

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 4916 of 2015 (L)

PETITIONER :

**P.K.MADHUSOODHANAN,
ASSISTANT TEACHER, (UNDER SUSPENSION),
AIDED JUNIOR BASIC SCHOOL, KATAMPAZHIPURAM,
PALAKKAD-678 633, RESIDING AT MADHU NIVAS,
KATAMPAZHIPURAM, PALAKKAD-678 633.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695 001.**
- 3. DISTRICT EDUCATIONAL OFFICER,
OTTAPPALAM-679 101.**
- 4. ASSISTANT EDUCATIONAL OFFICER,
CHERPULASSERRY, PALAKKAD-678 001.**
- 5. THE MANAGER,
AIDED JUNIOR BASIC SCHOOL, KATAMPAZHIPURAM,
PALAKKAD-678 633.**
- 6. THE HEADMASTER IN CHARGE,
AIDED JUNIOR BASIC SCHOOL, KATAMPAZHIPURAM,
PALAKKAD-678 633.**

**R1 TO R4 BY SR GOVERNMENT PLEADER SRI.V.VIJULAL
R5 BY ADV. DR.GEORGE ABRAHAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-02-2015,ALONG WITH WP(C).NO.5661 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE SUSPENSION ORDER DATED 23.1.2015.**
- EXHIBIT-P2: TRUE COPY OF THE LETTER DATED 30.1.2015.**
- EXHIBIT-P3: TRUE COPY OF THE EXPLANATION/REPRESENTATION DATED 4.2.2015
SUBMITTED BEFORE THE 4TH RESPONDENT.**
- EXHIBIT-P4: TRUE COPY OF THE ORDER DATED 9.2.2015 ISSUED BY THE 4TH
RESPONDENT.**
- EXHIBIT-P5: TRUE COPY OF THE LETTER DATED 12.2.2015 ISSUED BY THE
MANAGER TO THE 6TH RESPONDENT.**
- EXHIBIT-P6: TRUE COPY OF THE LETTER DATED 12.2.2015 ISSUED BY THE
MANAGER TO THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.4916 & 5661 of 2015

Dated this the 26th day of February, 2015

JUDGMENT

These two writ petitions are in relation to interference of the suspension order by the Assistant Educational Officer. The writ petitioner in W.P.(C) No.4916/2015 is the teacher suspended by the Manager. The writ petitioner in W.P.(C) No.5661/2015 is the Manager of the School aggrieved by the interference of the suspension by the Assistant Educational Officer.

2. W.P.(C) No 4916/2015 is filed to implement the order passed by the Assistant Educational Officer to revoke suspension. W.P.(C) No.5661/2015 is filed challenging the order passed by the Assistant Educational Officer.

3. There is no doubt about competency about the Assistant Educational Officer in interfering with the decision.

Though extensive arguments have been raised by Dr. George Abraham, the learned counsel appearing for the Manager submitting that the Assistant Educational Officer has bias in the matter and revoked the suspension with malicious intention to help the teacher, who is a co-worker in the NGO Association.

4. Both parties also have mutually raised allegations regarding involvement of offences and registration of crime.

5. As a matter stands now, the Manager also moved the Government by way of revision by Ext.P14. The petitioner also request for an interim measures. However, the learned counsel for the petitioner in W.P.(C) No.4916/2015 submits that the Manager is bound to implement the order passed the Assistant Educational Officer and the Manager cannot wriggle out from his statutory liability to implement the order. The

learned counsel for the Manager submits that the remedy in such situation available to the teacher, if the teacher is kept unauthorizedly out of service, the claim for the salary by the Department from the Manager and not otherwise.

6. I am not expressing anything on the merit of this issue before this Court as the Manager has a statutory remedy before the Government to assail the order passed. The learned counsel for the petitioner in W.P.(C) No.4916/2015 would submit that the Manager cannot place any teacher under suspension beyond the period of 15 days without previous sanction of the Deputy Director of Education. Therefore, even without interference by the Assistant Educational Officer, the petitioner is entitled to continue.

7. The learned counsel for the petitioner in W.P.(C) No.5661/2015 relying on the judgment in **Gangadharan v. Deputy Director of Education [1994(1) ILR 432]** submits

that the Government has power to annul any order passed by other authorities in the State.

8. As has been noted above, the scope of interference of this order at this stage very narrow, especially when the Manager has a statutory remedy. However, the Manager is bound to implement the order passed by the Assistant Educational Officer subject to any decision by the Government in the revision. The petitioner in W.P.(C) No.4916/2015 is under suspension from 23.1.2015 onwards.

In view of the above, the Manager shall reinstate the petitioner in W.P.(C) No.4916/2015 forthwith. However, it is made clear that this will be subject to the decision of the revision. There shall be a direction to the Government to consider the revision within a period of two months after hearing the petitioners. In the meanwhile, any application has filed for stay for operation of the impugned order, that shall

also be considered after hearing the concerned teacher within a period of two weeks. It is made clear that the reinstatement will be subject to any order to be passed by the Government.

These writ petitions are disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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