL) HAVING BEEN FINALLY HEARD ON 10-02-2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

S.Manikumar, CJ

Instant writ petition is registered, *suo motu*, taking note of the menace of drug consumption and trade, in the State of Kerala.

2. Short facts leading to the writ petition are that a representation dated 15.03.2019 has been submitted by Sri. N. Ramachandran, IPS (Retd.), former District Police Chief, Kottayam, to a Hon'ble Judge of this Court highlighting various aspects of drug abuse in Kerala. The letter has thrown light to the increasing rate of crimes committed by the youth under the influence of drugs and its alarming growth by the children/ students of both genders. The letter emphasised the need for proper utilisation of funds provided by the Central, as well as State Governments, in the field of drug abuse.

3. On consideration of the representation, this Court has decided to register a *suo motu* public interest writ petition. It was observed that issues concerning the rampant drug abuse were recently reported in the editorials of major newspapers in the State. It was further observed that 'Abon Kits' used by the Police in Vadodara and Gujarat can detect whether a person has consumed contraband, besides identifying the type of drug consumed. Writ court has suggested that efforts have to be taken

to identify whether any 'user-friendly' device, at the same time 'less-expensive', is available, and if so, to cause it to be procured and make the same available to the Police, Excise, and such other departments for extensive use. In the above-said circumstances, instant writ petition has been registered.

4. State Police Chief/Director General of Police, Police Headquarters, Thiruvananthapuram, respondent No.3, has filed a statement dated 14.06.2019, which reads thus:

A. It is stated that measures taken by the State Police to curb drug trafficking is shortly detailed as below. As per G.O.(Ms) No.180/2007/Home dated 27.07.2007, State Government have constituted a Special Action Force by name 'Kerala Anti-Narcotics Special Action Force (KANSAF)', to strengthen the enforcement of NDPS Act in the State with a State-wide jurisdiction. The main objective of the KANSAF is to curb manufacturing/cultivation, transportation, storage and sale of the use and trafficking of Narcotic and Psychotropic substances in large quantities in the State. This special force is taking effective steps curb the cultivation of cannabis also it is also engaging in collection collation and dissemination of intelligence about the cultivation, trade and trafficking of Narcotic and Psychotropic substances into and from the State, including cultivation, processing and selling of Ganja and its derivatives and other NDPS substances in the state. It also conducts various training programs for the police force with a view to equip them in dealing with drug

offenders, who are having international connections and sophisticated weapons and adopting new methods in smuggling and selling of NDPS and other drugs. Various awareness programs are being conducted in Schools, Colleges, Residential areas etc to create awareness among children and youths about the abuse of Drugs and Narcotic Substances and its consequences. Currently, the Addl. Director General of Police, Crime Branch, is the nodal officer of Kerala Anti-Narcotics Special Action Force. The KANSAF team is working properly, effectively and efficiently in the state under the direct supervision of the Nodal Officer.

C. Under KANSAF, a District Anti-Narcotic Special Action Force (DANSAF), headed by the District Police Chiefs, were also constituted in each district police units for the effective enforcement of NDPS Act. An officer not below the rank of DYSP, who has a good track record and interest in the action against Narcotic substances, is designated as its District Team Leader. Strong actions are being taken to dismantle the chain of distribution and sale of drugs. The District Police Chiefs conduct review meeting of the DANCE on every 15 days and also chalk out action for the next fortnight. In the meeting, there will be discussion about the actions so far taken by the DANSAF team to curb the activities of drug mafia, drug trafficking, disrupting the supply of Narcotic and Psychotropic Substances etc. In all Police Units, District Anti-Narcotic Special Action Force (DANSAF) is functioning effectively.

D. It is stated that about 60000 Student Police Cadets (SPC), who are aware about the consequences of using drugs, are

conducting awareness classes at Schools in this regard. Their services are being utilized for collecting intelligence about the details of drug peddlers and availability of Narcotic and other intoxicated articles in school premises and nearby areas. With the help of Excise officials, School Management and PTA, the Student Police Cadets conduct awareness classes regarding the evil effects of drugs. Several awareness programs like, rallies, anti drug Pledge, film shows etc are being conducted in the Educational Institutions. With the help of Students Police Cadets, schools have been observing International Day against Drug Abuse and Illicit Trafficking on 26<sup>th</sup> June of every year, During the observance, awareness classes and Cycle Rallies, Quiz Competitions, Exhibition of posters etc. are being conducted in educational institutions. As part of collection of information, complaint boxes are installed in selected schools and those boxes are being checked regularly by police.

E. A programme by name "Kerala Police Anti-Drug Campaign ASPIRATION-2018" has been carried out with an intention to establish Drug free Campus in every educational institutions in Kerala. Anti Narco Clubs have also been constituted in all the Government- Private Colleges (including parallel colleges) and other technical educational institutions in the State with a view to curb the use of drugs among the students and also to make the colleges as drug free campuses. The members of these clubs are indulging in conducting awareness classes about the drug abuse and its drawbacks and giving counseling to the students and also observing and providing information if any received about

the drug mafia, to police. Another project "Our Responsibility to Children", which was initially started by the Kerala police, is also actively working and interfering to eradicate the drug abuse among the children and youth by conducting various awareness classes, campaigns and counseling. Now the project is running under the Women and Child Development Department.

F. A project by name "SAFE KOLLAM " was set up by the Kollam City Police with the help of Janamaithri Police. Its objective is to make aware the youth and children about the evils of drug consumption. As part of the project, many seminars, awareness classes, exhibitions are conducted in various schools, colleges etc. With the cooperation of the residential associations, various programs, including drama, are conducted in the residential areas to make awareness among the students and youths. Under the project "VIMUKTHI", the De-addiction centre, is functioning in the campus of Idukki district hospital. In Kochi City, altogether 233 School Protection Groups were set up in different schools. It conducts awareness classes in the schools in cooperation with Excise and other similar departments.

G. It is stated that, under the banner of 'LAHARI VIRUDHA KAVALKOOTTAM', by utilizing the service of Narcotic Cell staff and other abled personalities in the Police and Excise departments, various awareness classes are conducted among the students in schools and colleges in Malappuram District. As a part of the Janamaithri Police and SPC Project, a flash mob namely 'Aruth Changayi' is conducted to make awareness about the evil effects of drug abuse among

children and youths in Kozhikode District. A visualization namely 'Nellikka' and a short film namely 'Mercury' are also produced as part of the SPC Project in the District against the use and sale of drugs. A very high profile Anti-Narcotic campaign called 'yes to football no to drugs', 'yes to Cricket no to drugs' is being organized throughout the State.

H. The interstate buses and trains are constantly checked to detect illegal transportation of drugs and other contraband items. Frequent district level interactions are made with similar departments to curtail drug trafficking, to exchange information, and collect inputs regarding drug trafficking. The Pharmacists in medical stores and hospitals were alerted to identify the regular consumers of psychotropic drugs and pass over the information to concerned SHOs. They were also directed not to deliver such medicines to any person below the age of 18 without valid prescription notes of the doctor. The Ex-convicts in similar cases are also being observed constantly, since habitual offenders often act as carriers of drugs and users of drugs. They are also monitored secretly. Moreover, the people who travel to other states frequently and migrant labourers are also kept under watch.

I. As a part of Special Operations viz 'Operation Cobra', 'Operation Bolt', etc., several raids and strict vehicle inspections are being conducted by the Thiruvananthapuram City Police to break the chain of drug Supply. The service of the specially trained sniffer dogs is also being utilised during vehicle inspections. Several drug mafia gangs have been caught in the Special Operations. Effective vehicle checking is being conducted round the clock at border checking points

such as Kumily, Cumbummettu, Bodimettu, Chinnar and other sensitive areas, to prevent the transportation of ganja and other narcotic substances. Frequent and combined raids along with forest officials are conducted in forest to unearth the source of cultivation of Ganja.

J. A Special Operation Group (SOG) has been constituted in all the police stations in Kochi City Police limit. The SOG members were given the list, containing the details and photographs of the ex-convict in NDPS cases, to observe whether they are active in trafficking of drugs. Special Operation Group members also keep liaison with Railway, KSRTC and Customs department. Since the North Indian labourers are the accused in a number of cases in Ernakulam Rural District in these days, the DANSAF members are concentrating in Aluva and Angamaly Railway stations. Trains which are coming from North – Eastern States are being checked regularly with the help of Railway Police and their body checking is also conducted.

K. It is also stated that an amount of Rs.53,48,100/-was sanctioned during the year 2016-2017 in favour of Kerala State towards grant of assistance from MHA, IS-II Division to strengthen Enforcement Capabilities for combating illicit Trafficking of Narcotic Drugs and Psychotropic Substances. A sum of Rs.53,29,000/- has been received from Govt. of Kerala by way of additional authorization during June 2017. From this, a sum of Rs. 40,33,357/- has been utilized so far. The unspent amount of Rs.12,95,643/- was resumed by the Government during the end of the financial year 2017-18. Efforts are made to get back the funds for proper and



approved utilisation. As per G.O.(Rt) No. 255/2019/Fin dated 11.01.2019, Government have authorized additional expenditure to the tune of Rs.2,07,000/- towards the purchase of 8 sniffer dogs and 20 brief case detection kits for the use of Kerala Anti Narcotic Special Action Force.

L. Besides, vide office letter No.S3/7607/18/PHQ dated.../02/2018, a comprehensive action plan for 3 years ie, 2017-18, 2018-19 & 2019-2020, has been sent to the Director, Narcotic Control Bureau, Ministry of Home Affairs for strengthening the enforcement activities of KANSAF. In the action plan for the year 2017-18, it was proposed to set up an Advanced Training School in the Kerala Police Academy, Thrissur, for imparting training to the officers and men in the Northern District of the State at a cost of Rs.50,00,000/-. A proposal for strengthening KANSAF and at a cost Rs.1,39,43,500/- has also been included in the action plan 2017-18. But, the MHA has not approved the proposal in the action plan 2017-18.

M. In the action plan for the year 2018-19, it was proposed to set up a Chemical Examination Centre in State FSL Headquarters at Thiruvananthapuram, exclusively for sample examination of narcotic substances seized during Anti Narcotic Raids. It was also proposed to impart extensive training to the officers and men in KANSAF in Narcotic Laws, its applications, intelligence collection, detection and handling of narcotic as well as psychotropic substance and investigation of NDPS cases. The MHA has been requested to allot a total of Rs.3,30,00,000/- for successful implementation of all proposed projects in the action plan

2018-19. But, vide letter No.V/1/2018/Assistance/P&C dated 29.09.2018 of Dy. Director (P&C), MHA (NCB), an amount of Rs.10,04,357) - only was sanctioned to Government of Kerala under the scheme towards Grant of Assistance to States for strengthening enforcement capabilities for combating illicit traffic in narcotic drugs and psychotropic substances for the year 2018-19. Action to release funds from Government of Kerala with administrative sanction is under process.

N. In the action plan 2019-2020, it was proposed to set up Counseling and Treatment Centers in each Districts for early detection of persons with affinity towards narcotic and psychotropic substances and awareness. It was also proposed to conduct an awareness campaign against drug abuse among students through Students Police Cadets. Proposals for reinforcing KANSAF and 19 DANSAF with sufficient mobility and infrastructural facilities and strengthening of School Protection Groups (SPGs) and College Protection Groups have also been included in the action plan 2019-20. In this regard, the MHA has been requested to allot funds to a total amount of Rs.3,40,00,000/- for realising the projects.

O. It was further stated that considering the suggestions of Sri. N.Ramachandran IPS (Rtd) in his representation before this Court regarding the use of "Abon Kit" for drug detection, the City Police Commissioner, Vadodara, Gujarat was requested to furnish the details in the matter. Subsequently, the Dy. Commissioner of Police, Vadodara City, Gujarat has sent a report regarding the details of "Abon Kit". In the report, it is stated that they have been

successfully using "Abon Kit" under a project "Mission – Clean Vadodara" for detecting persons who consumed drugs. This device can also detect if the suspect has consumed Narcotic Drugs of any types in the last ten days. So far 48 cases of drug detention have been positively detected using 80 "Abon Kits" and these addicted individuals could be brought to normal life after giving proper counselling. Each one of it is meant for single use and the approximate price is Rs.500/- per unit.

P. After ascertaining information from the Deputy Commissioner of Police, Crime Branch Vadodara City, regarding the efficacy of 'Abon Kits', it was decided to purchase a few numbers, on trial basis. The purchase shall be made as per the prescribed norms. The department is in constant touch with various State Governments, BPR&D, NCB etc., for exploring the possibilities for procuring effective, but less expensive and user friendly devices, if any, available in the market. After considering such alternatives, a final decision would be taken in the matter of purchasing 'Abon Kits". Initially 10 kits each would be provided to 5 City Police Commissioners. This process requires more time to follow various procedures for taking a final decision.

5. The Assistant Inspector General of Police (Public Grievances and Legal Affairs), on behalf of the State Police Chief, has filed a statement of 19.09.2019, and the same is extracted hereunder:

"A. In the statement dated 14.06.2019 submitted before this Court, the State Police Chief had stated that 50 numbers

of "Abon Kits" will be purchased shortly and the same will be distributed among five City Police units in the State on experimental basis initially. Subsequently, as per the office order No.H6-64434/19/PHQ dated 26.08.2019, 25 numbers of "Multi-6 Oral Drug Test Kits" were purchased from M/s. Rusan Healthcare Pvt. Ltd., Mumbai for Narcotic detection on a pilot basis. Of which, 15 numbers were distributed to Kochi City Police unit and 10 numbers to Thiruvananthapuram City unit. If working of the device is found to be very effective, useful and satisfactory to the force for detecting those who have consumed drugs from the experimental study, the using of the KIT would be extended to all District Police Units in the State for which more numbers "Multi-6 Oral Drug Test Kits" would be purchased.

B. It was further stated that the performance analysis of Abon Drug Detection Kit used as a pilot project in Kochi City by ACP, Narcotic Cell Kochi and Thiruvananthapuram City by ACP, Narcotic Cell Thiruvananthapuram city were obtained. The performance analysis report shows that the detection proved positive while examining the cases of MDMA Wifi Pill MDMA Marijuana to various persons at various Drug Addiction Centres. Some technical difficulties are also reported regarding the machine, including the legal sanctity before the Court of law, confirmation from Forensic Science Laboratory etc. The issues in this regard will be redressed after due deliberation. Steps have been taken for the same.

6. State Police Chief/Director General of Police, Police Headquarters, Thiruvananthapuram, 3<sup>rd</sup> respondent, has filed another

statement dated 21.11.2019, wherein he has produced a chart showing the number of NDPS Crimes registered during the period 01.01.2016 to 30.09.2019 in each Police Districts in Kerala - gender wise. Said statement is reproduced.

“A. A statement has been filed in this regard on behalf of the State Police Chief on 30.09.2019 narrating the steps taken to obtain the performance analyses of Abon Drug Detection Kit. This Court, after considering the case on 24.10.2019 issued an interim order directing that Director General of Police and State Police Chief, Kerala to furnish a detailed statement of men, women and children involved in such crimes and also the performance analysis report of ‘Abon Kits’ in the detection of NDPS crimes. In this regard a performance analysis report was obtained from the concerned authorities and the contents of the report are narrated hereunder.

B. The District Police Chief Kochi, City collected ten numbers of ABON Kit from Chief Store, Trivandrum and distributed to Assistant Commissioner of Police, Narcotic Cell, Kochi City, to check the result and performance level and 15 number was distributed to Assistant Commissioner of Police Narcotic Cell, Trivandrum. The Assistant Commissioner of Police, Narcotic Cell, Kochi City examined the Multy 6 oral drug detection device in various persons addicted to different Narcotic substances. The detection proved positive while examining the cases of MDA, LSD, Hashish Oil, Ganja, Nitrazepam Pills, etc., when checked, in co-operation with De-addiction Centres. According to ACP Narcotic Cell, 9 drug detection kits tendered positive results.

**PROCEDURES:**

**1). PRELIMINARY ANALYTICAL TEST**

1. Screening – Identify the suspected persons having consumed a Narcotic substance from his behavior and attitude depending on the influence of substance used.
2. Insert the sponge end of the fluid collector into his mouth for 3 minutes and actively swab to get the sponge saturated with Saliva.
3. Remove the collector from the mouth and insert into the test device and turn the collector clockwise and wait for one minute.
4. Rotate the collection chamber counter clockwise and set the timer for 9 minutes and read the result at 9 minutes.
5. The drug positive oral fluid specimen. will not generate a coloured line in the specific test line region of the strip and the drug negative oral fluid specimen will generate a line in the test line region.

A coloured line will always appear in the Control line region. If the control line does not appear the test result is not valid.

**II. SECONDARY ANALYTICAL TEST**

Secondary Analytical Test is used to obtain a confirmed result by sending the specimen after sealing with tamper evident tape and sent to FSL examination where Gas Chromatography or Mass Spectrography (GCMS) are preferred.

The result can be tallied with the opinion of a MRO (Medical Review Officer) for confirmation.

**ADVANTAGES**

1. No such scientific device is available till now to identify a suspected drug user either to prosecute him or save him sending to De-addiction Centres.
2. It is easy to handle and result oriented and can be used everywhere.

3. All types of common drugs / substances can be detected using this device.
4. The device can be utilized for investigation of crime and traffic accident cases.
5. The company guarantees for two years.
6. The rampant use of drugs among students and youths attending the DJ parties can be curtailed and controlled by spreading an impression of getting identified easily using this device.

#### **DISADVANTAGES**

1. The consumed person detected by the device can't be connected through reliable evidence to prove the ownership.
2. If the suspected consumed person resists the collection of oral fluid from his mouth it becomes difficult to conduct the test.
3. Positive test result does not indicate the concentration or quantity of the drug in the specimen, but only shows that he has consumed it. But, in Breath Analyzer, the concentration of alcohol in breath can be read through a printer. Hence, there is a chance of claiming the consumption of any NDPS substances on medical grounds.
4. A negative result may not necessarily indicate a drug-free specimen. Drugs may be present in the specimen below the cut off level.
5. Legal sanctity of the device for effective prosecution.

#### **REQUIREMENTS**

- 1) The device must be equipped with collecting the Biometrics or Fingerprint of the suspected person.
- 2) Additional facility providing issue of printed result.

- 3) As a practice in drunkenness tests, the addict/ suspect along with the Detecting Officer in presence of a witness, have to make their signatures in the place with non removable ink.
- 4) Enactment of suitable legislature / amendments in related laws.

7. Third respondent has filed another statement, in compliance of the direction of this Court on 25.11.2019, wherein it is stated as follows:

A) The National Survey on Extent and Pattern of Substance Use in India Report establishes that a substantial number of people use psychoactive substances in India and substance use exists in all the population groups, but the adult men bear the brunt of substance use disorders, the most. Various manifestations and studies establish that there is an alarming increase in substance abuse among youth and children in India. In spite of being aware of the harmful effects of substance use, adolescents take up this habit. Earlier, substance use was considered as a problem associated mainly with street children, but is now increasingly being seen across various sub-populations of children, school going students and out-of-school children living at home.

B) Further, anecdotal reports suggest a gradual increase in substance use among the younger population, across all socioeconomic groups, from cities to small towns and rural areas, with multiple substance use also being documented. Nationwide surveys of various health and family welfare reports 28.6% tobacco use among children and 11% alcohol use. International journal of community medicine and public health reports that 31.8% of Kerala youth abuse any one of



the substances-alcohol, smoking, pan chewing, narcotics—irrespective of time and frequency in lifetime. Commonly abused Narcotic Substances in Kerala are Ganja, Charas/Hashish, Brown Sugar, Heroin and LSD. Whereas, substances abused by children in the state are Alcohol, Ganja, Codeine Cough Syrup, Over the counter ,drugs, Whitener, Nailpolish, Lighter fluid, paint thinner, glue, solvent drug, beauty enhancing substances etc.

C) Commonly abused psychotropic ampules and tablets in Kerala are Diazepam, Lorazepam, Quatiapine, Maxgalin, Lithosun, Amphetamine, Methaqualone, Garoin, Buprenorphine, Pentazocine etc. The sources and routes of narcotic substances in case of Kerala include :- Migrant laborers from Bengal, Orissa and Assam, illicit transportation through Kambam and Theni, Opioids and designer drugs from Goa and other states, Diversion of pharmaceutical drugs from Mumbai and Delhi and transportation of opium through trucks ferrying marbles and granite.

D) Along with the diverse and multiple sources of supply of narcotic substances, more alarming concern is the increasing demand for intoxicating substances among youth and children in Kerala. Moreover, narcotic substance abuse and criminal behavioural are interrelated, and often leads to grave crimes by the abusers, especially juveniles. In order to curb this menace Kerala Police has adopted a two prong approach, which is 'Breaking the supply chain' and 'Demand reduction'.

E) In order to break the supply chain, Kerala Police focuses on intelligence collection, detection and effective

investigation of the NDPS cases. Better reinforcement of NDPS act is being carried out through Kerala Anti Narcotic Special Action Force (KANSAF), constituted in the year 2007. The main functions of KANSAF are:

- a. To collect, collate and disseminate intelligence about the cultivation, trade and trafficking of NDPS into and from the State, including cultivation processing of Ganja, its derivatives and other NDS substances in any part of the State.
- b. Act as a special operation force against the offenders either by themselves or in cooperation with other sister Govt. Agencies.
- c. To investigate under NDPS Act and monitor the trial of the cases.
- d. To liaise with the enforcement agencies of the center and other State.
- e. To arrange training programs for the Police personnel with a view to equipping them in dealing with drug offenders having international connections.
- f. Investigation of NDPS cases by following the latest judgments.

F) KANSAF consists of a team of not more than 15 members per district with a Dy.S.P as the team leader. The criteria for selection is capability and genuine interest of the officers. The district arm of the KANSAF is known as DANSAF and is headed by the District Police Chief. The performance of the DANSAF and KANSAF are reviewed by District Police Chiefs and the State Police Chief at regular intervals.

G) Besides KANSAF, the District Narcotic Cell headed by a Dy.S.P is also engaged in drug law enforcement. At grass root level, police forces of police stations and its hierarchy

along with other duties actively carry out enforcement of NDPS Act. There has been a substantial increase in detection of narcotic cases in recent times. In many cases, substances were meant to be distributed among adolescents and youth. There are several instances of detecting narcotic and tobacco substances from the premises of educational institutions.

H) Statistics show an increased drug abuse among all the categories of people, especially among adolescents and children, and increasing smuggling of narcotic drugs also. After a few rounds of discussion with the Narcotics Control Bureau (NCB) Government of India, new strategies are being planned and worked out wherein human and technology intelligence would be strengthened vigorously and interstate and inter-agency coordination would be enhanced to detect and contain drug trafficking. Interstate and inter agency meetings with the counterparts on regular intervals, augmenting the forensic examination capabilities of our FSLs to give prompt reports so that successful prosecution could be facilitated, are given priority. Besides all, special emphasis has been given to trace the origin and main players behind the scene, especially in large quantity NDPS cases. Considering the recent major catches of narcotic substances by the DRI and NCB in the premises of the major airports of Kerala, Kerala Police has also strengthened its surveillance efforts in these areas. Police has also addressed the airport and other stakeholders to get more access to the airport and its premises aiming at better surveillance over narcotic peddlers and its abettors.

I) Police are convinced that along with breaking the supply chain, a conscious effort to address the demand for such substances among the youth is essential. Hence, the Kerala Police have initiated various creative programs to address the increasing demand and to divert the energy of adolescents and youth.

J) 'Our Responsibility to Children (ORC)' is a program initiated by Kerala Police in the year 2010, to identify, scientifically correct and reintegrate to the mainstream, the children with deviant behaviour, especially of substance abuse. Now, ORC is implemented by the Women and Child Development Department with the ICPS scheme, with the collaboration of various departments, including Kerala Police. This program has evolved over the period through trials and errors with the support of eminent psychiatrists, psychologists, teachers, social activists and police officers. UNICEF is an active partner of ORC. The program is currently implemented in 320 schools of Kerala. ORC has been assessed by various agencies, including UNICEF, and is found to be very effective, and was awarded with Hon'ble Chief Minister's public policy innovation award. It is essential that ORC is extended to all the schools and colleges of Kerala, Government, aided and private. The project has already been replicated in the Union Territory of Pondicherry.

K) School Protection Groups, (SPG) ensure safety of children and curb tendency for juvenile delinquency, as well as protect children, from becoming illegal activities, by constructing an invisible wall of protection around very schools. SPGs are formed in more than 3000 schools in

Kerala. We propose to form College Protection Groups (CPG) in the coming days. Student Police Cadets (SPC) program is the most sought after student centred initiative of Kerala Police. This is a two year capacity building program to enable high school students to evolve as responsible and capable citizens by inculcating respect for the law, inner capability, self-discipline, civic sense, empathy for vulnerable sections of the society and resistance to social evils. In association with the excise department of Kerala, SPC program is doing a campaign called “Ban Badness” to educate their peers and the general public about the harmful and ill effects of substance abuse. They are also helping police in collecting and sharing intelligence about the presence of narcotic substances in and around their schools.

L) Recently, Kerala Police, in partnership with other stakeholders, has launched an initiative called “Project Hope”, to identify early school drop outs and children failing in SSLC/+2 examinations and help them to achieve academic success and acquire soft and employable skills. Due to condemnation of the society and low self-esteem, these children are often more susceptible to substance abuse, as they fall prey to the anti-social elements. “Project Hope” is an initiative to enhance self-dignity and self-worthiness. Inspired by the success of pilot in central Kerala, the project was extended to all over Kerala. It is found to be an initiative worth to be strengthened formally.

M) Kerala police has transformed 110 police stations in two phases as child friendly, through a well–orchestrated

training and infrastructure development program. All the police persons of these stations are trained in child friendly behaviour, attitude and skills, with the help of UNICEF. The Child friendly police stations have evolved as a platform for all working for the care, protection and safety of children. With the support of various agencies, they have been facilitating measures to rehabilitate, correct and reintegrate children using addictive substances. Various programs aimed at diversion tactics have also been chalked out throughout the state. Kerala police is running a Football learning centre in Trichur under the mentor-ship of veteran football player, Sri. I. M. Vijayan through which several hundreds of children are introduced to the magic world of football and trained them in basic tricks and skills of the game. Besides this, a State Wide campaign with the slogans, 'Yes to Football, No to Drugs', 'Yes to Cricket, No to Drugs' and 'Yes to Arts, No to Drugs' are also being organised.

N) Besides the above mentioned efforts, police has been playing an active role in strengthening the functions of anti-narcotic clubs in education institutions, formed by the Excise Department. Police have also been supporting the helpline facility set-up by the Indian Medical Association, even though this facility has not been fully explored by the target groups. Police is also working with various non-Governmental and Governmental agencies like Vimukthi in providing professional help and rehabilitating the identified drug addicts.

O) As directed by the 3<sup>rd</sup> respondent, ADGP (Intelligence) has submitted the details of intelligence inputs regarding

the scenario of drug abuse in different educational institutions in Kerala vide letter No B6-73512/2019-SB dated 11.12.2019. The report is self-explanatory and is produced in a separate sealed cover.

8. Heard learned counsel for the parties and perused the material available on record.

9. Application submitted by Sri. Ramachandran, IPS (Retd.) before a Hon'ble Judge of this Court is reproduced.

“Sir,

It is in such a circumstance where there is increasing drug abuse among the youth of Kerala and the resultant failure in society and familial bonds gets severe that such an application is preferred before Your Lordship. Today, our youth, especially the college students, have become a group who graze in the world of intoxication. The youth are in search of other ways apart from the era, wherein liquor was consumed for intoxication. That the liquor consumption is easily identifiable whereas the abuse of other narcotic drugs is least identified is the element which attracts the youth. The role and participation of youth in the contemporary cruel and heinous criminal activities have enormously increased today. Once a criminal activity is committed, however deadly it be, people forget it in a couple of days. Nobody goes in search of the motive behind the same or the circumstance which has led to the crime. Once the background of such youths is studied, it could be learnt that a majority of them have committed various cruelties by

losing temper under the influence of narcotic drugs. It is these deadly narcotic drugs that take our youth to a mindset of killing a girl who refused love proposal and to the slavery of bad emotions wherein one rapes his own mother. The profusely dangerous narcotic drugs like Cocaine, Hashish, Heroin, Marijuana etc. And Pregabalin, Nitrazepam, Diazepam, Nitravet, Nitose and Campose are suspected to be widely abused by the youth in our locality. We shall not pretend to be blind towards the tears of the families getting destitute and of the parents who lose children consequently.

The mischief done by the drug-addicted youths will become exposed once going through the various incidents happened recently. It could be understood from the news reports that the person who, using petrol, set ablaze the girl who had refused a love proposal at Thiruvalla was a drug addict. Three years ago, a girl was assaulted in the same manner at the SME campus of MG University, Kottayam and the girl subsequently surrendered to death. In a vehicle accident recently occurred at Ettumanoor, a mother and two girls were killed. The person responsible for that accident was a male student of 19 years of age. He, a person pursuing studies in Bengaluru, having driven the car speeding over 100 kms/hour smashed the mother and children who were walking along the roadside. The occurrence which shocked the capital city last day wherein a youth named Ananthu was brutally murdered should also be read along with the same. The video clippings of the persons accused of dancing and indulging in celebration under the intoxication of Ganja and alcohol before murdering Ananthu, have gone viral across the social media. It could be understood from the reports that



the youths, having been under the influence of liquor, brutally murdered Ananthu. Recently, there was another incident, wherein around 100 classmates, in protest against the death of a college student in Kaduthuruthy, attacked the police station. It is reasonable to suspect that in all the aforementioned cases, the accused committed these crimes being under the influence of narcotic drugs. The persons consuming these are engaging in various activities in a state of intoxication knowing nothing about the activities in which each one of them has engaged. However, we unfortunately are not equipped with devices to detect the same or to prove that they are drug-addicts.

Often, it is at the last stage of drug-addiction that the students abusing the same are identified even by their parents. They would have reached an uncontrollable state by then, having lost temper.

Today, we have got a mechanism to detect those driving after consuming alcohol and to take action. But those devices to examine those in the state of intoxication having been addicted to drugs are not available in our place.

The narcotic drug mafia have confirmed centres in school and college premises. The police, even if they could detect those abused drugs, are incapable of ascertaining their abuse by examining them at the place and time. It is necessary that the Police and Excise departments be equipped with a device like alcometer which is helpful in detecting the alcohol consumption, to detect those who abused narcotic drugs. There is no doubt that the narcotic drug abuse would considerably decrease once a device capable of detecting those abused narcotic drugs is procured for the Police, Excise

and Health departments of the Government of Kerala and constant inspection is conducted in the premises of schools, colleges and the places where youths gather.

Profuse financial aid and else are available from the Central Government to detect and control the abuse of narcotic drugs. It is the primary duty of the Government to utilize this fund in a proper manner to the maximum. In India, the Police department in Vadodara district of Gujarat have made available a device to identify those abused narcotic drugs by way of examination and the detection is being effectively implemented there.

Not even a single machine implemented by the Vadodara Police to detect the people abusing Narcotic drugs is currently available in Kerala. The Government ought to take essential steps to purchase these machines and to use it widely. It is an undisputed fact that the awareness among the youth regarding this machine and that they would get caught on using narcotic drugs will bring down the abuse of narcotic drugs considerably. If this machine is commonly used in Kerala and if it could be proven that in all major cases the accused have committed the crimes being addicted to narcotic drugs, the connection between Crimes and narcotic drugs could be inferred. While arresting the convicts involved in brutal offences on the scene it could be ascertained using this machine as to whether the person had used narcotic drugs. If constant inspection was conducted using this machine in college premises and else to detect those abused narcotic drugs and they were brought to counseling/ rehabilitation centres, it is possible to bring them back to normal life and to transform them as

responsible citizens. It is a fact that this is a great social service and would turn to be synonymous with humanity. Moreover, by constant inspection, the source of the distribution of narcotic drugs could be identified and they could be suppressed.

It is a deplorable fact that even if there are Narcotic Cells functioning in districts now, they do not extend to these areas and only limited activities are going on in these areas.

Hence, it is prayed that this application may kindly be considered and necessary orders may be issued instead of compelling the Government of Kerala to purchase modern machines for detecting those who have abused narcotic drugs and of rescuing the youths of Kerala from this deadly disaster by various departments conducting inspections effectively by making use of the same.

Faithfully

Sd/-

N Ramachandran IPS (Retd.)

Vasanth Vihar, Karur

Near Union Club, Kottayam-1

(Former District Head of Police, Kottayam)

Kottayam

15/3/2019”

10. Report of the State Special Branch, as regards drug abuse in educational institutions, reveals that in the past so many years, there is a significant increase in the number of drug abuse cases and it has become a serious problem in the educational institutions. On enquiry, it came to understand that around 400 institutions in the State are affected by drug abuse and out of the education institutions, 74.12% are

schools, 20.89% are colleges and professional institutions, and 4.97% are other institutions viz., ITI, Polytechnics etc.

11. The report also reveals that a range of drugs from Ganja, Hashish to Synthetic Drugs are used by the student community. Majority of cases registered are regarding possession and sale of Ganja. The State Special Branch has provided intelligence inputs on drug trafficking, drug peddling, drug use centered around schools, college campuses and other educational institutions to the concerned District Police Chiefs, State Police Chief, and Excise Commissioner, depending on the jurisdiction of the offence and its magnitude involved.

12. The report further reveals that in most of the cases detected in the college campuses, the seizure is below 1 kg of ganja, which is bailable, and this encourages a person to engage in drug abuse. Apart from the narcotic and synthetic drugs usage being rampant among the student community, inhaling of Noxious chemicals like whitener, ink, fevicol, varnish solution used for repairing tyre puncture, are being used by the students for getting intoxication. This would cause illness and sometimes damage their organs permanently. Since the above substances do not come under the purview of NDPS Act, no legal action was initiated. In the report, the State Special Branch has recommended the following, to curb the drug abuse in educational institutions:

- (a) In order to conduct regular checking inside the educational institutions, or personal search of students by the Police and Excise, the Government may adopt a method of establishing Campus Police Units, which is widely used in western countries. Measures may also be identified to make it easier for the enforcement agencies to enter the educational institutions, so as to enforce the NDPS Act.
- (b) To make the campuses of educational institutions drug free, the Universities/Colleges/School authorities be provided with guidelines as a charter of duties and responsibilities of such officials.
- (c) Since, most of the students are unaware of the health and career hazards, and also the legal repercussions of usage and trafficking of drugs, sensitization on health as well as legal aspects are necessary. For this purpose, the services of Student Police Cadets, NCC, NSS and other Non Governmental Organisations may be used.
- (d) There is a necessity to establish regular counseling and rehabilitation mechanisms to save the students already using drugs and addicts. For this purpose, co-operation of University authorities, affected students and their parents should be elicited.
- (e) A special scheme may be introduced to declare educational campus as drug free. The educational institutions and Universities could initiate steps to conduct anti drug programmes, health awareness campaigns and use social media to propagate the

message and conduct of voluntary random urine/blood tests of students.

13. Now, let us consider a few decisions of the Hon'ble Supreme Court, on the aspect of controlling and eradicating the drug abuse, which are extracted hereunder:

(i) In **Durand Didier v. Chief Secretary, Union Territory of Goa** (AIR 1989 S.C. 1966), the Hon'ble Supreme Court observed as under:-

“With deep concern, we may point out that the organized activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole Parliament in its wisdom, has made effective provisions by introducing this Act 61 of 1985 specifying mandatory minimum imprisonment and fine.”

(ii) In **State of Punjab v. Baldev Singh** [AIR 1999 SC 2378], the Hon'ble Supreme Court observed thus:

"4. Drug abuse is a social malady. While drug addiction eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used

for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking In Narcotic Drugs & Psychotropic Substances which was held in Vienna, Austria in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

(iii) In **Bharatbhai Bhagwanjibhai v. State of Gujarat** [2003 CriLJ 65], the Hon'ble Supreme Court observed as under:

“The Statement of Objects and Reasons of the NDPS Act categorically records the inadequacy of the existing legislation to combat illicit drug traffic and drug abuse, both at the national and international levels and it is by reason of such deficiencies in the existing laws, the legislature thought it prudent to consolidate the same and bring about a comprehensive legislation so as to meet the exigencies of the situation. A plain look at the provisions of the NDPS Act read with the Statement of Objects and the Preamble would depict the intent of the legislature as regards the offences under the said consolidated legislation, which stands expressed in rather explicit language as one of the most heinous ones in

nature. This Court, however, in consonance with criminal jurisprudence of the country has been insisting on strict compliance of the safeguards provided under the statute so as to be in tune therewith.”

(iv) In **Union of India (UOI) v. Kuldeep Singh** [(2004) 2 SCC 590], the Hon'ble Supreme Court held thus:

“8. Before dealing with the respective submissions it would be appropriate to take a journey along the legislative history leading to enactment of the Act. The statutory control over narcotic drugs was earlier exercised through a number of Central and State enactments. The principal Central enactments were the Opium Act, 1857, the Opium Act, 1878 and the Dangerous Drugs Act, 1930 which had become more or less obsolete, and practically ineffective in combating the ever-growing menace of Illicit drug traffic and drug abuse, both at the national and international levels. In the Statement of Objects and Reasons leading to enactment of the Act. It was clearly noticed that during recent years new drugs of addiction which are commonly known as psychotropic substances have appeared on the scene and posed serious problems endangering the health and safety of the citizens seriously eroding the morale of the society. The devastating effects of narcotic drugs on any person who comes to its touch are too well known. Normally, such a person ceases to be a normal human being, and is more or less reduced to a zombie living animal existence and rushing fast to meet the maker. Divine qualities of an individual who consumes narcotic drugs disappear and they are the first sacrifices one normally



makes while falling prey to use of drugs. Anxiety of the legislature is to prevent the adverse effect of such drugs and substances on the society. The Act like any other enactment aims at regulating human conduct. Drugs abuse and drug addiction are corroding the health fabric of the society. The efficacy of the Act depends on its implementation and a proper use of it to meet the challenges posed by the drug traffickers and smugglers and their tribe. The law has been made very stringent and, therefore, this court had occasion to highlight the need for strict compliance with the requirements of the Act.”

(v) In **State of Himachal Pradesh and Ors. v. Pawan Kumar and Ors.** [(2005) 4 SCC 350], the Hon'ble Supreme Court held thus:

“17. As pointed out in **State of Punjab v. Baldev Singh**, drug abuse is a social malady. While drug addiction eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. It has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. Reference in the said decision has also been made to some United Nation Conventions against illicit trafficking in narcotic drugs, which the Government of India has ratified. It is, therefore, absolutely imperative that those who indulge in this kind of nefarious activities should not go scot-free on technical pleas which come handy to their advantage in a fraction of second by slight movement of the

baggage, being placed to any part of their body, which baggage may contain the incriminating article.”

(vi) In **Binu v. Union of India and Ors.** [2011 (4) KLT (SN) 14], this Court observed thus:

“11. The vices of drug abuse and drug trafficking have reached alarming proportions. Drug abuse is a social malady which eats into the vitals of the society. Drug trafficking on the other hand corrodes the economy of the country. The ill-gotten money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. Narcotic drugs have ruined several families. May be, it is the filthy lucre behind the dope trade which attracts people to indulge in drug peddling. But nobody has a right to expose the gullible population to the perils of drug abuse and push them into a condemned world of no return. The deleterious effects of these toxins on the human system have been scientifically proved. Narcotic drugs and psychotropic substances have a sure tendency to depersonalize those who consume them and reduce them to worthless freaks of nature. Some of these drugs are so potent that even the first dose produces addiction with a craving for excess. Adolescents constitute the first causality among the vulnerable sections.”

(vii) In **Union of India (UOI) v. Mohanlal and Ors.** [(2012) 7 SCC 712], the Hon'ble Apex Court observed thus:

“7.....There cannot be anything worse than the society suffering on account of the greed or negligence of those

who are entrusted with the duty of protecting it against the menace that is capable of eating into its vitals. Studies show that a large section of the youth are already victims of drug abuse and are suffering its pernicious effects. Immediate steps are, therefore, necessary to prevent the situation from going out of hand. We, therefore, consider it necessary to direct collection of the information from the police heads of each one of the States through the Chief Secretary concerned.

(viii) In **Bachpan Bachao Andolan v. Union of India and Ors.**, [(2017) 1 SCC 653], the Hon'ble Apex Court observed thus:

**"5. United Nations Conventions**

A. India is a signatory to three United Nations Conventions, having a bearing on the issue:

1. Convention on Narcotic Drugs, 1961;
2. Convention on Psychotropic Substances, 1971;
3. Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

India has an international obligation to curb drug abuse. The United Nations General Assembly, in its 20<sup>th</sup> Special Session in 1998, has accepted demand reduction as an indispensable pillar of drug control strategies. The demand reduction strategy consists of education, treatment, rehabilitation and social integration of drug dependent persons for prevention of drug abuse.

11. This is a basic deficiency which the Union Government must redress at the earliest. We direct that the Union Government shall expeditiously conclude the national survey on drug abuse within a period of six months from today.

**Immediate concerns**

The immediate areas requiring remedial attention have been summarized below:

- i. Formulation of a national action plan for children;
- ii. Creation of a module containing an appropriate curriculum for children of all age groups in order to keep them away from drugs, alcohol and tobacco;
- iii. Setting up of de-addiction centres;
- iv. Establishing a standard operating procedure on enforcing the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 particularly Sections 77 and 78; and
- v. Implementing the action plan with the national policy on narcotic drugs and psychotropic substances which has been approved by the Union Cabinet.

14. The importance of adopting a holistic solution to deal with issues pertaining to alcohol, tobacco and drug abuse in the school curriculum has to be adequately emphasized. We are of the view that since the entire issue is pending consideration before the Government, it would be appropriate to await the ultimate formulation. However, we may indicate that rather than resting on an "implied inclusion" of such an important subject within an extant head or topic, it would be appropriate if the competent authorities consider how children should be protected from the dangers of substance abuse. These are matters which should not be brushed under the carpet. The authorities should consider how children should be sensitized (having due regard to the age and stage of the child) of the dangers of drug use, the necessity to report drug use and the need to develop resistance to prevailing peer and social pressures."

14. Drug (substance) abuse has become a worldwide menace. No part of the world is free from the curse of drug addiction. Drug abuse has emerged as a serious concern, adversely affecting the physical and socio-economic well-being of the country. It has an enormous presence on public health across various sections of the society. The epidemic of drug abuse in the younger generation has assumed alarming dimensions

in India. The stress and strain of modern-day life has rendered the individual more vulnerable to the problem of substance abuse. Addiction to drugs not only affects the individual involved, but also the family and society at large.

15. Tobacco and alcohol are the most commonly abused drugs by the children and adolescents in India, which represent a significant drug threat. Both are get away substances and are among the earliest drugs used by children and teenagers. Researches show that a preadolescent or adolescent, who smokes tobacco or drinks alcohol, is 65 times more likely to use marijuana than someone who abstains. The younger the age of experimentation, the greater the risk of serious health problems. Substance use and criminal behaviour are interrelated. Greater the involvement in substance abuse, more severe is the violence and criminality. There is an increasing trend in serious crimes such as rape, murder/attempt to murder, and burglary committed by the juveniles. Drug - crime correlation has been noted with the consumption of substances such as cannabis with murder, inhalants with rape, and opioids with snatching-related crimes.

16. In India, new findings in psychological studies show that rates of tobacco use, alcohol use and illicit drug use can be reduced by a combination of regulatory, early intervention and harm reduction

approaches. The intervention in the adolescent population can be initiated on macro level approaches such as legislation, regulation, and law enforcement to individual level interventions such as early intervention and harm reduction in those using drugs, who are at risk of acute complications.

17. The primary object of drug use prevention is to help the young people, to avoid or delay initiation in the use of drugs. If they have started already, to avoid developing disorders for example, Dependence. The general aim to prevent drug abuse, however, is much broader than this. It is the healthy and safe development of children and youth to realize their talents and potentials and become contributing members of their community and society. Effective drug prevention contributes significantly to the positive engagement of children, and young people with their families, schools and communities. Prevention is one of the main components of a health centered system to address drugs, as mandated by the three international conventions. Adolescence is a developmental period when youth are exposed to new ideas and behaviours through increased associations with people and companions beyond those experienced in childhood. It is a time to 'try out' adult roles and responsibilities.

18. The scale of drug usage in Kerala is unacceptably high. It is a

significant driver of economic under performance, crime, risk to children and health inequalities. One of the main indicators used to assess the drug policy is its effect on the rate of drug use among the young people. Prevention is cited as the main policy area aiming to reduce drug initiation and continued use.

19. There are three main strategies for drug prevention. The first involves mass media campaigns to inform and warn the public of the dangers of drug use. The second involves educating children at school about drugs. The third consists of efforts to raise awareness and change the attitude in targeted groups, such as vulnerable and disadvantaged young people.

20. In Kerala, the State Excise department is carrying out school based awareness programmes under the Vimukthi Mission Project. The State Police also through its Student Police Cadet Initiative and by way of 'School Protection Groups' conducts awareness programmes among the school children about the harmful effects of the abuse of drugs and alcohol. In spite of the earnest efforts of these agencies, the rate of illegal drug trafficking and abuse is increasing in a menacing proportion.

21. Major problem faced by the law enforcing officials is their inability to plug the supply channels that brought the drug contraband to the State. The recent trends in the drug transit ways are seemingly

innocuous ways, such as through courier consignments and speed post parcels. It is almost impossible to screen the sheer quantity of parcels and couriers shipped across the State, without specific intelligence on suspicious packages.

22. The Narcotic Drugs and Psychotropics Act, 1985 is the main statute governing drug related cases in the country. From a total of 508 cases registered in 2008, cases under NDPS Act in Kerala have risen steadily over the years. In 2017, the provisional figures of cases filed was 9242. The crime in India report of the National Crime Records Bureau, which was released in late 2017, noted that Kerala's incidence rate for NDPS cases (cases per lakh people) was 16.6 percent, second only to Punjab's 20.2 per cent.

23. The media and Government machinery have primarily focused on the "Enforcement - centered," approach to drug abuse, with a focus on the number of people arrested and weight of drugs seized. However, estimating, let alone reporting, the extent of drug problem among children is difficult when the target population is often as young as 10 years, as families and schools still remain hesitant to acknowledge the extent of the problem.

24. The strategy on preventive education and public awareness has been recognized as more efficient and cost-effective than either



enforcement or treatment. It is expected to facilitate better use of all the opportunities for prevention of drug use and to constantly evaluate effectiveness of different prevention strategies.

25. The Ministry of Social Justice and Empowerment has drafted a National Action Plan for Drug Demand Reduction (2018-2023) involving education, de-addiction, and rehabilitation of affected individuals and their families, to address the issue of drug abuse. The Action Plan calls for awareness generation through social print, digital and online media, and engagement of celebrities, besides strengthening the national toll-free helpline for drug prevention. Accordingly, to increase community participation and public co-operation in the reduction of demand, the Plan also envisages involving Panchayati Raj Institutions, urban local bodies, and organizations like Nehru Yuvak Kendra etc.

26. In November 2019, the Ministry of Social Justice and Empowerment through National Institute of Social Defense (NISD), identified 127 vulnerable districts across the country, showing acute prevalence of drug dependency. This list includes the districts of Thiruvananthapuram, Kozhikode, and Ernakulam in the State. In a recent study conducted by the Additional Professor of Psychiatry at NIMHANS Bangalore, it is stated that alcohol dependency among the adolescence school children in Kerala, is the highest ever reported in India. The study

further suggests that these highly vulnerable children may tend to have a higher risk for using other drugs, in later years.

27. Recognizing the seriousness of multifaceted implications of the substance abuse incidence in the country, the Ministry of Social Justice and Empowerment has been implementing the scheme of prevention of alcoholism and substance abuse through the National Action Plan on Drug Demand Reduction. It provides a host of services, including awareness generation, counselling, treatment and rehabilitation of dependents (addicts). The programme emphasizes on a community-based prevention approach through educational programmes and services for drug dependent persons and their caregivers.

28. According to the United Nations Office on Drugs and Crime (UNODC), 2018, in a survey conducted on drug use among the general population, the extent of drug use among youngsters remains higher than that of older people. With the traditional use of drugs such as opium or khat, exceptions have been reported. Most of the researches suggest that early (12-14 years old) to late (15-17 years old) adolescence is a critical-risk period for the initiation of substance use and that substance use may peak among young people aged 18-25 years.

29. According to the recent report of Ministry of Social Justice and Empowerment on “National Survey on Extent and Pattern of Substance

Use in India” (2019), the magnitude of substance use is stated thus:

- (a) 16 Crore people (14.6%) between the age of 10 and 75 years are the current users of alcohol, and out of them, 5.2% are alcohol dependents.
- (b) About 3.1 crore individuals (2.8%) are cannabis users, and 72 lakh (0.66%) people suffer from cannabis problems.
- (c) Overall opioids users 2.06% and nearly 0.55% (60 lakh) require treatment services/health.
- (d) 1.18 crore (1.08%) are current users of sedatives (non-medical use).
- (e) 1.7% of children and adolescents are inhalant users as compared to adults of 0.58%. Nearly 18 lakh children need help for inhalant use.
- (f) It is estimated that about 8.5 lakh people are injecting drugs (PWID - people who inject drugs).

30. Protecting children from the widespread prevalence of substance abuse is one of the biggest policy challenges, faced by India. Recent reports, of both official and private agencies, indicate that there has been a substantial increase in the prevalence of use and abuse of substances in young children. Drug use in Kerala clusters are around major cities and towns in the State. The highest number of cases come from Thiruvananthapuram and Ernakulam districts. Mattancherry near Kochi is also a hub of drug use, thanks to the high tourist flow. Migrant workers also have been found to be significant drug users.

31. To check rising instances of alcohol and drug abuse, Government of Kerala have rolled out an action plan for drug demand

reduction, under the National Action plan for Drug Demand Reduction (NAPDDR), chalked out by the Union Ministry of Social Justice and Empowerment. The Action Plan lays thrust on increased public awareness on the ill-effects of using drugs and other harmful substances. Main components of the programme would be formulating a plan for drug demand reduction, conducting awareness programme among the adolescents, stringent legal actions such as slapping Kerala Anti-Social (Activities) Prevention Act, 2007 against habitual drug peddlers and others.

32. The report submitted by the Social Justice Department for implementing NAPDDR in the State speaks about action-plan covering four fiscal years commencing from 2019-20, needs inter-departmental cooperation including that of Police, State Excise, General Education, Collegiate Education and Health departments, local bodies NGOs and others for its successful implementation. The State should conduct research studies and surveys on the extent and pattern of drug abuse. It would also have to maintain a drug abuse monitoring system and establish a database on substance abuse. Setting up of integrated rehabilitation centres for addicts and treatment clinics, developing a module for re-treatment, regulating private de-addiction centres are other major components of the plan.

33. Cannabis remains the most commonly used narcotic drug among various age groups. Kerala once had a major centre of cannabis cultivation in the Idukki district, it now receives much of the drug supply from the northern part of Andhra Pradesh and Odisha. The volume of Ganja (Cannabis) smuggled from the State of Kerala has risen significantly over the years. The trade has grown in sophistication and given rise to a robust supply chain that starts from the States like Odisha, Andhra Pradesh, Telangana and Karnataka, passes through Tamil Nadu and reaches Kerala. Law enforcement agencies in the State are overburdened on account of the sheer volume of the trade and find it difficult to control the illegal trade due to logistical and capacities issues. If unchecked, a nexus between transnational drug smugglers and terrorist elements in the region cannot be ruled out.

34. A new dimension indicating a change in Kerala's profile from a mere transit State for smuggling drugs abroad to a hub of such trade, has also surfaced in recent years. In the aftermath of several seizures of drugs from various places across the State, enforcement agencies indicate the State's slide into a preferred business location for international drug cartels.

35. According to the officials, Idukki's profile too has changed from a small scale cultivation centre of cannabis to a contraband

processing and smuggling hub. In addition to the seizure of cannabis, the Kerala State Excise Department has discovered that processing units that turn cannabis sourced from other States to Hashish, have come up in the district. A fairly elaborate network of gangs comprising inter-State agents, drug traffickers, and distributors exist in Kerala with networks outside the State for supplying cannabis to their clientele, which include schools, hostels, and colleges and hostels. Drug contraband in large quantities are seized by the State Police on a regular basis. But, most often, the investigation confronts stumbling blocks in the follow up process, as it involves inter- State crime syndicates.

36. Without the co-operation of police departments of the other States, it would be very difficult to book the real culprits. In most cases, the real stakeholders in large drug hauls are highly powerful entities in the relevant place. Hence, a more dedicated and synchronized law enforcement mechanism is needed to check the flow of drugs in the State.

- A) The Narcotic Control Bureau (NCB), an organization under the Union Home Ministry, is the only agency in the State, having a dedicated anti narcotic enforcement expertise. The NCBs functioning in the State are run by a sub zonal office located in Kochi, with limited number of staff. Owing to the spurt of high profile cases with pan Indian and

transnational reach, the NCB is put under heavy work-load. In view of the unprecedented increase in the drug related offences with international implications, the presence of a zonal level office with sufficient staff strength and infrastructure is highly mandated in the State, to effectively coordinate the anti-narcotic activities. The State Government shall approach the Union Home Ministry in this regard.

- B) There are various law enforcement organizations actively engaged in Anti- narcotic enforcement and demand reduction efforts. But, the policies and strategies / action plans concerned with reduction of supply and demand of narcotic drugs need constant evaluation and reviews, at various levels for its effective implementation.
- C) The affidavits filed by the State Police mentions the measures taken for supply reduction of substances that are abused by teenagers and the various measures taken for awareness building and demand reduction. However, there is a disturbing trend for increased abuse, which testifies doubts about the impact of these measures. There are no scientific studies on it's positive impact. Several programs without scientific studies by experts are not sufficient. There are also no critical audits on why the incidence of Substance abuse Disorders among teenagers and youth are on the increasing trend. These data are crucial in addressing the issue. The emergence of new recreational substances like MDMA, LSD, Cocaine and the like are alarming. These do not figure as emerging issues in the affidavit filed by the State Police.

- D) The issue of breaking the supply chain is done by various State and central agencies. There is a need to strengthen this. There has to be a better coordination between State agencies and central agencies. There needs to be a system for meeting key persons of these agencies to evaluate and audit activities on a monthly basis. The impact of activities needs to be documented and future directions to be made.
- E) There is a need to critically evaluate the effectiveness of present measures of awareness building, targeting youth and teenagers, as they are a fast-paced generation. Appropriate State agencies should prepare innovative awareness building strategies that are made available to all who are involved in health education. Campaigns should focus on prevention and also early detection of Substance use disorder.
- F) There are Vimukthi De-Addiction centers run by the Excise Department with the help of professionals. This service delivery needs to be evaluated by follow up scientific studies in ascertaining success/relapse etc. Relapse prevention as is practiced in advanced interventions is to be seriously considered. Hence, there is a need for a Centre of addiction medicine in Kerala considering the present threat to the young generation due to various types of substances.
- G) If there is an autonomous institution with a multidisciplinary team, it can devise treatment protocols, audit existing centers, prepare innovative awareness programs/materials, pursue research/training. It can



evolve as a model treatment centre that showcases ideal primary, secondary and tertiary prevention of Substance Use disorder and Alcoholism. It is advisable that such an institute may be headed by a mental health expert/ Psychiatrist backed by a multidisciplinary team. A project report of such a center should be prepared in consultation with the department of Addiction medicine of National Institute of Mental Health and Neuro Sciences, Bangalore and is to be submitted, within three months of the date of order to this Court. The center can be financially supported by CSR funds of the Kerala State Beverages (M&M) Corporation. State Government shall also seek necessary financial assistance for such a centre from the National Fund for Control of Drug Abuse (NFCDA), through the State Level Committee of the Narco Coordination Centre (NCORD), of which the Chief Secretary to the Government is the Chairman vide Order No.I-12023/2/2017-NCB-II, Government of India, Ministry of Home Affairs dated 29.07.2019. The Psychiatric departments of the Government medical establishments have highly skilled medical professionals in service, and their skill and experiences can be effectively used, without much financial burden to the State.

- H) The feasibility of reaching out to other persons who are having Substance use disorder from the index cases through the social work network also needs to be considered.
- I) There is a serious concern about this evil in the light of the materials available before the court. Hence, the Chief Secretary should convene a meeting of all key officials

from home affairs, excise, health, law, education and representative of State mental health authority and chalk out programs to ensure a reduction in the incidence of Substance abuse among teenagers and youth and for the implementation of the suggestions made above. The Chief Secretary, State of Kerala, shall direct to submit a report within a period of one month from the date of this order. It is important to submit a report of activities and its impact once in three months in future also, as the court is deeply concerned and keen to know about the menace that ruins the young generation.

- J) The existing law and rules are sufficient to put an effective control on the sale and abuse of narcotic drugs in the school zones in Kerala. However, there is an urgent need to make the most effective use of the legal provisions and supplement the same by adopting appropriate administrative steps effectively. It is well known that the problem of drug abuse is the result of various socioeconomic factors particular to a State like Kerala. It needs to be tackled on different fronts to gain effective control over it.
- K) Taking away all the monetary gains derived from the crime enhances the effectiveness of enforcement activities against the drug traffickers. Financial investigations that are designed to trace and identify any property acquired by the trafficker, can give information on earnings or assets attributable to contravention of provisions of NDPS Act. The illegally acquired property of such persons are liable for seizure/forfeiture under Sections 68E and 68F of the

NDPS Act, 1985. Appropriate training and capacity building measures shall be carried out to the enforcing officers, for effective enforcement in that regard.

- L) The State Police with its wide expertise in law enforcement and access to vital intelligence, has a pivotal role in controlling the sale and abuse of drugs and psychotropic substances among school children and youngsters. The community-centered initiatives like Student Protection Group (SPG) etc., are proved to be highly effective in community based preventive efforts against tobacco, alcohol and substance use. But, as of now, the activities of the SPG programme are confined to a very small proportion of the schools in the State. The Government shall seriously look into the matter and take appropriate steps to extend the SPG project-initiative to all the educational institutions, including the unaided schools and colleges.

37. That apart, as per Section 2(14) (ix) of the Juvenile Justice (Care and Protection of Children) Act, 2015, a child in need of care and protection is a child, "*who is found vulnerable and is likely to be inducted into drug abuse and trafficking*". Hence, it is incumbent upon the Child Welfare Committees (CWC) to conduct a preliminary inquiry, to find out as to whether a child produced before it is addicted to drug, alcohol, tobacco, inhalant etc. Upon such finding, the CWC shall ensure that the child in need of care and protection is sent to the nearest drug

de-addiction centre.

38. The role of Child Welfare Committee would not be limited to the treatment of a child in need of care and protection, but also ascertain the source of supply of drugs. The CWCs shall explore the possibility of devising their own methods of ascertaining such sources of drugs. Thereafter, the CWC should ensure that the procedures under Rules 56(1) and 56(2) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, are adhered to for ensuring that the police shall take necessary action thereunder.

39. Further, the Child Welfare Committee should be vigilant to ensure that the mandate of Rule 56(10) Juvenile Justice Rules is given effect to. Upon identification of suspected drug peddlers or the persons, who supply contraband to the children, the Child Welfare Committee shall forward a complaint in this regard to the concerned Juvenile Justice Board, who shall order the police to register an FIR against the drug peddlers for commission of an offence under Section 77 or 78 of the Juvenile Justice (Care and Protection of Children) Act, 2015. In order to protect the identity of minor complainants, instructions should be issued to the concerned police officers, to abstain from uploading the First Information Reports (FIR).

40. Adolescents are adventurous, self-confident and often do new

things to show that they can. By and large, this is the age at which most addicts get initiated into drugs.

41. Section 32B(d) of the NDPS Act, 1985 speaks about the fact that offence is committed in an educational institution or social service facility or in the immediate vicinity of such institution or facility or in other place to which school children and students resort for educational, sports and social activities as one of the aggravating factors, which may be justified for imposing higher than the minimum penalty prescribed for the offence.

42. In order to tackle the problem of sale of drugs in schools and colleges, the following measures can be adopted:

- a) Local police shall pay special attention to areas surrounding schools and colleges in their efforts to tackle drug peddlers.
- b) Schools and colleges be encouraged to look out for peddlers in their vicinity and report them to police.
- c) Schools and colleges be encouraged to conduct surveys (possibly anonymous) to assess the levels of drug addiction among their students, and if addicted students can be identified, to talk to their parents or wards to find medical help to cure their addiction.
- d) The Central and State Education Authorities to include a mandatory and comprehensive chapter on drug abuse and illicit trafficking and its socio-economic costs to self, society, and the country, in the syllabus for 10+1 and 10+2 students.
- e) Schools and colleges be encouraged to constitute the Anti-Drug Club to promote a drug free life among its members and also in the institution.

43. Street peddlers being an important link between the addicts and the traffickers, it is vital to contain them to tackle the drug problem. Hence, to deal with street peddlers, the following steps shall be taken:

- a) Increase the public awareness about the potential harm street peddlers can do to their societies and their children and the need to report peddlers to police and to follow up.
- b) NGOs, resident welfare societies, etc., be involved in reporting peddlers and follow up with police.
- c) Sensitize police that dealing with street peddlers is an important part of their job.
- d) Train and build capacities of the local police to deal with peddlers, including those who are addicts themselves.
- e) In large cities, develop special, mobile, anti-peddling squads of police with jurisdiction all over the city and linked to a helpline.
- f) Similar to the method of contact tracing followed in the case of Covid-19 patients, police can explore the possibility of tracking drug peddlers.
- g) Like in the case of history sheeters, there should be constant monitoring of street peddlers.

44. Giving due consideration to the menace of drug abuse and in the interest of students and their future, inputs in the report of State Special Branch, require intensive study, monitoring, and enforcement, in accordance with the statutory provisions.

45. Considering the entire material on record, we issue the following directions to the concerned:

- I. Respondent No.1 is directed to adopt a method of establishing Campus Police Units, since the Law Enforcement agencies are not conducting regular checking inside the educational institutions. Measures shall also be taken to make it easier for the police and excise personnel to enforce NDPS Act, 1985, in the educational institutions.
- II. Respondent No.1, is also directed to convene a meeting of all the key officials from the Department of Home Affairs, Excise, Health, Law, Education and representative of State Mental Health authority, Department of Social Justice, and chalk out programmes, to ensure reduction in the incidence of Substance abuse among teenagers and youth and for the implementation of the suggestions made above.
- III. The Universities/Colleges/School authorities shall be provided with guidelines as a charter of duties and responsibilities, to make the campuses of the educational institutions, drug free.
- IV. Respondent No.3 shall seek the services of Student Police Cadets, NCC, NSS and other similar organisations to tide over the situation that the students are unaware of the legal repercussions of the usage and trafficking of drugs, and the health and career hazards caused due to the usage of drugs.
- V. Respondent No.3 is also directed to introduce a special scheme to ensure that the premises of the educational institutions and Universities are drug free. The 3<sup>rd</sup>

respondent shall initiate steps to conduct anti-drug programmes in the institutions, propagate health awareness campaigns, and use the assistance of social medias.

VI. The 3<sup>rd</sup> respondent is further directed to establish counselling and rehabilitation mechanisms, to save the students who are already using drugs and addicts, and for that purpose, co-operation of University authorities, affected students, and their parents be elicited.

46. The directions issued, be complied with strictly, in letter and spirit, in accordance with law, within a period of three months from the date of receipt of a copy of this judgment. Failure to implement the directions, by the authorities concerned, would only affect many.

Writ petition is disposed of accordingly.

Registry to post the writ petition after three months, for submitting the compliance report.

Copy of this judgment shall be communicated to the Chief Secretary, State of Kerala, for appropriate action and compliance.

Sd/-  
S. Manikumar  
Chief Justice

Sd/-  
A. M. Shaffique  
Judge

krj



APPENDIX

ANNEXURE I: COPY OF NEWSPAPER REPORT/EDITORIAL DATED 16.03.2019 PUBLISHED IN THE MALAYALA MANORAMA DAILY AND ITS ENGLISH TRANSLATION.

ANNEXURE II: COPY OF NEWSPAPER REPORT/EDITORIAL DATED 18.03.2019 PUBLISHED IN THE MANGALAM DAILY AND ITS ENGLISH TRANSLATION.

ANNEXURE III: COPY OF NEWSPAPER REPORT/EDITORIAL DATED 21.03.2019 PUBLISHED IN THE MALAYALA MANORAMA DAILY AND ITS ENGLISH TRANSLATION.

ANNEXURE-IV: COPY OF NEWSPAPER REPORT/EDITORIAL DATED 16.03.2019 PUBLISHED IN THE DESHABHIMANI DAILY AND ITS ENGLISH TRANSLATION.

ANNEXURE V: COPY OF NEWSPAPER REPORT/EDITORIAL DATED 16.03.2019 PUBLISHED IN THE MALAYALA MANORAMA DAILY AND ITS ENGLISH TRANSLATION.

RESPONDENTS' ANNEXURES:-

ANNEXURE R3(A): COPY OF THE CHART SHOWING THE NUMBER OF NDPS CRIMES REGISTERED DURING THE PERIOD 01.01.2016 TO 30.09.2019 IN EACH POLICE DISTRICT OF KERALA (GENDER WISE).

//TRUE COPY//

P.A. TO C.J.