

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WA.No. 365 of 2015 () IN WP(C).18868/2008

AGAINST THE ORDER/JUDGMENT IN WP(C) 18868/2008 of HIGH COURT
OF KERALA DATED 07-01-2015

APPELLANT(S)/PETITIONER IN W.P.[C]:

THE MANAGER
EVANS SCHOOLS, PARASSALA, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.BABU VARGHESE (SR.)
SRI.C.V.ALEXANDER
SRI.V.NARAYANA SWAMI

RESPONDENT(S)/RESPONDENTS IN W.P.[C]:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.695 001.
2. THE DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM. 695 001.
3. THE ASST. EDUCATIONAL OFFICER
PARASSALA. 695 502.
4. THE DISTRICT EDUCATIONAL OFFICER
PARASSALA. 695 502.
5. P.R.RAMKUMAR
MELAKUZHINJAVILA, KULLANPOTTAVEEDU, KAROD.P.O.
VIA.UCHAKADA, THIRUVANANTHAPURAM.695 506.
6. VIJIN
UPSA, EVANS SCHOOLS, PARASSALA. 695 502.

R5 BY ADV. DR.S.GOPAKUMARAN NAIR (SR.)
R5 BY ADV. SRI.A.RAJASIMHAN
R1 TO R4 BY SRI.T.RAMAPRASAD UNNI,
SR.GOVERNMENT PLEADER
R6 BY SRI.R.T.PRADEEP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

.....
W.A.No.365 of 2015
.....

Dated this the 18th day of February, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

Manager of an aided school governed by the provisions of Kerala Education Act and Kerala Education Rules is the appellant. Under challenge is the judgment of the learned single Judge refusing to interfere with the Government's decision in a statutory revision on a claim by a person who was eligible for appointment on compassionate ground under Rule 51B of Chapter XIVA of KER. The Government took the view that the said Rule and the obligation made thereunder are obligatory as has been well settled through different precedents laid down by this Court, as also, by the Apex Court, which are in clear terms with the contents of that statutory rule. The trump card argument of the Manager is that the fifth respondent was a minor when he lost his father in 1985 and though he attained majority on 31.05.1996, application was made for employment on compassionate ground only on 12.01.2005; that is, eight years after he attained majority. At the first blush, this argument sounds to be quite attractive. However, to our pointed query in that regard, it is submitted on behalf of the appellant that

the only vacancy that arose after the fifth respondent attained majority on 31.05.1996, was the one against which the sixth respondent was appointed with effect from 09.06.2004. That being so, no appointment could have been made ignoring the eligibility of the fifth respondent under Rule 51B. The Manager had the statutory obligation under Rule 51B of Chapter XIV A KER to make appointment in terms of that Rule. The fifth respondent was, therefore, rightly found by the Government, in the statutory revision, as the person eligible to be appointed as against that vacancy. The order of the Government in that regard did not merit interference under Article 226 of the Constitution of India. The learned single Judge was, therefore, fully justified in dismissing the writ petition. We see no illegality or error of jurisdiction in the impugned judgment of the learned single Judge. The writ appeal, therefore, fails.

In the result, this writ appeal is dismissed in limine.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)