

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 7997 of 2013 (Y)

PETITIONER :

STANLY PAUL
S/O. LATE LILLY K. PAUL,
'SAM VILLA', P.O. OTTAPPALAM
PALAKKAD DISTRICT.

BY ADVS.SRI. V. RAJENDRAN
SRI.M.S.MUHAMMED ANSARY

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.
2. THE DEPUTY DIRECTOR OF EDUCATION
PALAKKAD-678 001.
3. THE ASSISTANT EDUCATIONAL OFFICER
SHORNUR-679 121.
4. THE CORPORATE MANAGER
ALL CSI SCHOOLS IN MALABAR AND WAYANAD, BANK ROAD
CALICUT-673 001.
5. M.GIRIJA
HEADMISTRESS, B.E.M.L.P. SCHOOL, SHORNUR
RESIDING AT JIL COTTAGE, NEAR JAS THEATRE
OTTAPPALAM-679 101.

R1 TO R3 BY GOVT. PLEADER SMT. ROSE MICHAEL
R4 BY ADV. SRI.P.V.KUNHIKRISHNAN
R5 BY SENIOR ADVOCATE SRI.P.VIJAYA BHANU
BY ADVS. SMT.M.M.DEEPA
SRI.V.A.JOHNSON (VARIKKAPPALLIL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 : COPY OF THE PROCEEDINGS DTD.6.10.09 OF THE DIRECTOR OF PUBLIC INSTRUCTION.
- EXT. P2 : COPY OF THE GOVERNMENT ORDER GO(RT)NO.3830/2010 G.EDN. DTD.30.8.2010.
- EXT. P3 : COPY OF THE LETTER DTD.24.10.2011 OF THE A.E.O., OTTAPALAM TO 3RD RESPONDENT.
- EXT. P4 : COPY OF THE LETTER DTD.3.5.2012 OF THE 3RD RESPONDENT TO THE PETITIONER.
- EXT. P5 : COPY OF THE GOVERNMENT ORDER NO.2863/2012 DTD.19.6.2012.
- EXT. P6 : COPY OF THE REPRESENTATION DTD. 9.7.2012 OF THE PETITIONER TO 1ST RESPONDENT.
- EXT. P7 : COPY OF THE GOVERNMENT LETTER DTD.31.7.2012 TO THE PETITIONER.
- EXT. P8 : COPY OF THE REPRESENTATION DTD.4.10.2012 OF THE 5TH RESPONDENT TO THE 1ST RESPONDENT.
- EXT. P9 : COPY OF THE REQUEST DTD.30.10.2012 SUBMITTED BY THE PETITIONER.
- EXT. P9(a): COPY OF THE REPLY DTD.30.10.2012 GIVEN TO THE PETITIONER.
- EXT. P10: COPY OF THE TRANSFER CERTIFICATE.
- EXT. P11: COPY OF THE ORDER DTD.13.2.2012 IN CRL.MP NO.789/2012 IN COURT OF ENQUIRY COMMISSIONER & SPECIAL JUDGE.
- EXT. P12: COPY OF THE REPRESENTATION DTD.1.3.2013 OF THE PETITIONER TO THE 3RD RESPONDENT.
- EXT. P13: COPY OF THE REPRESENTATION DATED 4.3.2013 OF THE PETITIONER TO THE 1ST RESPONDENT.
- EXT. P14: COPY OF THE GOVERNMENT LETTER NO. 14310/B3/2013/G.EDU.D DATED 17.4.2013.

RESPONDENT(S)' EXHIBITS :

- EXT. R5(a) COPY OF THE PROCEEDINGS OF THE BISHOP IN NORTH KERALA, DATED 29.3.2011 DEBARRING THE PETITIONER.

(Contd...)

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- EXT. R5(b) COPY OF THE PARTICULARS OF THE ALLEGED BOGUS STUDENTS AS
PER THE FINDINGS OF THE SUPER CHECK CELL.**
- EXT. R5(c) COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C)
NO. 32638/2010 DATED 29.10.2010.**
- EXT. R5(d) COPY OF THE GOVERNMENT ORDER (P) NO. 56/11 DATED 26.2.2011
ISSUED BY THE DEPARTMENT OF PUBLIC INSTRUCTIONS.**

//TRUE COPY//

P.A. TO JUDGE

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A.M.SHAFFIQUE, J

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W.P.C.No.7997 of 2013

Dated this the 28th day of January 2015

J U D G M E N T

Petitioner has approached this Court seeking the following reliefs:

“a) Call for the records leading to Exts.P5 and P7 and quash the same by the issue of a writ in the nature of certiorari or other appropriate writ order or direction;

b) direct the 1st respondent by the issue of a writ in the nature of mandamus or other writ, order or direction to consider Ext.P6 representation in accordance with law and pass appropriate orders expeditiously.

c) direct the 2nd and 3rd respondents by the issue of a writ in the nature of mandamus or other appropriate writ, order or direction to implement Ext.P1 and P2 orders and effect recovery from the 5th respondent as ordered in Ext.P1 and P2 orders;”

2. Ext.P5 is an order passed by the Government withdrawing an action taken against the 5th respondent in terms of Exts.P2 and P3. By Ext.P2 dated 30/08/2010, the Government, while considering an appeal petition filed by the Corporate Manager as well as the 5th respondent, opined that the action initiated by the Department in arriving at the conclusion that the School had made bogus admissions were justified and that the admission register, promotion list etc had been fabricated. Accordingly, the revisions filed by the Corporate Manger as well as the 5th respondent were rejected. Pursuant to Ext.P2, the Assistant Educational Officer issued Ext.P3 dated 24/10/2011 imposing on the 5th respondent a liability of Rs.2,63,393/- for having manipulated the student strength by which additional staff strength had to be given by the Government. The amount appears to be the salary paid to Smt.Sherin Reeba Koshi during the interregnum period. It was inter alia mentioned that the said amount shall be fixed as liability against the 5th

respondent and steps have to be taken to recover the amount. It seems that a representation was submitted to the Education Minister in terms of Ext.P8 which was considered by the Government and Ext.P5 order dated 19/06/2012 was passed reviewing the earlier order and exonerating the 5th respondent from any such liability. Petitioner challenges Ext.P5 inter alia stating that the 5th respondent was responsible for manipulation of records and there was no reason for reviewing the earlier order. 5th respondent did not challenge Exts.P2 and P3 which had become final and therefore there is no provision to review Ext.P2 order as has been done by the Government. As against Ext.P5, a representation was submitted as Ext.P6 which was also rejected by the Government.

3. Counter affidavit is filed by the 5th respondent inter alia contending that the petitioner has no locus standi to challenge the impugned orders. Primarily it is argued by the learned counsel for the 5th respondent that the issue

regarding locus standi has to be considered. Petitioner in this writ petition has stated that he was a Corporate Manager of various aided Schools run by the Church of South India Trust. He stated that he belongs to that community and was also the Secretary of the Pastorate Committee during the period 2002-2006.

4. This is not a public interest litigation whereas this is with reference to a service matter involving respondents 4 and 5. Petitioner was not the Corporate Manager at the time of filing the writ petition and petitioner is not aggrieved by Ext.P5 order. Writ petition can be filed challenging an order passed by the Government only by a person having any interest in the same. In so far as the petitioner's locus standi is not proved, it is not possible for this Court to entertain the writ petition. The petitioner claims that he is the member of a Pastorate Committee. That by itself will not give him any right to challenge Ext.P5 order which is an order issued by the Government in favour

of the 5th respondent. Under such circumstances, I do not think that there is any necessity to enter into the merits of the issue since the writ petition is liable to be dismissed only on the ground of absence of locus standi of the petitioner.

In the result, this writ petition is dismissed.

(A.M.SHAFFIQUE, JUDGE)

jsr

