

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

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

WP(C).No. 1273 of 2015 (H)

PETITIONER :

**K.K.RAJU, AGED 44 YEARS,
S/O. K.C.KUTTY, PTA PRESIDENT, GOVERNMENT L.P SCHOOL,
KADAYIRUPPU, P.O.KADAYIRUPPU, ERNAKULAM.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
 - 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
JAGATHY, THIRUVANANTHAPURAM - 695 014.**
 - 3. THE DEPUTY DIRECTOR OF EDUCATION
ERNAKULAM AT KAKKANAD - 682 030.**
 - 4. THE ASSISTANT EDUCATIONAL OFFICER,
KOLENCHERY, ERNAKULAM DISTRICT - 682 311.**
 - 5. SRI.S.RAJAN
LOWER PRIMARY SCHOOL ASSISTANT
GOVERNMENT LOWER PRIMARY SCHOOL, KADAYIRUPPU
KOLENCHERRY, ERNAKULAM DISTRICT - 682 311.**
 - 6. THE HEADMASTER
GOVERNMENT LOWER PRIMARY SCHOOL, KADAYIRUPPU
KOLENCHERRY, ERNAKULAM DISTRICT - 682 311.**
- R1 TO R4 & R6 BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE**
- THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-02-2015 ALONG WITH WPC 1289/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

bp

WP(C).No. 1273 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY FO THE STAFF FIXATION ORDER 2014-2015 DT. 15.7.14.**
- P2: TRUE OCPY OF THE INFORMATION FURNISHED UNDER RIGHT TO INFORMATION ACT DT. 07.1.15.**
- P3: TRUE COPY OF THE ORDER NO. A4/10687/2014 DT. 01.01.15 OF THE DEPUTY DIRECTOR.**
- P4: TRUE COPY OF THE GO(P) NO. 154/2014/G.EDN DT. 11.8.14 OF THE GOVERNMENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R.RAMACHANDRA MENON, J.

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W.P.(C) Nos.1273 and 1289 of 2015

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Dated this the 18th day of February, 2015

JUDGMENT

The petitioners in both these writ petitions have similar grievance. The prayers are in the following terms:-

"1. Issue a writ of certiorari or any other appropriate writ, direction or order calling for the records leading to Exhibits-P4,P5 and P6 orders and quashing the same.

ii. Issue a writ of mandamus or any other appropriate writ, direction or order, directing the respondent to fix the teacher student ratio in the Upper Primary Section in Government Higher Secondary School Puliyanam in conformity with the schedule to the Right of Children to Free and Compulsoruy Education Act 2009 and State Rules 2011." (W.P.(C) No.1289 of 2015)

2. The main challenge raised in these writ petitions is with regard to the course pursued by the authorities of the Department of Education in shifting/transfer of teachers from the concerned schools, stating that excess teachers have been accommodated and hence redeployment is essential, based on the relevant ratio. There is a prayer to

quash the ratio to be fixed with reference to the schedule under the Right of Children to Free and Compulsory Education Act 2009 and State Rules 2011.

3. A statement has been filed by the 3rd respondent (in W.P.(C) No.1289/2015), the crux of which as contained in paragraph 2 and 3 are in the following terms:-

" 2. It is respectfully submitted that as per Exhibit P4, it was ordered that the Staff Fixation orders issued by the concerned Educational Officers during the Academic Year 2010-2011 will continue as such for the Academic Years 2011-2012, 2012-2013 and 2013-2014. During the Academic year 2014-2015, the Staff Fixation was revised as per Unique Identification Data (UID) based strength of students and teachers who became excess in the Staff Fixation Process due to Division Fall have been retained while sanctioning posts under 1:30 and 1:35 ratio on the specific condition that they will be deployed as and when permanent vacancies under 1:45 ratio arise. As per Communication No.H(2) 35637/2014 dated 27.11.2014 the Director of Public Instructions (2nd respondent) issued directions to re-deploy the excess teachers against the permanent vacancies available in Schools under 1:45 ratio by considering their service seniority. Hence, the excess teachers retained under 1:35 ratio in the Government High School, Puliyanam were ordered to be re-deployed to other schools where there are open vacancies.

3. As per Exhibit P1, there were 5 posts of U.P.teachers in the above school from the Academic year 2010-2011. But, as per 1:45 ratio applied during the academic year 2014-2015 there are only 3 permanent posts of teachers sanctioned in the above mentioned school. After re-deployment of excess teachers there will be 3 Upper Primary teachers in the Government High School, Puliyanam. The re-deployment is necessitated since there is dearth of teachers in various other schools. The re-deployment order was issued to maintain the ratio as 1:45 in all the Schools within the Educational District."

4. The learned Government Pleader points out that, absolutely no grievance has been expressed by the concerned teachers, who have not chosen to approach this Court against their transfer. The learned counsel appearing for the petitioners submits that they represent the Parent-Teachers Association and that they are more concerned with the fate of the children pursuing studies in the current academic year. It is pointed out that, any change at this juncture will shatter the equilibrium and no meaningful purpose will be served, if the concerned teachers are shifted to some other schools, quite detrimental to the rights and interest of the children of the present schools.

5. The learned Government Pleader points out that, sufficient teachers are available in the concerned schools to deal with the classes and that every effort will be taken by the departmental authorities to see that no student is adversely affected in the academic year, because of the impugned order.

In the above circumstances, this Court does not find it necessary to interfere with the matter. It is made it clear that the concerned respondents shall ensure that the students concerned are not adversely affected because of the deployment of the concerned teachers. The authorities of the Department of Education are also at liberty to consider whether such re-deployment could be implemented after expiry of the present academic year, that is, 31.03.2014, so that the apprehension can be abated in toto.

With the above observations, these writ petitions are disposed of.

**P.R.RAMACHANDRA MENON,
JUDGE**

sj