

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

OP.No. 29122 of 2002 (P)

PETITIONER(S):

**E. RAJENDRAN NAIR, S/O.E. ESWARA PILLAI,
AGED 52 YEARS, MANAGER,
A.E.P.M. HIGHER SECONDARY SCHOOL,
IRUMPANANGADU, KOTTARAKKARA - 691 505.**

**BY ADVS.SRI.V.A.MUHAMMED,
SRI.K.E.HAMZA.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
KOLLAM.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
KOTTARAKKARA.**
- 5. THE MANAGER, VIVOKODAYAM SANSKRIT
VOCATIONAL HIGHER SECONDARY SCHOOL,
EZHUKONE, KOLLAM DISTRICT.**

R1 TO R4 BY SR. GOVT. PLEADER SMT.M.J. RAJASREE.

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE JUDGMENT IN O.P. NO.13274/2001-E OF THIS HONOURABLE COURT.
- EXT.P2 COPY OF THE G.O.(RT) NO.2764/02/G.EDN. OF THE GOVERNMENT.
- EXT.P3 COPY OF THE ORDER NO.NS2/77878/00/DPI OF THE 2ND RESPONDENT.
- EXT.P4 COPY OF THE G.O.(RT) NO.166/2000/G.EDN. OF THE GOVERNMENT.
- EXT.P5 COPY OF THE ORDER NO.NS2/77878/2000/DPI OF THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R5A COPY OF THE GOVERNMENT ORDER, VIDE NO.GO.RT. NO.3380/84/G.EDN. DATED 12/09/1984 ISSUED BY GOVERNMENT OF KERALA.
- EXT.R5B COPY OF THE GOVERNMENT ORDER, VIDE NO.GO.RT NO.2465/86/G.EDN. DATED 14/07/1986 ISSUED BY THE GOVERNMENT OF KERALA.
- EXT.R5C COPY OF THE GOVERNMENT ORDER, VIDE NO.GO.RT. NO.3445/86/G.EDN. DATED 04/10/1986 ISSUED BY GOVERNMENT OF KERALA.
- EXT.R5D COPY OF THE GOVERNMENT ORDER, VIDE NO.G.RT. NO.980/2001/G.EDN. DATED 15/03/2001 ISSUED BY GOVERNMENT OF KERALA.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.M. Shaffique, J.

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O.P. No. 29122 of 2002

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Dated this, the 27th day of February, 2015.

J U D G M E N T

Petitioner has approached this Court seeking the following reliefs:

“(a) Call for the records relating to Exts. P2, P3 and P4 and quash the originals of the same by the issue of a writ of certiorari or other appropriate writ or order;

(b) declare that the sanctioning Malayalam Parallel divisions in the 5th respondent school as per Ext. P4 is illegal;

(c) issue a writ of mandamus or other appropriate writ, order or direction commanding the 1st respondent to consider the Revision Petition dated 23.3.2001 referred to in Ext. P2 afresh and pass orders on merits by the Government themselves within a time limit.”

2. It is inter alia contended that the petitioner’s school is having a Malayalam medium, whereas the 5th respondent’s school was a Sanskrit medium school. An attempt was made by the 5th respondent to start a Malayalam medium, which was permitted by the educational authorities. The petitioner challenges the said action of the educational authorities.

3. The main contention urged by the petitioner is that Ext. P2 order is passed without considering the judgment of this Court in O.P. No. 13274/2001. In the

judgment dated 22.3.2002, this Court directed the Government to consider Ext. P3 revision and pass appropriate orders, which resulted in Ext. P2 order dated 26.8.2002 by which revision petition of the petitioner was disposed of remitting the matter back to the Director of Public Instructions to review the whole issue after considering the revised guidelines. Pursuant to the same, Ext. P3 order dated 15.3.2001 has been passed by the DPI. It is observed that since parallel divisions were started with Government permission, the contention urged by the petitioner does not deserve any consideration.

4. In fact, the petitioner had a case that the distance between the two schools is only 1.2 kilometers and therefore large number of students may leave the petitioner's school and get admission in the school managed by the 5th respondent. It was argued that fundamental rights as contemplated under Chapter 5 of the KER has not been observed.

5. Ext. P4 is the order dated 11.2.2000 by which the Government had sanctioned Malayalam medium parallel division in Standards V and VIII during the Academic Year 2000-2001 in the V.S.H.S. Ezhukone. Having regard to the fact that the school had commenced operation since 2000 and has been

continuing for quite long time until now, I do not think that there is any necessity to consider this original petition on merits. At any rate, it is observed by the DPI that the 5th respondent management was sanctioned Malayalam medium as per orders issued by the Government. The provisions of KER clearly provide sufficient powers to the Government to provide relaxation to the Rules in certain exigencies.

Having regard to the aforesaid situation, I do not think that the petitioner has ventilated any legal right to challenge the impugned order. Hence, the original petition is dismissed.

Sd/-

A.M. Shaffique, Judge.

Tds/

A.M. Shaffique, J.

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O.P. No. 29122 of 2002

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J U D G M E N T

27th February, 2015.

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