

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Con.Case(C).No. 1316 of 2015 (S)

JUDGMENT DATED 09-04-2015 IN WP(C) 20384/2014
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PETITIONER(S)/PETITIONER:

**G. LEKSHMIKUTTY AMMA, AGED 62 YEARS,
W/O.LATE V.R.JANARDHANAN PILLAI, MANAGER,
VIVEKANANDA HIGH SCHOOL FOR GIRLS KADAMPANAD,
KADAMBANAD SOUTH P.O.,
PATHANAMTHITTA DISTRICT - 691 552.**

BY ADV. SRI.M.R.ANISON

RESPONDENT(S)/1ST RESPONDENT:

**SHRI. V. S. SENTHIL. I.A.S.,
FATHER'S NAME NOT KNOWN TO THE PETITIONER,
AGE NOT KNOWN TO THE PETITIONER,
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**

BY SPECIAL GOVERNMENT PLEADER SRI.T.T.MAHAMOOD

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 29-09-2015, ALONG WITH COC. 1318/2015 AND
COC. 1323/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

msv/

Con.Case(C).No. 1316 of 2015 (S)

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: A TRUE COPY OF THE JUDGMENT DTD.9.4.2015 IN WP(C) 20384/2014
OF THIS HON'BLE COURT.**

ANNEXURE A2: A TRUE COPY OF G.O.(MS) NO.321/2015/G.EDN DTD.3.9.015.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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Cont.Case (Civil) Nos. 1316, 1318 and 1323 of 2015

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Dated this the 29th day of September, 2015

J U D G M E N T

These contempt cases are arising out of the judgment of this Court in a matter relating to sanctioning of plus two courses to the petitioners' schools. The Government has constituted a six member committee to scrutinize the applications and to find the eligibility of the applicants. These writ petitioners' grievance is that six member committee did not advert to their claim and finally not recommended the petitioners school for starting High Secondary School batches.

2. This Court disposed of the writ petitions finding that recommendation of the six member committee cannot be taken as final. It can be varied or reviewed subject to placing necessary materials by the schools to vary or review the decisions. This Court therefore directed the petitioners to place relevant materials before six member committee to be verified and scrutinized by them and ordered that the committee shall take take appropriate decision in

the matter of recommendation.

3. It appears that based on the direction of this Court the matter was placed before the six member committee which originally recommended certain other schools. The matter was placed based on the instruction of Director of Higher Secondary Education based on the direction of this Court. The six member committee filed a report recommending the petitioners' school on 25.6.2015. This was placed before the Government. The Government as per order 3.9.2015 did not accept the report of the six member committee stating that it is not legally valid. In Para 5 of the report it is stated as follows:

“Sanctioning of new/additional higher secondary batches is purely a policy matter of government and so the power of constitution/reconstitution of the Six Member Committee is vest with government. The Director of Higher Secondary Education has no authority to reconvene such an important committee that is not functioning presently at his own level, and furnish recommendations without the consent of government. Hence the government find that the report submitted vide the letter read as 10th paper above has no legal validity. Therefore government order that the report submitted by the Director of Higher Secondary Education vide letter read as 10th paper above is rejected.”

4. The learned Senior Counsel appearing for the Petitioners would submit that the finding by the Government in the order dated 3.09.2015 itself constitute a contempt without going to further

probe in this matter.

5. The learned Government Pleader submits that by the above order government only given sanction to constitute a new committee, as original committee has become defunct, a new committee required to be constituted with the original members of the Six Member Committee and they have deliberated the matter again and passed fresh order recommending the petitioners' case and thereafter by the order dated 22.9.2015 the Government found that there is no compelling reason to grant sanction to the petitioners' school.

6. This Court in fact ordered consideration by the six member committee which was originally constituted to examine the applications. Though it has become functus officio after recommendation, this Court by the direction has given a new lease to the life of the Committee. This Court did not direct the Government to constitute another committee to scrutinize or verify the applications. The Government ought not to have found that there is no legal validity for consideration by the original committee based on the direction of this Court. If the Government has any grievance against giving a lease to the Committee which was

constituted for recommendation, the Government ought to have come before this Court by a review. The Government should not have found that it has no legal validity to unsettle the directions of the judgment of this Court. Though it is per se a contempt as it is beyond the scope of Government in finding that it has no legal validity, this Court desist from taking further action in this matter, in view of the fact that the committee has been constituted with the same members who were in the original committee by a separate order. This Court expects when a direction is issued by this Court, it has to be complied and it cannot be deciphered by the Government according to their pleasure and satisfaction.

7. The learned Senior Counsel would further submit that the Government fail to honour the judgment in due compliance of the directions. On a close reading of the judgment it can be seen that this Court directed the Government to cancel the sanction already given to the existing schools based on a comparative evaluation with the petitioners schools, if it is found that their grievances are genuine or otherwise entertainable. However in other cases where there are no rival claims and there is no sanction at all the only direction was to effect that the six member

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committee shall make necessary recommendation to the Government. The petitioners' case falls within 2nd category. If the Government fails to sanction any schools, the petitioners are free to challenge the above decision of the Government by separate writ and it cannot be a matter be agitated and decided in these contempt. Therefore, with the liberty as above the contempt cases are closed.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE