

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 5948 of 2012 (P)

PETITIONER(S):

1. FAISAL,
AGED 31, S/O.A.MUHAMMED, ATHIKKAVIL,
AM MANZIL, UZHUKUR P.O., MALAPPURAM-673 642.
2. BHABITH N., AGED 27,
LECTURER TOOL & DIE DEPARTMENT, AWH POLYTECHNIC,
POLYTECHNIC COLLEGE, KUTTIKATTOOR, KOZHIKODE-8.
- * 3. VIVEK P. JOHN, AGED 27,
HOD IN CHARGE OF ELECTRONICS COMMUNICATION,
AWH POLYTECHNIC, POLYTECHNIC COLLEGE, KUTTIKATTOOR,
KOZHIKODE-8.
- * (P3 IS REMOVED AND TRANSPOSED AS R6 AS PER ORDER
DATED 10/06/2014 IN IA 16851/2013)
4. SAJITH, AGED 31,
S/O.KRISHNANKUTTY, KUZHIKATTUKUZHIL, ARAPPUZHA P.O.,
PANTHEERANKAVU, CALICUT-19.

BY ADV. SRI.SHYAM PADMAN

RESPONDENT(S):

1. THE AWH POLYTECHNIC COLLEGE,
MSQUARE COMPLEX, PAVAMANI ROAD, KOZHIKODE-673 001,
REPRESENTED BY THE RECIEVER.
2. THE CHAIRMAN,
GOVERNING BODY, AWH POLYTECHNIC COLLEGE,
MSQUARE COMPLEX, PAVAMANI ROAD, KOZHIKODE-673 001.
3. SRI.K.N.NAMBOODRI,
DISTRICT JUDGE (RTD.), RECEIVER,
AWH POLYTECHNIC COLLEGE, MSQUARE COMPLEX,
PAVAMANI ROAD, KOZHIKODE-673 001.

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4. THE JOINT DIRECTOR,
TECHNICAL EDUCATION DEPARTMENT,
REGIONAL DIRECTORATE OF TECHNICAL EDUCATION,
KOZHIKODE-2.

5. THE ALL INDIA COUNCIL OF TECHNICAL EDUCATION,
I.G.SPORTS COMPLEX, I.P. ESTATE, NEW DELHI-110 002.

* PETITIONER NO.R IS TRANSPOSED AS R6.

6. VIVEK P. JOHN, AGED 27 YEARS,
HOD IN CHARGE OF ELECTRONICS COMMUNICATION
AWH POLYTECHNIC, POLYTECHNIC COLLEGE, KUTTIKATTOOR
KOZHIKODE -8.

* (PETITIONER NO.3 IS TRANSPOSED AS R6 AS
PER ORDER DATED 10/06/2014 IN IA 16851/2013)

R3 BY ADV. SRI.R.SURENDRAN

R4 BY GOVERNMENT PLEADER SMT.K.SUNITHA VINOD

R5 BY ADVS. SRI.S.KRISHNAMURTHY, SC

SRI.S.K.SAJU

SRI.A.RANJITH NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: A TRUE COPY OF THE APPOINTMENT ORDER OF 1ST PETITIONER DATED 10/10/2005.
- EXT.P2: A TABULATION SHOWING THE AMOUNT THAT THE TEACHING AND NON-TEACHING STAFF'S IN 1ST RESPONDENT COLLEGE ARE BEING PAID AND THE AMOUNT THEY ARE ACTUALLY ENTITLED IN NOV-2011.
- EXT.P3: A TRUE COPY OF THE MINUTES HELD ON 7.2.2012 IN THE DISTRICT COLLECTORS CHAMBER.
- EXT.P4: A TRUE COPY OF THE PERMISSION ORDER FROM HIGHER EDUCATION DEPARTMENT TO START AWH POLYTECHNIC COLLEGE DATED 27.7.2005.
- EXT.P5: A TRUE COPY OF THE MINUTES HELD ON 7.2.2012 IN THE DISTRICT COLLECTOR AS CHAMBER.
- EXT.P6: A TRUE COPY REVISING THE PAY OF THE EMPLOYEES OF THE AWH POLYTECHNIC COLLEGE.
- EXT.P7: A TRUE COPY OF THE GAZETTE NOTIFICATION OF AICTE.
- EXT.P8: A TRUE COPY OF THE REQUEST SUBMITTED TO THE 2ND RESPONDENT.
- EXT.P9: A TRUE COPY OF THE ORDER DTD.20.4.2013 ISSUED TO THE 1ST PETITIONER BY THE TECHNICAL EDUCATION DEPARTMENT.
- EXT.P10: A TRUE COPY OF THE COMMUNICATION DATED 24.5.2013 ISSUED THE PRINCIPAL OF THE 1ST RESPONDENT TO JOINT CONTROLLER OF TECHNICAL EDUCATION.
- EXT.P11: THE TRUE COPY OF THE GO(RT) NO.1277/2005/H.EDN. DTD.27.7.2005 ISSUED BY THE GOVERNMENT OF KERALA.
- EXT.P12: THE TRUE COPY OF THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION (GRANT OF APPROVAL FOR TECHNICAL INSTITUTIONS) REGULATIONS, 2010 DTD.15.1.2010.
- EXT.P13: THE TRUE COPY OF THE RELEVANT PAGES OF GO/(P) NO.85/2011/FIN DTD.26.2.2011.
- EXT.P14: THE TRUE COPY OF THE COMMUNICATION DTD.13.12.2011 NO.RP1/3114/11(3) OF THE 4TH RESPONDENT.

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- EXT.P15: THE TRUE COPY OF THE RENEWAL PROCEDURE OF REVALIDATION G.O.(MS) 511/2013/H.EDN. DTD.18.7.2013.
- EXT.P16: THE TRUE COPY OF THE ADMINISTRATIVE SANCTION ACCORDED TO DON BOSCO COLLEGE, KOTTIYAM G.O.(RT). NO.1175/2014/H.EDN. DTD.13.6.2014.
- EXT.P17: THE TRUE COPY OF THE SANCTIONED GUIDELINES FOR THE TERMS AND CONDITIONS OF THE SERVICE OF TEACHING AND NON TEACHING STAFF WORKING IN SELF FINANCING INSTITUTIONS G.O. (MS)NO.552/2014/H.EDN. DATED 19.7.2014.
- EXT.P18(COLLY):THE TRUE COPY OF THE OFFICE ORDER DTD. 30.07.2012 OF THE 3RD RESPONDENT AND THE TRANSFER ORDER DTD.31.7.2012 ISSUED BY THE PRINCIPAL.
- EXT.P19: THE TRUE COPY OF G.O.(M.S.) NO.75/2014/FIN DATED 20.2.2014.
- EXT.P20: TRUE COPY OF THE ORDER DTD. 21.1.2015 PASSED BY THE LEARNED PRINCIPAL MUNSIF'S COURT-1, KOZHIKODE.
- EXT.P21: TRUE COPY OF THE ORDER DTD.12.2.2015 ISSUED BY THE RECEIVER ALONG WITH A MODEL AGREEMENT.

RESPONDENT(S)' EXHIBITS:

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- EXT.R3(a): TRUE COPY OF THE R.R.NO.13 OF 2011 DTD.26.11.2011, FILED BY THE RECEIVER BEFORE THE PRINCIPAL MUNSIF'S COURT, KOZHIKODE IN OS.NO.667 OF 2010.
- EXT.R3(b): TRUE COPY OF THE R.R.NO.6 OF 2012 IN R.R.NO.13 OF 2011 DATED 21.3.2012, FILED BY THE RECEIVER BEFORE THE PRINCIPAL MUNSIF'S COURT, KOZHIKODE IN OS.NO.667 OF 2010.
- EXT.R3(c): TRUE COPY OF THE SHOW CAUSE NOTICE DTD.9.7.2013 ISSUED BY THIRD RESPONDENT TO MR.VIVEK P. JOHN (3RD PETITIONER).
- EXT.R3(d): TRUE COPY OF REPLY DTD.12.7.2013 ISSUED BY MR.VIVEK P. JOHN (3RD PETITIONER) TO THE 3RD RESPONDENT.

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.5948 of 2012

Dated this the 19th day of March, 2015

J U D G M E N T

This writ petition is at the instance of Lectures in AWH Polytechnic, Kuttikkattoor, Kozhikode. The above college is run by Association of Welfare of Handicaped, a charitable society. This dispute is regarding the election of the society. The above dispute is pending as O.S.No.667/2010 on the File of Principal Munsiff's Court, Kozhikode. The 3rd respondent, a retired District Judge was appointed as Receiver by the Munsiff's Court-II, Kozhikode in O.S.No.368 of 2008 for the day today administration of the society and its establishment. The petitioners approached this Court claiming salary as per AICTE norms and also seeking to implement Ext.P14 directions issued by Joint Director of Technical Education Department in the State of Kerala, wherein it was ordered that the management shall pay salary equivalent to the State Scale/AICTE Scale.

2. The learned Counsel appearing for the 3rd respondent, Receiver would submit that the mandate of the Receiver is based on the civil court and he has given only specific power based on the direction of the civil court. Therefore, he cannot implement the directions given by the Joint Director of Technical Education.

3. The petitioners' right otherwise available under law cannot be denied on account of the on going dispute between the Society. That right is referable under the relevant Regulations stipulated by the Statutory authority. However due to the fact that the administration of the college run by the Society is under the receivership, I am of the view that civil court has to pass appropriate orders in this matter.

4. Therefore, the 3rd respondent is directed file a report before the civil court with regard to the claim of the

petitioners. Thereafter, the civil court shall pass appropriate orders based on report without any delay.

The writ petition is disposed of as above. No Costs.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/