

**SYNOPSIS OF THE WRIT PETITION FILED BY K. PADMAKUMAR
(PETITIONER) IN THE HON'BLE HIGH COURT TO PAY SUBSISTENCE
ALLOWANCE TILL REINSTATEMENT IS EFFECYED AS PER RULES**

The Petitioner who had an illustrious career joined the Public Sector Restructuring & Internal Audit Board (RIAB), which is an advisory body under the Industries Department. The then Industries Secretary had given a request to the Centre for Management Development (CMD) in 1998 to spare his services. His subsequent posting was in a Government approved Post of Business Analyst in RIAB in 1998, on deputation from CMD. He was made the Secretary of RIAB in 1999 continuing the deputation from CMD. He was later regularised by the Government as Secretary of RIAB in 2011 as per severing his relation with CMD and RIAB became his Principal Employer. The Petitioner was entrusted the full additional charge of the Managing Director of Malabar Cements Ltd from October 2011. He was instrumental in steering Malabar Cements Ltd (MCL) towards an operational profit of Rs. 189 Crores from 2011-12 to 5th September 2016. The tough and un-yielding stand of the Petitioner to ensure transparency invited many troubles and threats from various ends.

While so, since 2014, a number of Quick Verifications (QVs) were conducted by the Vigilance & Anti Corruption Bureau (VACB) following complaint filed to VACB by Joy Kaitharath and a number of anonymous / pseudonymous complaints to various governmental regulatory and investigation agencies.

In June 2016, Joy Kaitharath filed a Petition as WP (C) 4932 / 2016 before this Hon'ble Court alleging corruption in Malabar Cements Ltd. **The subsequent events that unfolded has destroyed the unblemished career of the Petitioner. While committing grave atrocities on the Petitioner including arrest and suspension of the Petitioner from his parent organisation, RIAB, 5 Apex Court Judgements were violated by the Palakkad Unit of VACB.** The other officers in Malabar Cements Ltd who are arrayed as suspect officers in the 4 FIRs registered by VACB in 2016 were

been not suspended even for a day. The directions of the Hon'ble Division Bench as per the Judgement in W.A 1513 of 2016 Hon'ble Division Bench for an expeditious investigation with utmost fairness uninfluenced by any of the orders passed by the Single Bench intelligently, vigilantly and independently based on materials on record was also violated by the Palakkad Unit of VACB. The Investigating Officer who was also behind the illegal actions taken against the Petitioner continues to violate the time frame stipulated in the Executive Directive of the Director, VACB which orders that such cases should be completed in 6 months.

The Petitioner moved the Hon'ble High Court in July 2017 through WP (C) 23665 / 2017 wherein a direction was given to re-instate him based on his request to the Government for reinstatement attached request in this Petition. But the Reinstatement Order was issued by the Industries (H) Department reinstating the Petitioner as the Managing Director of Kerala Automobiles Ltd, without mentioning the terms and conditions like Deputation and violated the conventions laid down Circular No. 65/94 / fin dated 29.11.1994 for reinstatement of an Officer after suspension. The Petitioner was not appointed as a Director of that Company with reference to the Articles of Association which is a necessary condition for the appointment to be valid. **The fact that that the Petitioner was not an employee of a transferable Kerala Government service and was only an officer in RIAB, separate advisory Board created by the Government was ignored while issuing the Reinstatement Order.** Though the Petitioner represented the anomalies in the Reinstatement Order to the 2nd respondent, it bore no fruit. After one month, a deadline of 05.02 2018 was issued by the Industries Department without even referring to the Petitioner's representation.

Hence, the Petitioner approached the Hon'ble High Court with a Contempt of Court Petition No. 273 of 2018 in WP (C) 23665 of 2017 on 05.02 2018. The Industries Secretary, on 06.02. 2018, clarified before the Hon'ble High Court that the Petitioner has been **"Reinstated in Service and Posted as the Managing Director of Kerala Automobiles Ltd"**. The Contempt of Court Petition was dismissed. With a belief that his 24 years service in his

parent organisation, RIAB, will be protected, the Petitioner, on 06.02.2018 itself informed the Industries Secretary by email that he will take charge as the Managing Director of Kerala Automobiles Ltd as soon as the copy of the judgement was received.

But the Petitioner received a Government order Government Order സ. ഉ. (സാധാ) നം. 160/ 2018/പുവ. തീയതി 09/02 / 2018 stating that the Reinstatement order has been cancelled. Hence, on 13.03.2018, the Petitioner moved another Contempt of Court Petition. **The Vigilance Department, as stated in the 1st paragraph of Reinstatement order, was not against reinstatement in a non-sensitive post.** The Hon'ble Court dismissed this Contempt of Court Petition No. 519 of 2018 in WP (C) 23665 of 2016 concluding that the this ***Order will not stand in the way of the Petitioner in resorting to other remedies available to the Petitioner for redressal of his grievance, if any .***

It is most respectfully submitted that consequent to issue of order cancelling reinstatement without even mentioning the request to address the anomalies in the Reinstatement Order, the Petitioner is under suspension. But the Petitioner has not been paid his OR subsistence allowance from 1st January 2018 till date by RIAB. The Petitioner also fears that that the present move of the RIAB for regularisation of personnel in the Professional Cadre in RIAB by violating the **Apex Court Judgement in Secretary, State of Karnataka & Others Vs Uma Devi & Others in Civil Appeal No. 3595-3612 of 1999 and the Government Order for Contract appointments** will result in ouster of the Petitioner from 3rd respondent parent organisation, RIAB, rendering him jobless.

The Petitioner is the only earning member in his family. The Petitioner has to undergo a retinal surgery in addition to treatment of diabetic and cardiovascular diseases and repayment of defaulted Housing Loan urgently as evident from housing loan a recovery notice sent by the

State Bank of India on 21/4/2018. The Petitioner and his family are struggling for their existence.

Though all information related to his plight has been informed to Secretary, RIAB and all concerned on 28th March 2018 no action has been taken to pay the subsistence allowance from 1st January 2018 till a reinstatement order as mandated in Circular on Rules for reinstatement is issued by the 2nd respondent. The extreme coercive action taken by the RIAB to stop the subsistence allowance to be given to the Petitioner from 1st January 2018 is highly unjustifiable, illegal, arbitrary and opposed to social justice and public policy. With regard to the Petitioner, the cardinal principle of natural justice “*Audi alteram partem*” and *Article 14, 21 of the Constitution* have been thwarted. Therefore this grave anomaly is liable to be interfered and can be set right only by this Hon’ble Court. Hence this Writ Petition (Civil) is filed.