

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

Con.Case(C).No. 148 of 2015 (S) IN WP(C).20210/2014

JUDGMENT IN WP(C) 20210/2014

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PETITIONER/PETITIONER:

P. MADHAVAN, HEADMASTER,
ELAYAVOOR CENTRAL L.P.SCHOOL,
AGED 49 YEARS,
S/O.V.V.KUNHIRAMAN NAMBIAR,
RESIDING AT ELAYAVOOR,
P.O.MUNDAYAD, KANNUR DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENT/4TH RESPONDENT:

VALSAN MADATHIL, AGED 47 YEARS,
S/O.A.V.NARAYANAN NAMBIAR, MANAGER,
VARAM UP SCHOOL & ELAYAVOOR CENTRAL
L.P.SCHOOL, RESIDING AT MATATHIL HOUSE,
CHOWA PO, KANNUR DISTRICT - 670 006.

BY ADVS. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX IN COC 148/2015

PETITIONER'S EXHIBITS:

ANNEXURE 1: CERTIFIED COPY OF THE JUDGMENT DATED 9.10.2014 IN WPC 20210/2014

ANNEXURE 2: TRUE COPY OF THE LETTER DATED 17.12.2014 ALONG WITH ENGLISH TRANSLATION

ANNEXURE 3: TRUE COPY OF THE LETTER DATED 1.1.2015 ALONG WITH ENGLISH TRANSLATION

RESPONDENT'S EXHIBITS:

ANNEXURE-R1(a) TRUE COPY OF THE LETTER DATED 6.6.2014 ISSUED BY THE RESPONDENT TO THE PETITIONER WITH ENGLISH TRANSLATION

ANNEXURE-R1(b) TRUE COPY OF THE INFORMATION ISSUED BY THE DISTRICT PANCHAYAT OFFICE DATED 19.6.2014 WITH ENGLISH TRANSLATION

ANNEXURE-R1(c) TRUE COPY OF THE COMPLAINT DATED 1.7.2014 FILED BEFORE THE DIRECTOR OF VIGILANCE TRIVANDRUM WITH ENGLISH TRANSLATION

ANNEXURE-R1(d) TRUE COPY OF THE ACKNOWLEDGEMENT RECEIPT ISSUED BY THE INSPECTOR OF THE VIGILANCE AND ANTI CORRUPTION BUREAU, KANNUR

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

Con. Case(C)No.148 of 2015 S

Dated this the 6th day of March, 2015

JUDGMENT

Initially aggrieved by the action of the respondent, the Manager of Elayavoor Central L.P.School, Kannur District in placing the petitioner under suspension, the petitioner filed W.P.(C)No.20210/2014 and invited Annexure-1 judgment dated 09.10.2014. While allowing the writ petition, this Court issued the following direction:

“In the facts and circumstances, Exhibit P11 passed by the fifth additional respondent is set aside; further the consequential order passed in Exhibit P11(a) is also set aside, with a direction to the fourth respondent to allow the petitioner to function as the Headmaster. It is, however, made clear that, if any disciplinary proceedings have been initiated and pending, or yet to be initiated, the reinstatement of the petitioner shall be subject to the outcome of those proceedings. The petitioner, under these circumstances, shall be paid salary and allowances from the 16th day of his original suspension, for he is deemed to have been functioning as the Headmaster from the said date.”

2. At a later point of time, the petitioner filed R.P.No. 976/2014 seeking modification of the judgment to the extent that the petitioner be paid salary for the period he was under suspension, inclusive of the initial fifteen days statutory period. The said review petition was allowed on 21.02.2015.

3. Presently, the petitioner has come up with the contempt case, alleging that though this Court has issued a categorical direction to the respondent to permit the petitioner to discharge his functions as the Headmaster, the respondent has stultified the judicial directive by withholding certain documents which he had taken away when the petitioner had been on leave even prior to his suspension.

4. The learned counsel for the petitioner has drawn my attention to Annexure-4 to lay emphasis that the issue was taken before the Government which in turn issued the

directive to the respondent to handover the school records 'illegally retained' by him.

5. In sum and substance, the contention of the learned counsel for the petitioner is that the direction of this Court in Annexure-1 judgment does not amount to have been fully complied with unless the respondent makes available all the records, for an effective discharge of petitioner's functions as Headmaster.

6. In tune with the averments made in the counter affidavit, the learned counsel for the respondent has strenuously contended that the records are made available to the Vigilance and Anti Corruption Bureau, Kannur, as part of the on going enquiry against the petitioner, as is evident from Exhibit R1(d).

7. Though the learned counsel for the respondent has also urged various issues, I do not propose to go into the merits of any of them. Suffice it to say, if at all there is

any controversy whether the records have been illegally retained by the respondent or handed over to an investigating agency as part of an enquiry, as could be seen from Exhibit R1(d), it, in fact, provides, in my considered view, a fresh cause of action for the petitioner. I do not see any wilful disobedience of Annexure-1 judgment by the respondent.

In the facts and circumstances, the contempt case stands dismissed; it is left open for the petitioner to take other remedial measures if he is still aggrieved by the issue raised in this contempt case.

Dama Seshadri Naidu, Judge

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