

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 11346 of 2010 (P)

PETITIONER(S) :

SMT.V.C.MALATHY AMMA,
W/O.LATE PALLIATH PRABHAKARAN NAIR, AGED 73 YEARS,
MANAGER, VIVEKASAGARAM U.P.SCHOOL, VELLARAKKAD,
THRISSUR DISTRICT.

BY ADVS.SRI.P.K.MADHUSOODANAN
SRI.P.M.BINOY KRISHNA

RESPONDENT(S) :

1. THE ASSISTANT EDUCATIONAL OFFICER,
KUNNAMKULAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
CHAVAKKAD.

3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR.

4. THE DEPUTY TAHSILDAR, (R.R.)
TALUK OFFICE, TALAPPILLY.

5. VILLAGE OFFICER, WADAKKANCHERRY
VILLAGE OFFICE, WADAKKANCHERRY.

6. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
FINANCE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

R BY GOVERNMENT PLEADER SRI.S.JAMAL(SR.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.11346/2010

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1; COPY OF CHALAN EVIDENCING REPAYMENT OF MONEY TO THE SUB
TREASURY, KUNNAMKULAM.

EXT.P2: COPY OF THE JUDGMENT DATED 28/11/2000 IN O.P. NO.33314/2000.

EXT.P3: COPY OF THE ORDER DATED 30/3/2001 PASSED BY 2ND RESPONDENT.

EXT.P4: COPY OF THE LETTER DATED 11/10.2001 OF THE 6TH RESPONDENT.

EXT.P5: COY OF THE JUDGMENT DATED 6/11/2003 IN W.P.(c) nO.17712/2003.

EXT.P6: COPY OF THE LETTER DATED 24/4/2008 OF 1ST RESPONDENT.

EXT.P7: COPY OF THE REPRESENTATION DATED 7/6/2008.

EXT.P8: COPY OF THE LETTER DATED 7/8/2008 OF THE 1ST RESPONDENT.

EXT.P9: COPY OF THE REPRESENTATION DATED 3/11/2008 BEFORE THE 3RD
RESPONDENT WITH COPY TO THE 1ST RESPONDENT.

EXT.P10: COPY OF THE LETTER DATED 3/2/2009 OF 3RD RESPONDENT.

EXT.P11: COPY OF THE LETTER DATED 30/3/2009 OF 1ST RESPONDENT.

EXT.P12: COPY OF THE DEMAND NOTICE DATED 20/01/2010 FROM THE OFFICE
OF THE 4TH RESPONDENT.

EXT.P13: COPY OF THE NOTICE DATED NIL OF JANUARY 2010 THROUGH THE 5TH
RESPONDENT.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.11346 OF 2010

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner, who is a Manager of an U.P.School, approached this Court feeling aggrieved by the revenue recovery proceedings initiated against her for recovering the alleged dues from the petitioner. The liability now fastened on the petitioner is based on the irregular appointment given to one P.P.Haran. The appointment of Sri. Haran was approved by Ext.P3 and thereafter based on the direction in O.P. No.14611/2001 filed by one Rajan, the appointment of P.P.Haran was interfered. The amount now sought to be recovered from the petitioner is the amount paid to Sri.Haran being his salary, which amounts to Rs.78,942/-.

2. Admittedly, Sri.P.P.Haran was appointed in the petitioner's school and the approval was given to that appointment. The question to be considered is whether the liability can be fastened on the Manager for making appointment in the school which was approved by the authority. There is no law that merely because appointment

has been interfered by the Court or by the competent higher authorities, any amount paid to the appointee during the period to which he worked in the school, shall be recovered from the school authorities. The revenue recovery proceedings has to be initiated against the Manager of the School only in circumstances in which the Manager willfully or by certain fraudulent act cause loss to the exchequer. The appointment can be interfered in different manner by authorities. Therefore, before fastening the liability, the Manager should have been heard in the matter. The liability cannot be fastened as a consequence of setting aside the appointment made by the petitioner. The revenue recovery proceedings initiated, without adverting to the petitioner's objection regarding the liability, is unsustainable.

3.In the result, the revenue recovery proceedings initiated against the petitioner are set aside. It is open for the Department to proceed against the petitioner, if otherwise available in law, after hearing the petitioner.

The writ petition is disposed of as above.

A.MUHAMED MUSTAQUE,
Judge.

dpk

/True copy/ PS to Judge.

