

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No.285 of 2015 (I)

PETITIONER:

**THE MANAGER,SEETHI SAHIB MEMORIAL
VOCATIONAL HIGHER SECONDARY SCHOOL,
EDAKKAZHIYOOR,CHAVAKKAD,
THRISSUR DISTRICT-680506.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR OF VOCATIONAL HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDINGS,SANTHI NAGAR,
THIRUVANANTHAPURAM-695001.**
- 3. THE ASSISTANT DIRECTOR,
VOCATIONAL HIGHER SECONDARY EDUCATION,
REGIONAL OFFICE,AYYANTHOLE,THRISSUR-680003.**
- 4. K.J.SEBASTIAN,KOMBAN HOUSE,PALAYOOR,
CHAVAKAD,THRISSUR DISTRICT-680506.**

**R1 TO R3 BY SENIOR GOVT. PLEADER SMT.RAJASREE M.J.
R4 BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-03-2015, ALONG WITH WPC.3495/2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1:TRUE COPY OF THE ORDER IN CRL M.C NO.913/2011 OF SESSIONS
JUDGE OF THRISSUR DATED 22-07-2011.**

**EXHIBIT P2:TRUE COPY OF THE PROCEEDINGS ORDER OF THE MANAGER
DATED 01-08-2011.**

**EXHIBIT P3:TRUE COPY OF THE COMPLAINT OF SMT SHAKKER R.S
DATED 18-06-2011.**

EXHIBIT P4:TRUE COPY OF THE ENQUIRY REPORT DATED 13-07-2010.

**EXHIBIT P5:TRUE COPY OF THE LETTER OF THE GOVERNMENT
DATED 14-08-2012.**

**EXHIBIT P6:TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT
DATED 04-07-2013.**

**EXHIBIT P7:TRUE COPY OF THE MEMO OF CHARGES AGAINST THE 4TH
RESPONDENT DATED 01-08-2011.**

**EXHIBIT P8:TRUE COPY OF THE STATEMENT OF ALLEGATIONS AGAINST THE
4TH RESPONDENT.**

**EXHIBIT P9:TRUE COPY OF THE JUDGMENT IN WPC NO 22743/2013-P
DATED 22-08-2014.**

**EXHIBIT P10:TRUE COPY OF THE LETTER OF THE 2ND RESPONDENT
DATED 17-12-2014.**

**EXHIBIT P11:TRUE COPY OF THE LETTER OF THE GOVERNMENT
DATED 07-12-2013.**

**EXHIBIT P12:TRUE COPY OF THE JUDGMENT IN WPC NO 709 OF 2014 K
DATED 22-08-2014.**

**EXHIBIT P13:TRUE COPY OF THE G.O(RT) NO.5584/14/GL/ EDN DATED 17-12-2014
OF THE GOVERNMENT.**

**EXHIBIT P14:TRUE COPY OF THE JUDGMENT IN WPC NO NO 21764/12 U
DATED 05-03-2013**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.285 & 3495 of 2015

Dated this the 3rd day of March, 2015

JUDGMENT

The petitioner in W.P.(C) No.285/2015 is the Manager of an aided school. The petitioner in W.P.(C) No.3495/2015 is the clerk working in the school belong to the writ petitioner in W.P.(C) No.285/2015. The clerk, namely, Sri.K.J.Sebastian was under suspension from 1.8.2011 onwards. By order dated 17.12.2014, the Government ordered reinstatement of Sri.K.J.Sebastian subject to finalization of the disciplinary proceedings and also subject to the decision of the criminal court pending against Sri.K.J.Sebastian before the First Class Magistrate Court, Chavakkad. Challenging the order passed by the Government, the Manager has approached this Court. To implement the order of the Government, Sri.K.J.Sebastian has approached this Court.

2. The suspension of a teacher is governed by Chapter XIV-A of Rule 67 of the Kerala Education Rules (KER). Sri.K.J.Sebastian is under suspension for now more than four years. Rule 67(9) of the KER provides for review of suspension in 'cases where teachers suspended by Managers are continuing under suspension for a period exceeding six months. The Authority referred therein has to take a decision whether suspension should be continued or not'. The review contemplated under this sub-rule will not apply to cases of suspension in pursuance of criminal proceedings in a Court or detention or as a prisoner for debt where sub-rule (3) of Rule 67 of the KER. It is to be noted that the decision to continue with suspension of the teacher has to be reviewed by the Officer under the Government and not by the Manager. Essentially, in the matter, the Officer has to be satisfied whether in the public interest, the teacher should be continued

with suspension beyond the period of six months. Therefore, the review jurisdiction is for the Government to exercise in an appropriate manner. The Manager's power to suspend the teacher is upto 15 days and beyond 15 days with the permission of the Department concerned. This would sufficiently indicates the domain of the suspension after the period of six months is vested with the Government and not with the Manager.

3. The Government, after a detailed fact finding held that Sri.K.J.Sebastian shall be reinstated into the service. The suspension was admittedly in pursuance of disciplinary proceedings. The Manager cannot question such decision of the Government in exercise of the review power vested with the Government in terms of Rule 67(9) of the KER.

In view of the facts and circumstances, I do not find any infirmity or any jurisdictional error exercised by the authorities

in terms of Rule 67(9) of the KER. In view of the above, there shall be a direction to the respondents to reinstate the petitioner in W.P.(C) No.3594/2015 forthwith in the service. W.P.(C) No.285/2015 fails and it is dismissed. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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