

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Con.Case(C).No. 428 of 2015 (S) IN WP(C).32686/2014

AGAINST THE JUDGMENT IN WP(C) 32686/2014 of HIGH COURT OF KERALA
DATED 08-12-2014

PETITIONER/PETITIONER IN WP(C):

SOPHIA P.JOY, AGED 41 YEARS,
D/O.LATE P.P.JOY,
WORKING AS HIGH SCHOOL ASSISTANT (MALAYALAM),
SREE MOOLAM SILVER JUBILEE HIGH SCHOOL, THYCATTUSERRY,
CHERTHALA, ALAPPUZHA DISTRICT, PIN-688 528
RESIDING AT ARAKKAL HOUSE, KUMBALAM, KOCHI-682 506.

BY ADVS.SRI.A.J.VARGHESE
SRI.FIROZ K.ROBIN
SRI.JOSE. V.V.

RESPONDENT/RESPONDENT NO.2 IN WP(C):

P.GEETHAKUMARI, AGED 55 YEARS
W/O.MURALI, WORKING AS DISTRICT EDUCATIONAL OFFICER
CHERTHALA, ALAPPUZHA DISTRICT.

R1 BY ADV.SRI. C.K. SHERIN, GOVERNMENT PLEADER

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 31-03-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEXURE A1 : PHOTOCOPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER ALONG WITH FORWARDING LETTER ADDRESSED TO THE RESPONDENT.
- ANNEXURE A1(a) : PHOTOCOPY OF THE FORWARDING LETTER DATED 12.06.2014 OF THE MANAGER ADDRESSED TO THE RESPONDENT.
- ANNEXURE A2 : STATEMENT OF CHANGE OF STAFF SUBMITTED BY THE MANAGER ALONG WITH THE APPOINTMENT ORDER BEFORE THE RESPONDENT.
- ANNEXURE A3 : PHOTOCOPY OF THE DECLARATIONS SUBMITTED BY THE MANAGER BEFORE THE RESPONDENT.
- ANNEXURE A4 : PHOTOCOPY OF THE STAFF FIXATION ORDER NO.D.DIS/B4/3900/2014 DATED 14.07.2014 ISSUED BY THE DISTRICT EDUCATIONAL OFFICER.
- ANNEXURE A5 : PHOTOCOPY OF THE ORDER NO. B4/4613/2014 DATED 21.08.2014 ISSUED BY THE RESPONDENT ALONG WITH ENGLISH TRANSLATION.
- ANNEXURE A6 : PHOTOCOPY OF THE INTERIM ORDER DATED 18.09.2014 IN W.P.(C) NO. 23904/2014 OF THIS HONOURABLE HIGH COURT.
- ANNEXURE A7 : COPY OF THE JUDGMENT DATED 08.12.2014 IN W.P.(C) NO. 32686/2014 (I) OF THIS HONOURABLE COURT.
- ANNEXURE A8 : PHOTOCOPY OF THE EXTENSION PETITION DATED 16.01.2015 FILED BY THE RESPONDENT.
- ANNEXURE A9 : PHOTOCOPY OF THE ORDER DATED 23.01.2015 IN I.A. NO. 848/2015 IN W.P.(C) NO. 32686 OF 2014 OF THE HONOURABLE HIGH COURT OF KERALA.
- ANNEXURE A10 : PHOTOCOPY OF THE ORDER NO.B4/3899/14 DATED 19.02.2015.
- ANNEXURE A11 : PHOTOCOPY OF THE RELINQUISHMENT LETTER OF SRI. BINU (SENIOR TO THE PETITIONER)
- ANNEXURE A12 : PHOTOCOPY OF THE DETAILS OF THE PROCEEDINGS/ORDER OF APPOINTMENT OF SENIORS INCLUDING THE PETITIONER ISSUED BY THE MANAGER BEFORE THE RESPONDENT.
- ANNEXURE A13 : PHOTOCOPIES OF THE APPOINTMENT ORDERS OF THE SENIORS OF THE PETITIONER.
- ANNEXURE A14 : PHOTOCOPY OF THE STAFF FIXATION ORDER OF ST. MARY'S HIGH SCHOOL, CHERTHALA.
- ANNEXURE A15 : PHOTOCOPY OF THE STAFF FIXATION ORDER OF HOLY FAMILY HIGH SCHOOL, CHERTHALA PASSED BY THE RESPONDENT'S PERSONAL ASSISTANT.

PETITIONER'S ANNEXURES:

ANNEXURE A16 : PHOTOCOPY OF THE STAFF FIXATION ORDER FOR THE
YEAR 2014-2015 OF IJHS PASSED BY THE DEO,
KADUTHUTUTHY.

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE.

DAMA SESHADRI NAIDU, J.

Contempt. Case (C) No. 428 of 2015
in
W.P. (C) No. 32686 of 2014

Dated this the 31st day of March, 2015.

JUDGMENT

Initially, this Court disposed of the writ petition on 08.12.2014 with the following directions:

“In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Government Pleader for the respondents, this Court, without advertent to the merits of the matter, disposes of the writ petition with a direction to the second respondent to consider Exhibit P1 proposal of the third respondent in accordance with law, taking into account Exhibit P6 interim direction of this Court, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.”

2. When the above direction has not been complied with, the petitioner filed the present contempt case. Since the order was received by the officials on 17.12.2014, the compliance thereof could have been by 18.01.2015. At any rate, the respondents filed a petition for extension of time on 16.01.2015, within time. Though they initially sought time for two months, owing to persistent protest by the petitioner, it was extended by one month. As the extended period had to come to an end by 23.02.2015, the

respondent passed an order on 19.02.2015.

3. In the extension petition filed, the sole reason offered is as follows:

“It is submitted that, the issue regarding the approval of appointment has to be decided on the basis of the Government Order, regarding the approval of appointment of Teachers for the year 2014-2015. Since no Government orders are issued till date, opinion from the Government has been sought for and the same is awaited. Further the details regarding the approval of appointment of 3 senior claimants as well as the relinquishment from the 4th one are not produced with the proposal. A decision in this regard can be taken as per the direction of this Hon'ble Court, only after obtaining the same. The time limit stipulated in the judgment expires on 17.01.2015. Since the decision as contemplated in the judgment could not be taken within stipulated time, the accompanying petition is filed seeking extension of time by a further period of two months from 18.01.2015.”

4. It is evident from the above extract that the only reason cited for the delay was that the Government had to issue certain orders concerning the approval of appointment of teachers for the year 2014–2015. In response thereto, this Court while extending the time has observed as follows:

“4. At any rate, a reading of the affidavit filed in support of the interlocutory application reveals that the judgment could not be coupled with for want of the Government Order regarding the approval of appointment of teachers for the year 2014-2015. It is further stated in paragraph 3 of the affidavit that since no Government orders are issued till date, opinion from the Government has been sought and the same is awaited. In my considered view, the reason assigned by the

second respondent seems to be quite facetious. The judgment of the Court could not be put on hold for want of any directions which have not yet even been issued, for it is elementary that any issue is required to be decided, more particularly in the face of judicial directives, based on the extant statutory and administrative regulations.”

5. Now, in the affidavit filed by the respondent explaining the reasons why the claim of the petitioner had to be refused on a ground other than what has been stated in the extension petition, it has been stated that despite the prayer of two months' time, only one month's time was granted, all be at the instance of the petitioner, and that the respondent could not get information from the school management which has got many other schools as well. In my considered view, the respondent ought to have cited the reason in the extension petition or else ought to have further sought extension by filing another application. Instead, the claim was rejected only as a matter of technicality so that there can be a compliance with the direction of this Court in the judgment, thereby driving the petitioner to one more round of litigation. In other words, the rejection is for want of information rather than on merits. It is only a technical compliance.

6. This Court is extremely unhappy at the attitude of the respondent in discharging its duties. Even during the course of

submissions, the learned Government Pleader has submitted that there is a compliance and it is left to the fate of the petitioner to file a fresh writ petition, if she has any grievance. If this is the attitude of the Government Officials, I am afraid, there can be no hope for a common man to live on the strength of the Rule of Law. At any rate, since it is a technical compliance and contempt jurisdiction is essentially quasi-criminal in nature, this Court is not inclined to proceed further, though it is not happy at the manner the respondent conducted himself in dealing with the judicial orders.

This Contempt Case is closed.

sd/- DAMA SESHADRI NAIDU, JUDGE.

