

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WA.No. 1781 of 2014 () IN WP(C).15842/2013

AGAINST THE JUDGMENT IN WP(C) 15842/2013 of HIGH COURT OF
KERALA DATED 15-07-2013.

APPELLANT(S/4TH RESPONDENT:

K.B.NIZAM,
HIGHER SECONDARY SCHOOL TEACHER,
DARUL ULOOM HIGHER SECONDARY SCHOOL,
ERNAKULAM-682 018.

BY ADV. SRI.SUNIL V.MOHAMMED

RESPONDENT(S/PETITIONER & RESPONDENTS 1 TO 3:

1. MANAGER,
DARUL ULOOM VOCATIONAL HIGHER SECONDARY AND
HIGHER SECONDARY SCHOOL,
ERNAKULAM-682 018.
2. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
3. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001.
4. THE REGIONAL DEPUTY DIRECTOR OF
HIGHER SECONDARY EDUCATION, EDAPPALLY,
ERNAKULAM-682 024.

R1 BY ADV. SRI.V.A.MUHAMMED
R1 BY ADV. SRI.M.SAJJAD
R2-R4 BY GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

W.A.No. 1781 of 2014

Dated this the 20th day of February, 2015

JUDGMENT

Harilal, J.

This writ appeal is filed challenging the judgment, whereby, the learned single Judge dismissed W.P.(c) No.15842 of 2013. The appellant is the 4th respondent in the above writ petition. The writ petition was filed by the 1st respondent herein. According to the averments in the writ petition, he is the Manager of the Darul Uloom Vocational Higher Secondary School, Ernakulam, and the appellant herein is a Teacher working in that school. While so, disciplinary action was initiated against the appellant on various allegations, including misbehaviour towards the

Principal of the school. Since explanation to the Memo of Charges was not satisfactory, the 1st respondent has decided to proceed with an enquiry and requested the 4th respondent, by Ext.P2, to conduct an enquiry and forward a report. Pursuantly, the 4th respondent conducted an enquiry; but instead of forwarding the enquiry report to the 1st respondent, the 4th respondent issued Ext.P4 letter to the 1st respondent directing to take disciplinary action against the appellant. According to the 1st respondent, since the disciplinary proceedings had already been commenced, he can take further steps, after seeking explanation from the appellant, on the basis of the enquiry report. Thus, enquiry report is inevitable for proceeding further. In the above circumstance, the writ petition was filed seeking issuance of a writ of mandamus or direction commanding the 4th respondent to forward the enquiry report with the relevant records on Ext.P1 Memo of Charges to the 1st respondent forthwith.

2. The learned single Judge of this Court, after having regard to the limited prayers in the writ petition, disposed of the same with a direction to the

4th respondent to forward the enquiry report to the 1st respondent within a period of two weeks from the date of receipt of a copy of the judgment. The grievance projected in this appeal is that the judgment granting the reliefs at the admission stage itself, without issuing notice to the appellant, caused prejudice to him.

3. Heard the learned counsel for the appellant. The learned counsel advanced arguments pointing out that the disposal of the writ petition with a direction to the 4th respondent to forward the enquiry report caused prejudice to the appellant as the enquiry proceedings were not completed at that time. It is also contended that the learned Government Pleader also urged for disposal of the writ petition in suppression of the fact that the proceedings were not completed at that time.

4. The limited relief sought for in the writ petition is a direction to the 4th respondent to forward the enquiry report, which was prepared by him, in the disciplinary proceedings initiated against the appellant. Going by the impugned judgment, it is seen that the writ petition was disposed of at the admission

stage itself with a direction to the 4th respondent to forward the enquiry report to the 1st respondent within a period of two weeks from the date of receipt of a copy of the judgment. Even in this writ appeal, the factum of disciplinary proceedings initiated against the appellant and the enquiry conducted by the 4th respondent are not disputed. The grievance of the petitioner is that the said direction was issued before the completion of the enquiry proceedings. But Ext.R1 (a) hearing note filed by the appellant shows that the enquiry proceedings were completed before passing the impugned judgment. Had the enquiry proceedings not been completed, the appellant would not have filed Ext.R1(a) hearing note, which is not disputed by the appellant in this writ appeal.

5. Moreover, the case was disposed of at the admission stage itself on the submission made by the learned Government Pleader that the writ petition itself could be disposed of directing the 4th respondent to forward the enquiry report within a time frame. Thus, the party against whom the direction was sought to be issued agreed for issuing such a direction at the

admission stage itself. There was no reason to disbelieve the submission made by the learned Government Pleader. So, we cannot find fault with the disposal of the writ petition at the admission stage itself with a direction to the 4th respondent.

In the above view, the averments in the writ appeal lack bona fides and do not merit consideration. This writ appeal is dismissed accordingly.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

Nan/

//true copy//

P.S. to Judge