

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.VASHA

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WA.No. 2449 of 2015 IN WP(C).25492/2015

AGAINST THE JUDGMENT IN WP(C) 25492/2015 of HIGH COURT OF KERALA DATED 02-11-2015

APPELLANT/PETITIONER:

REGUNATH K.M. AGED 49 YEARS
S/O. LATE MADHAVAN, KANNOLI HOUSE, POST INJAMUDY
THRISSUR-680 564

BY ADVS.SRI.ELVIN PETER P.J.
SRI.T.G.SUNIL (PRANAVAM)
SRI.K.R.GANESH

RESPONDENTS/RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.
 2. THE DEPUTY DIRECTOR OF EDUCATION
CIVIL STATION, THRISSUR-680 003.
 3. THE DISTRICT EDUCATIONAL OFFICER
PALACE ROAD, THRISSUR-680 001.
 4. K.G.DHANANJAYAN. S/O. GANESAN, KANNOLI HOUSE,
POST INJAMUDY, THRISSUR-680 564.
 5. SATHYARATNAM K.G.
W/O. DR.K.V.DEVADAS, VYSAKHAM, IMO ROAD
KUNNAMKULAM, THRISSUR-680 503.
 6. ANITHA K.M.
W/O. ACHUTHAN, 6D, TEMPLE TREES APARTMENTS
PAZHAYA NADAKKAVU, THRISSUR-680 002.
 7. SUDHA K.M., W/O. K.R.SHELLY,VYSAKHAM, CHEYYARAM P.O.
KOORKANCHERRY, THRISSUR-680 007.
 8. K.M.RADHAKRISHNAN, S/O. MADHAVAN, KANNOLY HOUSE,
KUMBILAVU P.O., THRISSUR-680 564.

9. K.M.SREELATHA
W/O. A.K.SANKARANARAYANAN, 303, LOVESHORE ENCLAVE
SAW MILL ROAD, THANKAMANI, KOORKANCHERRY-680 007.
 10. K.M.GEETHA , W/O. T.K.ASOKAN, NADUVILKARA,
VADANAPALLY, THRISSUR-680 013
 11. RAMACHANDRAN NAIR
DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE AND ANTICORRUPTION BUREAU, THRISSUR CIRCLE
THRISSUR-680 001.
- R BY SRI.M.R.ANISON
R BY SRI.P.V.CHANDRA MOHAN
R BY GOVERNMENT PLEADER SRI.M.A.FAYAZ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-11-2015
ALONGWITH W.A.2449 OF 2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.A.No. 2449 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: TRUE COPY OF THE OBJECTION DATED 5.6.2015 FILED
BY THE 5TH RESPONDENT BEFORE THE DEPTY DIRECTOR OF
EDUCATION, THRISSUR.

// TRUE COPY //

P.A.TO JUDGE

ANTONY DOMINIC & P.V.ASHA, JJ.

Writ Appeal Nos.2449 & 2450 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

Antony Dominic, J.

These appeals are filed by the petitioner in W.P.(C)25492/15 and the 7th respondent in W.P.(C)30672/15. The dispute, as rightly described by the learned Single Judge, centers around the rivalry among the siblings of two brothers who originally are stated to have formed a Corporate Educational Agency for the management of an aided school named Swamy Bodhananda High School, Kumbilavu in Thrissur district. In the judgment under appeal, the learned Single Judge, dealt with the contentions of the appellant that they should be compensated for the period of the managership they lost and that there is absence of a bylaw of the Educational Agency satisfying the requirements of provisions of Rule 2 of Chapter III KER. Insofar as the issue raised by the appellant that they should be compensated for the period of managership lost is concerned, the learned Single Judge held that when their managership

was declined to be approved by the educational authorities, the appellant did not pursue the legal remedies available and that therefore the claim for compensation cannot be urged in a writ petition filed before this Court. Similarly, regarding the claim relating to the bye-laws are concerned, the learned Single Judge held that the compromise decree passed by the Civil Court in O.S.No.280/95 contained the bye-laws and directed that these bye-laws shall be approved by the authorities under the Act and Rules. It is challenging this judgment, these appeals are filed.

2. In these appeals, we heard the learned counsel appearing for the appellant and also the learned Senior Counsel appearing for the contesting respondents, apart from the Government Pleader appearing for the official respondents.

3. Impugning the judgment of the learned Single Judge, the learned counsel for the appellant contended that the terms of the compromise decree, did not contain the mandatory provisions contained in Rule 2 of Chapter III of KER and that therefore the learned Single

Judge, ought to have accepted their case that there is no valid bye-laws governing the management of the school. Rule 2 of Chapter III deals with constitution of Corporate Management. This Rule provides that in the case of institutions under corporate Educational Agency, the constitution of the Educational Agency to the extent and in so far as it relates to the management of any school must be subject to the rules approved by the Director which should prescribe among other things:

“(a) the manner in which the proprietary body shall carry out its functions relating to the management of the institutions; and

(b) the manner in which the managing body shall be elected or appointed, the conditions and tenure of their office and their duties and powers with respect to the management of the institution.”

4. According to the counsel, clause (a) is not satisfied and it is on that basis, he contends that there are no valid Rules. However, we are unable to agree with the counsel. The corporate Educational Agency consists of the siblings of the deceased two brothers whose names are Madhavan and Ganesan. Clause (a) deals with the manner in which the

proprietary body shall carry out its functions relating to the management of the institutions and those are obviously contained in the compromise decree. Therefore, it is incorrect for the appellant to contend that the compromise decree did not contain necessary bye-laws prescribed under Rule 2 Chapter III of the KER. This submission, therefore, has to be rejected and we do so.

In such circumstances, we do not find any merit in these appeals. Appeals are dismissed accordingly.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
P.V.ASHA
JUDGE

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