

**(2011) 02 KL CK 0142**

**High Court Of Kerala**

**Case No:** Writ Petition (C) No. 5201 of 2011

Baisil Attipetty

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

---

**Date of Decision:** Feb. 18, 2011

**Citation:** (2011) 1 KLT 942

**Hon'ble Judges:** Jasti Chelameswar, C.J; P.R. Ramachandra Menon, J

**Bench:** Division Bench

**Advocate:** Party in Person, for the Appellant; T.P.M. Ibrahim Khan, Asst. Solicitor General, for the Respondent

**Final Decision:** Dismissed

---

### **Judgement**

J. Chelameswar, C.J.

The Writ Petition is filed with the prayers as follows:

- a) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, directing the Union of India (Executive) not to proceed with the proposed Judges Standards and Accountability Bill, 2010;
- b) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, restraining the 1st Respondent from drafting or framing any Rules to control and supervise the Judiciary;
- c) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, directing the 2nd Respondent not to pass/approve any draft bill so as to control the Judiciary by the Executive (Union of India);
- d) Issue a Writ of Certiorari or any other appropriate Writ, Order or Direction calling for the records leading to the proposed Judges Standards and Accountability Bill, 2010 and quash the same;
- e) Issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, declaring that the Union of India (Executive) has no authority or power to frame any

rule, law, or Act to control the conduct of the Judiciary.

(f) To grant such other appropriate relief to the Petitioner as this Hon"ble Court may deem fit and proper in the interest of justice.

2. Irrespective of the correctness of the various allegations that the proposed Bill would violate the various provisions of the Constitution, in our view, the Writ Petition is required to be dismissed for two reasons. In substance, the prayers in the Writ Petition have the effect of prohibiting the Parliament from considering the Bill which we are afraid is beyond the jurisdiction of this Court and also an encroachment into the activity of the Legislature. The very submission made in the Writ Petition regarding the separation of powers for objecting to the provisions of the Bill would apply in all force to the situation. Secondly, the constitutional authority either of this Court or any other constitutional Court to examine the constitutionality of an enactment does not extend to issuing directions to the executive not to introduce a Bill. Such a direction, in our opinion, would scuttle the entire democratic process and the authority of the law maker to consider and make a law which it deems appropriate. The question whether such a decision would stand the test of constitutionality or not is a different question that requires to be examined at a different stage.

In the circumstances, the Writ Petition is dismissed at the admission stage.