

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 7854 of 2015 (F)

PETITIONER(S):

**ASHIK KANEELAKATH,
ARABIC TEACHER (UNDER SUSPENSION),
MADRASSA SIRAJUL ULUM UP SCHOOL,
ANAYIDUK, KANNUR-670 003.**

BY ADV. DR.K.P.PRADEEP.

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR OF PUBLIC INSTRUCTION,
DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 3. DEPUTY DIRECTOR OF EDUCATION,
KANNUR, GENERAL EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, DDE OFFICE,
CIVIL STATION, KANNUR-670 002.**
- 4. ASSISTANT EDUCATIONAL OFFICER,
KANNUR NORTH GENERAL EDUCATION DEPARTMENT,
GOVERNMENT OF KERALA, AEO OFFICE, KANNUR-670 002.**
- 5. THE MANAGER, MADRASS SIRAJUL ULUM UP SCHOOL,
ANAYIDUK, KANNUR-670 003.**
- 6. HEAD MASTER, MADRASSA SIRAJUL ULUM UP SCHOOL,
ANAYIDUK, KANNUR-670 003.**

R1 TO R4 BY SR. GOVT. PLEADER SRI.V. VIJULAL.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE COMMUNICATION NO.B5-4047/2014 DATED 20/03/2014
ISSUED BY THE 3RD RESPONDENT TO THE 5TH RESPONDENT.
- EXT.P1A COPY OF THE LETTER NO.3422/SB/TDR/13C DATED 13/02/2014
ISSUED BY THE DISTRICT POLICE CHIEF, KANNUR TO THE
3RD RESPONDENT.
- EXT.P1B COPY OF THE LETTER DATED 21/02/2014 SUBMITTED BY THE
6TH RESPONDENT TO THE 5TH RESPONDENT.
- EXT.P2 COPY OF THE EXPLANATION DATED 16/04/2014 SUBMITTED BY THE
PETITIONER THE 5TH RESPONDENT.
- EXT.P3 COPY OF THE ORDER NO.1/2014 DATED 08/05/2014 ISSUED BY THE
5TH RESPONDENT TO THE PETITIONER.
- EXT.P4 COPY OF THE ORDER NO.2/2014 DATED 22/05/2014 ISSUED BY THE
5TH RESPONDENT TO THE PETITIONER.
- EXT.P5 COPY OF THE NOTICE NO.V3/18413/2014/DPI DATED 23/01/2014
ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

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W.P.(C) No.7854 of 2015

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Dated this the 18th day of March, 2015

JUDGMENT

The petitioner was on long term leave without allowance from 30.09.2003 to 29.09.2008. Thereafter he joined for duty.

2. On 20.03.2014, based on Ext.P1 communication issued by the 3rd respondent, the Deputy Director of Education, Kannur, the petitioner was suspended from service. The reason for suspension is that the petitioner is involved in a criminal case relating to counterfeit of currency notes and he was in custody for more than one year in jail in connection with the crime. Further it is noted that several other cases were also registered against him.

3. The petitioner's case is that he has undergone suspension for more than one year and in the light of judgment of Supreme Court in **Ajay Kumar Choudary v. Union of India and another** (2015(1) ILR 767), he is entitled to be reinstated.

4. The learned Government Pleader submits that the petitioner has effective alternative remedy and he is not invoking that alternative remedy.

5. The learned counsel for the petitioner submits that the petitioner cannot invoke the alternate remedy before the higher authority because at the instance of the higher authority itself the suspension was ordered.

6. In the facts and circumstances, I am of the view that the petitioner can approach the 2nd respondent, challenging the continuation of suspension within a period of two weeks and the 2nd respondent shall take a decision in the matter, within a further period of two months.

The writ petition is disposed of. No costs.

A. MUHAMED MUSTAQUE, JUDGE

sj