

പതിനാലാം കേരള നിയമസഭ

പത്തൊൻപതാം സമ്മേളനം

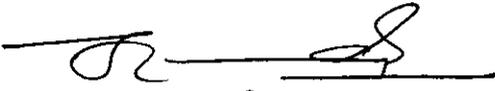
നക്ഷത്രചിഹ്നമിട്ട ചോദ്യം നമ്പർ *180

10.03.2020-ൽ മറുപടിക്ക്

എൻ.ഐ.എ. ഏറ്റെടുത്ത യു.എ.പി.എ. കേസുകൾ

	ചോദ്യം		മറുപടി പിണറായി വിജയൻ (മുഖ്യമന്ത്രി)
(എ)	<p>ഈ സർക്കാർ അധികാരത്തിൽ വന്ന ശേഷം യു.എ.പി.എ. പ്രകാരം രജിസ്റ്റർ ചെയ്ത് എൻ.ഐ.എ ഏറ്റെടുത്ത ഏതെങ്കിലും കേസ് സംസ്ഥാന പോലീസിന്റെ അന്വേഷണ നടപടികൾക്കായി ഏൽപ്പിക്കണമെന്ന് കേന്ദ്രത്തോട് ആവശ്യപ്പെട്ടിരുന്നോ; വിശദാംശം നൽകുമോ;</p>		<p>കോഴിക്കോട് പന്തീരങ്കാവ് പോലീസ് സ്റ്റേഷനിൽ യു.എ.പി.എ സെക്ഷൻ 20,38,39 പ്രകാരം രജിസ്റ്റർ ചെയ്ത ക്രൈം നം.507/2019 എന്ന കേസ് സംസ്ഥാന പോലീസ് കാര്യക്ഷമമായി അന്വേഷിച്ച് വരവെ കേന്ദ്ര ആഭ്യന്തര മന്ത്രാലയത്തിന്റെ നിർദ്ദേശ പ്രകാരം എൻ.ഐ.എ ഏറ്റെടുത്തിരുന്നു. പ്രസ്തുത കേസിന്റെ അന്വേഷണം എൻ.ഐ.എ-യിൽ</p>
(ബി)	<p>കേന്ദ്രത്തിൽ നിന്നും അനുകൂലമായ തീരുമാനം ഉണ്ടാകുന്നതിന് സ്വീകരിച്ച തുടർനടപടികൾ എന്തെല്ലാമാണെന്ന് വ്യക്തമാക്കുമോ?</p>	<p>(എ) യും (ബി) യും</p>	<p>നിന്നും തിരികെ കേരള പോലീസിന് കൈമാറി നൽകുന്നതിന് വേണ്ട നടപടികൾ സ്വീകരിക്കണമെന്നാവശ്യപ്പെട്ട് കൊണ്ട് മുഖ്യമന്ത്രി കേന്ദ്ര ആഭ്യന്തര മന്ത്രിയ്ക്ക് കത്ത് നൽകിയിരുന്നു (അനുബന്ധം-1).</p>

		<p>പ്രസ്തുത കത്ത് ലഭിച്ചതായി കേന്ദ്ര ആഭ്യന്തര മന്ത്രി അറിയിച്ചിട്ടുണ്ടെങ്കിലും ഇക്കാര്യത്തിൽ കേന്ദ്ര സർക്കാരിന്റെ തീരുമാനം അറിയിച്ചിട്ടില്ല (അനുബന്ധം-2).</p>
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സെക്ഷൻ ഓഫീസർ

(അംഗീകൃതം 1)



GOVERNMENT OF KERALA
Pinarayi Vijayan
CHIEF MINISTER

D.O. No. 172/2020/CM Dated 05.02.2020

Dear Shri Amit Shah ji,

The National Investigation Agency (NIA) has taken over investigation of the case No. 507/19 of Pantheerakavu Police Station, Kozhikode district, Kerala registered under sections 20, 38, 39 of Unlawful Activities Prevention Act (UAPA). The case which was being investigated by the Kerala Police has been taken over suo motu by the National Investigating Agency wide notification No. 11011/60/2019/NIA, GOI, MHA Dated December 16, 2019.

The case was being investigated satisfactorily by the Kerala Police. In the Kerala Legislative Assembly the issue of the take over of the case by the NIA came up for discussion. The opposition parties also expressed the view that the case should be investigated by the Kerala Police. This reveals a consensual view in favour of continued investigation by the Kerala Police.

The legal advice received by the Government of Kerala also favours retention of the case with Kerala Police, which had been investigating the case till NIA took over the case on its own motion invoking provisions of Section 6 (5) of the NIA Act 2008.

I would like to bring to your kind attention to the relevant portions of the judgment of the High Court of Bombay in *Pragyasingh Chandrapalsingh Thakur Vs State of Maharashtra* (2013 SCC OnLine Bom 1354) "...it will be necessary for the Central Government to determine for itself by recording its opinion that the offence, which is committed and mentioned in the report from the State Government or with regard to which an information received from other sources, is scheduled offence or not. Merely because it is a scheduled offence, the Central Government will not be in a position to direct that it shall be investigated by the agency. It will have to apply its mind to the gravity of the offence and other relevant factors. "Gravity of the offence and other relevant factors" are not words of inexactitude. They cannot be termed as vague either. The ordinary meaning of the term "grave" is serious. It is also understood as severe, all important, significant, momentous, vital, crucial, critical, dangerous, threatening,

hazardous, menacing and a matter of life and death. Therefore, the words in the subsection are indicative of the intent of the Law Makers. They reflect that the offences, being grave and serious, may also have an impact and in relation to the matters enumerated in the Preamble to the NIA Act. The word "gravity" is used advisedly because the scheduled offence is grave enough for the NIA to step in, it is because it is not only grave and serious, but because it has such repercussions and ramifications which affect the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under the Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organizations and for matters connected therewith or incidental thereto."

Though instant case constitutes a scheduled offence, it is not having the gravity of the offence which is of a high degree requiring taking over by the NIA.

The State Government is of the opinion that taking over of investigation by the NIA at a stage when the Kerala Police has been effectively investigating the case is quite unwarranted.

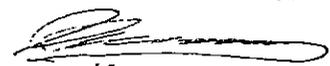
Statement of Objects and Reasons of the NIA Act states that the act envisages to deal with the cases that involve "*complex, inter-state and international linkages, and possible connection with other activities like smuggling of arms and drugs, pushing in and circulation of fake Indian currency, infiltration from across the borders etc.*"

None of these ingredients mentioned in the Statement of Objects and Reasons of the NIA Act, 2008, appears to be relevant in the instant case. Hence, the existence of satisfaction to draw the conclusion that the offence is one with a gravity which necessitates take over by the NIA is absent in this case. The relevant powers of the NIA Act, authoritatively interpreted in judicial pronouncements also support this.

Considering the facts and circumstances stated above, I request you to kindly give appropriate directions and grant approval to the National Investigating Agency for handing over the case back to the Kerala Police to carry on with the investigations which were being effectively carried out.

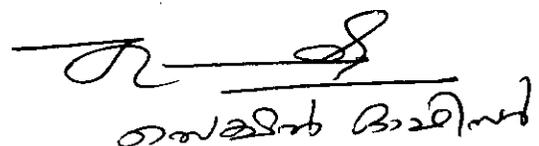
With regards,

Yours sincerely,



Pinarayi Vijayan

Shri Amit Shah,
Hon'ble Minister of Home,
Government of India,
Ministry of Home Affairs, North Block,
New Delhi-110 001.



अमित शाह
AMIT SHAH



भारत

HOME MINISTER
INDIA

(Bansalwala 2)

HMP-1743033/2020

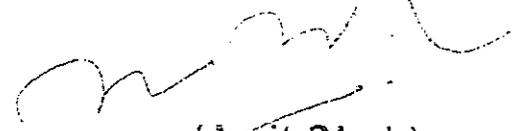
Shri Vijayan ji,

13 FEB 2020

I have received your letter dated February 05, 2020 requesting to hand over the case (No.507/19) of Pantheerakavu Police Station, Kozhikode district, Kerala from NIA to Kerala Police.

With regards,

Yours sincerely



(Amit Shah)

Shri Pinarayi Vijayan,
Chief Minister of Kerala
Government Secretariat,
Thiruvananthapuram- 695 001.

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