

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE C.K. ABDUL REHIM

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 7418 of 2011 (B)

PETITIONER

TOCH RESIDENTIAL PUBLIC SCHOOL,
KADUNGAMANGALAM, THIRUVANKULAM, THIRIPUNITHURA
REPRESENTED BY ITS EXECUTIVE DIRECTOR, MARY THOMAS.

BY ADVS. SRI.K.P.DANDAPANI (SR.)
SRI.MILLU DANDAPANI

RESPONDENTS:

1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
MINISTRY OF FERTILIZERS & CHEMICALS,
SASTRI BHAVAN, NEW DELHI, PIN 110301.
2. THE FERTILIZERS & CHEMICALS TRAVANCORE LTD.
HEAD OFFICE, UDYOGAMANDAL- 683 501
REPRESENTED BY ITS MANAGING DIRECTOR.
3. THE BOARD OF DIRECTORS,
THE FERTILIZERS & CHEMICALS TRAVANCORE LTD.
UDYOGAMANDAL-683 501, REPRESENTED BY THE CHAIRMAN.
4. CENTRAL BOARD OF SECONDARY EXAMINATIONS,
HEAD OFFICE, SHIKSHA KENDRA, 2-COMMUNITY CENTRE
PREETH VIHAR, DELHI-110 301.
- *5. THE FACT EMPLOYEES EDUCATIONAL AND SERVICE SOCIETY LTD.
NO.20 EKM/TC/831/2012, Q FLAT NO.20, FACT TOWNSHIP,
UDYOGAMANDAL P.O. PIN-683501,
REPRESENTED BY ITS SECRETARY.
- **6. SUDHEER P.H.,
PUTHUVAL PARAMBU, ERAMAM,
MUPPATHADAM, ERNAKULAM DISTRICT.
7. SUDHEER P.
PULLARVALAPPIL, MCR-04,
MUPPATHADAM, ERNAKULAM DISTRICT.

8. BADUSHA H.M.
ARAKURUPPATH HOUSE,
ERAMAM, MUPPATHADAM, ERNAKULAM DISTRICT.
9. NAVEEN C.
SOWPARNIKA, MYTRI NAGAR,
ERAMAM, MUPPATHADAM, ERNAKULAM DISTRICT.
10. ASSIS C.M.
CHETTY KUDY, ERAMAM, MUPPATHADAM,
ERNAKULAM DISTRICT.
11. SANTHOSH T.G.
MANJU NIVAS, ERAMAM, MUPPATHADAM,
ERNAKULAM DISTRICT.
12. SOJAN JOSEPH,
THOTTAKAT HOUSE, MUPPATHADAM,
ERNAKULAM DISTRICT.
13. GEETHA ROY,
MARY VILLA, H.M.T. COLONY P.O.,
KALAMASSERY.
14. BINDU PADMARAJ,
CHETHRAPPIPLY HOUSE,
MUPPATHADAM, ALUVA-10.
- ***15. SHAMSAD A.
W/O. JABIR,
TEACHER, SOCIAL SCIENCE, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT IRE QUARTERS, ELOOR NORTH,
UDYOGAMANDAL, ERNAKULAM.
16. NAZEEMA T.S.
W/O. SHAJAHAN V.M.
TEACHER, SOCIAL SCIENCE, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT VATTAPARAMBIL HOUSE,
KUTTIKATTUKARA P.O., PADALAM.
17. SOUMYADILEEP.
W/O. DILEEP,
K.G. TEACHER, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT MADENAPARAMBIL HOUSE,
MANJUMMEL, ELOOR, UDYOGAMANDAL.

18. TEENA THOMAS,
W/O. TONY JOSEPH,
TEACHER, SOCIAL SCIENCE, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT MALAMEL HOUSE, MANJUMMEL P.O., ELOOR.
19. JULIET C.K.,
W/O. SAJI THOMAS,
TEACHER, BIOLOGY, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT SAJI BHAVAN, MUPPATHADAM, ALUVA.
20. MILBI MOLE C. JOSEPH,
W/O. BABU XAVIER,
K.G. TEACHER, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT A-FLAT NO.3, FACT TOWNSHIP,
UDYOGAMANDAL, ELOOR..
21. LATHA A.S.
W/O. KRISHNANKUTTY,
TEACHER, MALAYALAM, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT C-QUARTERS, FACT TOWNSHIP,
UDYOGAMANDAL, ELOOR.
22. GIRIJA KUMARI,
W/O. MADHUSOODANAN NAIR,
TEACHER, MALAYALAM, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT AMRITHA BHAVAN, ELOOR NORTH,
UDYOGAMANDAL.
23. SIJI GEORGE,
W/O. SHELJAN V.A.
TEACHER, MATHEMATICS, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT VARIATH HOUSE, CHERANALLOOR, KOCHI.
24. BINI PHILIP,,
W/O. PHILIP SAMUEL,
TEACHER, PHYSICS, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT EMALPHOPPIL, CEMETRY JUNCTION, KOCHI-18.
25. SINI KANAKAN,
W/O. VINOD S.
TEACHER, ENGLISH, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT MADHU NIVAS, MUTTARLINK ROAD, MANJUMMEL.

26. SUNITHA M.K.
W/O. BINU V.P.,
TEACHER, HINDI, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT VELANPARAMBIL, MANJUMMEL.
27. BEENA PRASAD,
W/O. PRASAD T.S.
TEACHER, CRAFT, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT SREYAS, THAMARAMPARAMBIL,
MUPPATHADOM, ALUVA.
28. SREELAKSHMI PRADEEP,
W/O. PRADEEP MURALI,
TEACHER, HINDI, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT VISHNUSREE, ELOOR NORTH, UDYOGAMANDAL.
29. USHA HARIHARAN,
W/O. HARIHARAN,
TEACHER, YOGA, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT C-QUARTERS, FACT TOWN SHIP, UDYOGAMANDAL.
30. SAJITHA BINU,
W/O. BINU, TEACHER, MUSIC, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT NANDANAM, ELOOR NORTH, UDYOGAMANDAL.
30. CHANDINI SUNIL,
W/O. SUNIL, TEACHER, DANCE, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT E.D FLAT, FACT TOWNSHIP, UDYOGAMANDAL.
31. JAYALAKSHMI P.
W/O. LATE. B. VIJAYAKUMAR, ACCOUNTANT, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT P-FLAT, FACT TOWNSHIP, UDYOGAMANDAL.
32. JAYALAKSHMI P.
W/O. LATE. B. VIJAYAKUMAR, ACCOUNTANT, TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT P-FLAT, FACT TOWNSHIP, UDYOGAMANDAL.
33. MARY SMITHA M.J.
W/O. JOY THOMAS ANTONY, TEACHER, MATHEMATICS,
TOC H PUBLIC SCHOOL,
UDYOGAMANDAL, ERNAKULAM,
RESIDING AT VALIYAPARAMBIL HOUSE, JEWEL NEDUNGAD,
FLAT-C1-3, PALARIVATTOM, KOCHI-25.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

R2 & 3 BY ADV. SRI.E.K.NANDAKUMAR

SRI.K.JOHN MATHAI

SRI.P.BENNY THOMAS

SRI.P.GOPINATH

R4 BY ADV.SRI.DEVAN RAMACHANDRAN, SC, CBSE.

R5 BY ADV. SRI.P.SANTHALINGAM (SR.)

SRI.KAYALATT KUTTYKRISHNAN

SMT.P.USHAKUMARI

R6 TO R14 BY ADVS. SRI.K.JAJU BABU (SR.)

SMT.M.U.VIJAYALAKSHMI

SRI.BRIJESH MOHAN

R15 TO 33 BY ADV. SRI.B.MOHANLAL

*[ADDLR5 IMPEADED AS PER ORDER DATED 18-12-2012 IN IA No.16818/2012
& CORRECTED AS PER ORDER DATED 09-01-2014 IN IA No.17143/2013]

**[ADDLR6 TO R14 IMPEADED AS PER ORDER DATED 31-03-2014 IN
IA No.5012/2014]

***[ADDLR15 TO R33 IMPEADED AS PER ORDER DATED 20-01-2015 IN
IA No.17212/2014]

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-01-2015,
ALONG WITH WPC. 12689/2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS

- EXT- P1- TRUE COPY OF THE LEAVE AND LICENCE AGREEMENT BETWEEN THE PETITIONER AND THE 2ND RESPONDENT DATED 20-03-2004.
- EXT- P1 (a) - TRUE COPY OF THE LETTER No.CS/Co/101/1239 DATED 08-06-2004 ISSUED BY THE 2ND RESPONDENT.
- EXT- P2- TRUE COPY OF THE APPLICATION FOR THE CHANGE OF MANAGEMENT W.E.F 02-04-2004.
- EXT- P3- TRUE COPY OF THE LETTER DATED 10-05-2004 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT- P4- TRUE COPY OF THE LETTER DATED 05-06-2004 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT- P5- TRUE COPY OF THE LETTER DATED 24-01-2006 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT- P6- TRUE COPY OF THE TERMINATION NOTICE No.CS-HO-RO-633 DATED 24-11-2008 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT- P7- TRUE COPY OF THE REPLY BY THE PETITIONER TO THE 2ND RESPONDENT DATED 06-01-2009.
- EXT- P8- TRUE COPY OF THE LETTER No.CS-Co-853 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER, DATED 02-03-2009.
- EXT- P9- TRUE COPY OF THE LETTER No.CM (ADMN)-HO-098 DATED 10-02-2011 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT- P10- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE REPRESENTATIVES OF THE ACADEMIC COUNCIL OF THE PETITIONER DATED 27-02-2011.
- EXT- P11- TRUE COPY OF THE REPRESENTATION DATED 20-08-2013.
- EXT- P12- TRUE COPY OF THE LETTER NO.DGM (HR & ADMN)-HO-067 DATED 07-03-2014.
- EXT- P13- TRUE COPY OF THE LETTER NO.DGM (HR & ADMN)-HO-076 DATED 14-03-2014.
- EXT- P14- TRUE COPY OF THE REPLY DATED 18-03-2014 TO EXTS.P12 & P13.

RESPONDENTS' EXHIBITS

- EXT- R2 (a)- TRUE COPY OF THE LETTER DATED 15-11-2011 SENT BY
2ND RESPONDENT TO THE PETITIONER.
- EXT- R2 (b)- TRUE COPY OF THE LETTER DATED 17-12-2011 RECEIVED FROM
THE PETITIONER.
- EXT- R2 (c)- TRUE COPY OF THE LETTER DATED 07-03-2012 BY THE
2ND RESPONDENT TO THE PETITIONER.
- EXT- R2 (d)- TRUE COPY OF THE LETTER DATED 11-05-2009 RECEIVED FROM
THE PETITIONER.
- EXT- R2 (e)- TRUE COPY OF THE LETTER DATED 28-06-2010 ISSUED BY TOC H
PUBLIC SCHOOL TO THE 1ST PETITIONER/2ND RESPONDENT.

True copy

P.A. To Judge

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C.K. ABDUL REHIM, J.

W.P.(c) No. 7418 OF 2011
&
W.P.(c) No. 12689 OF 2014

DATED THIS THE 20th DAY OF JANUARY, 2015.

J U D G M E N T

Issue involved in these writ petitions relate to sustainability of the steps initiated by FACT for cancellation of the arrangement under which they have entrusted functioning of the school in question to the petitioner in W.P (c) No.7418/2011. Learned counsel for the petitioner in W.P (c) No.7418/2011 submitted that, they are not intending to continue functioning of the school in the premises in question from the next academic year onwards (2015-2016). It is submitted that the premises will be handed over to FACT before commencement of the next academic year, on or before 30-04-2015, subject to reservation of rights of both parties to claim liabilities if any based on the terms of Ext.P1 agreement. It is further conceded that FACT will be at liberty to make alternate arrangements for running the school from the next

academic year onwards and to make admission of students for the said academic year.

2. In view of the above submissions made on behalf of the petitioner in W.P (c) No.7418/2011, which is hereby recorded, issue related to termination of the arrangement as well as the challenge raised against actions proposed for vacating the petitioner, does not survive for consideration any further. All incidental issues raised by both the parties as well as by other parties impleaded in both these writ petitions are left open for agitation, depending on the alternate arrangements which will be made by the FACT for running of the school from the next academic year onwards.

3. Under the above mentioned circumstances both these writ petitions are closed by recording submissions made on behalf of the petitioner in W.P (c) No.7418/2011.

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge