

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WA.No. 392 of 2015 () IN WP(C).30804/2014

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AGAINST THE ORDER/JUDGMENT IN WP(C) 30804/2014 of HIGH COURT OF KERALA
DATED 03.12.2014**

APPELLANT(S)/PETITIONER:

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K.R.VARGHESE,S/O. K.T.RAPHEAL, AGED 55 YEARS,
HEAD MASTER (UNDER SUSPENSION),
ST.JOSEPH'S HIGHER SECONDARY SCHOOL, THALASSERY,
RESIDING AT KANNANAICKAL HOUSE, CONVENT ROAD,
MATTAM P.O., TRICHUR - 680 602.**

**BY ADVS.SRI.GRASHIOUS KURIAKOSE (SR.)
SRI.GEORGE MATHEWS
SRI.P.BHARATHAN
SRI.T.T.RAKESH**

RESPONDENT(S)/RESPONDENTS:

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- 1. STATE OF KERALA,
REPRESENTED BY SPECIAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
 - 2. THE DEPUTY DIRECTOR OF EDUCATION,
KANNUR PIN - 670 001.**
 - 3. THE MANAGER,
ST.JOSEPH'S HIGHER SECONDARY SCHOOL, THALASSERY,
PIN - 670 101.**

R1, R2 BY SRI.VIJU THOMAS, GOVERNMENT PLEADER

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

**THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.**

W.A.No.392 of 2015

Dated this the 25th day of February, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.We have heard the learned senior counsel appearing for the appellant and the learned Government Pleader.

- 2.The Vigilance and Anti-Corruption Bureau registered a case. However, when it proceeded with the investigation, it filed a closure report. The Enquiry Commissioner and Special Judge was not prepared to accept it and, therefore, further investigation in terms of Section 156(3) of Cr.P.C was ordered. The appellant is one among the persons who are arrayed as accused persons in that case.

- 3.The transactions which appear to be the subject matter of the investigation relate to allegations that Parent Teacher Association funds of a school are abused and misutilised, including by running transactions, which are not accounted. The appellant, as the headmaster of the school, is the treasurer of the Parent Teacher Association.

4. Initially, the Government passed an order, suspending the petitioner on a ground referable to Section 12A of the Kerala Education Act read with Rule 67 of Chapter XIVA of Kerala Education Rules, 'KER', for short. This Court came to the rescue of the petitioner and granted an interim order, since, apparently, the investigation of a criminal case could not have formed the basis of an order of suspension referable to Section 12A of the KER. May be, taking a cue from that, the Government reconsidered the matter and withdrew the earlier order.
5. The Government, thereafter and thereupon formulated the opinion that disciplinary proceedings have to be initiated against the officer concerned. The manager of the aided school where the appellant is working as a headmaster was therefore required through the jurisdictional District Education Officer to proceed to take action.
6. While the learned senior counsel for the appellant may be justified in submitting that the concluding sentence of the impugned Exhibit P4 contains a direction to place the officer under suspension till finalization of enquiry by the Vigilance Department, a wholesome reading of Exhibit P4 would clearly indicate that all that the Government wanted was the issuance of

an order of suspension be considered by the competent authority, pending disciplinary proceedings. No other view is permissible, having regard to the discussions in Exhibit P4, which led to the withdrawal of the earlier order.

7. Having considered the judgment issued by the learned single Judge, we are of the view that the learned Judge had correctly interpreted the provisions of Section 12A; in particular, the provisos occurring under Sub-Section 2 of that Section, as also, the terms of Rule 67 of Chapter XIVA KER. We, therefore, see no jurisdictional infirmity or illegality in that way, either.

8. For the aforesaid reasons, this writ appeal fails.

In the result, this writ appeal is dismissed in limine, without prejudice to the appellant's right to ventilate grievances which would have arisen after the order impugned was issued.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(K.HARILAL, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG