

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 4512 of 2015 (L)

PETITIONER(S):

1. EDEN EDUCATIONAL TRUST,
REPRESENTED BY ITS CHAIRMAN-GEORGE THOMAS,
MANJADIKKARA, CHANGANACHERRY-686 101.
2. GIRIJAKUMARI C.,AGED 37 YEARS,
W/O.RADHAKRISHNA KURUP, PRESIDENT,
PARENT TEACHERS ASSOCIATION, EDEN PUBLIC SCHOOL,
CHANGANACHERRY-686 101.
3. GEETHA S., AGED 48 YEARS,
KIZHAKKEDATH HOUSE, PUZHAVATH,
CHANGANACHERRY-686 101.

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 033.
2. DIRECTOR OF PUBLIC INSTRUCTIONS,
DEPARTMENT OF EDUCATION, JAGATHI, TRIVANDRUM-695 014.
3. CENTRAL BOARD OF SECONDARY EDUCATION,
(AFFILIATION UNIT), AMC CELL, PREETH VIHAR,
NEW DELHI-110 002, REPRESENTED BY ITS SECRETARY.
4. THE DISTRICT EDUCATIONAL OFFICER,
VAYASKARA, KOTTAYAM-686 001.
5. CONTROLLER OF EXAMINATIONS,
CENTRAL BOARD OF SECONDARY EDUCATION, PREETH VIHAR,
NEW DELHI-110 002.

**R1,R2 & R4 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT
R3 & R5 BY SRI.DEVAN RAMACHANDRAN, SC, CBSE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1 : TRUE COPY OF THE REQUEST SUBMITTED BY THE 1ST PETITIONER BEFORE THE 4TH RESPONDENT DT. 23-11-12.
- EXT. P2 : TRUE COPY OF THE COMMUNICATION OF THE 4TH RESPONDENT TO THE 1ST PETITIONER DT. 2-1-13.
- EXT. P3 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE HON'BLE CHIEF MINISTER OF KERALA DT. 30-8-2013.
- EXT. P4 : TRUE COPY OF THE COVERING LETTER OF THE 1ST PETITIONER TO THE 4TH RESPONDENT DT. 2-9-2013.
- EXT. P4(A) : TRUE COPY OF THE CERTIFICATE OF REMITTANCE OBTAINED FROM THE SUB TREASURY OFFICE, CHANGANASSERY DT. 2-7-13.
- EXT. P4(B) : TRUE COPY OF THE COMPREHENSIVE APPLICATION FOR AFFILIATION SUBMITTED THROUGH THE 4TH RESPONDENT DT. NIL.
- EXT. P5 : TRUE COPY OF THE COMMUNICATION OF THE 4TH RESPONDENT TO THE 1ST PETITIONER DT. 21-1-14.
- EXT. P6 : TRUE COPY OF THE GOVERNMENT ORDER G.O(MS) NO.202/11/G.EDN.) DT. 7-10-2011.
- EXT. P6(A): TRUE COPY OF THE GOVERNMENT ORDER NO.65057/N3/2011/G.EDN. DT. 10-11-2011.
- EXT. P6(B) : TRUE COPY OF THE GOVERNMENT ORDER G.O (MS) NO.112/2014/G.EDN. DT. 19-6-2014.
- EXT. P7 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND PETITIONER BEFORE THE 5TH RESPONDENT ALONG WITH THE LIST OF STUDENTS DT. 20-1-15.
- EXT. P8 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE 5TH RESPONDENT DT. 12-1-15.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.4512 OF 2015

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Dated this the 19th day of February, 2015

JUDGMENT

The petitioners have approached this Court with the following prayers:

"(a) To issue a writ of mandamus or other appropriate writ, order directing the respondents 1 and 2 to issue a No Objection Certificate to the 1st petitioner to obtain affiliation from the 3rd respondent on the basis of the recommendation of the inspection conducted by 4th respondent as is available in File No. NS 80743 of the 2nd respondent;

(b) To issue a writ of mandamus or other appropriate writ, order or direction directing the 3rd respondent to grant affiliation to the 1st petitioner's school as applied for by them (vide Ext.P4(b) application through the 4th respondent) in view of the fact that the school is eligible for grant of affiliation that too without insisting for an NOC from the State Government for the time being;

(c) To issue a writ of mandamus or other appropriate writ or order directing the 3rd respondent to register the names of the students (as enlisted in Ext.P7) to

be send up by the 1st petitioner for registration with CBSE so as to enable those students to participate in the forthcoming Class-X-Board Examinations being held in March, 2015; and

(d) Grant such other orders as may be deemed necessary in the facts and circumstances of the case and in the interest of justice.”

2. Mr. V.V. Asokan, the learned Senior Counsel appearing for the petitioners points out that the 1st petitioner, Educational Trust, has set up an educational institution for imparting education to the children mainly belonging to the poor sector of the society and steps are being taken to get affiliation of the 5th Respondent, C.B.S.E. According to the petitioners, they satisfy all requirements under the relevant provisions of law to set up the institution and to have the affiliation. But, as per the relevant norms, a No Objection Certificate has to be issued by the State/Departmental authorities so as to process and finalize the proceedings by the 5th respondent. It is with this intent, that an application was preferred before the concerned authorities, pursuant to which, a site inspection was conducted by the 4th respondent on 29.09.2014. It is stated that all the infrastructure

arranged by the petitioners have already been verified by the 4th respondent and has recommended for issuance of N.O.C., forwarding the proceedings to the 2nd respondent, before whom, the file has been assigned the number as NS 80743. The matter is pending consideration before the 2nd respondent for more than several months. Because of the laxity on the part of the concerned respondents, the petitioners face extreme difficulty to prosecute further steps, as the current academic year is coming to a close. Any further delay will be detrimental to the rights of the children pursuing studies, particularly in the 10th Standard. This made the petitioners to approach this Court by filing this writ petition for immediate intervention.

3. When the matter came up for consideration before this Court on the last occasion, a specific reference was made to the averments made by the petitioners in 'paragraph 9' of the writ petition, which reads as follows:

"9. The attitude of the respondents 1 and 2 besides being arbitrary is also vitiated by discriminatory treatment in comparison with the similarly placed educational agencies. The State Government had given No Objection

Certificates to 1) SN Central School, Thuruthi, Changanacherry, 2) Gurukul Mount Public School, Thiruvalla, 3) Al-Hissan English Medium School, Niranam, 4) AKM Public School, Changanacherry and 5) Mary Rani Public School, Changanacherry very recently and these schools could able to obtain affiliation from CBSE.”

The learned Government Pleader, on instructions, submits that the file containing application and recommendation has already been put up for further action and that the proceedings will be finalized within the shortest possible time.

4. In the said circumstances, there will be a direction to the 2nd respondent to take further steps with regard to the prayer to grant NOC based on the proceedings and recommendation given by the 4th respondent. The outcome shall be communicated to the 5th respondent within two weeks. It will be for the 5th and 6th respondents to take further steps with regard to the affiliation sought for and pass appropriate orders in accordance with law. While pursuing such steps, the concerned respondents shall weigh the rights and interests of the children who are pursuing the studies in the school, of course, with reference to the infrastructure made available by the petitioners. The factual

aspects pointed out by the petitioners in **paragraphs 9 and 13** of the writ petition shall also taken into consideration by the 2nd respondent, while passing orders as above.

5. The writ petition is disposed of accordingly.

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-
P.R.RAMACHANDRA MENON
JUDGE

//true copy//

P.S. to Judge

St/-