

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 16364 of 2007 (W)

PETITIONER(S):

**MOHAMMED ABDUL SATAR SAIT,
S/O.LATE HAJI HASSAN YAKOOB SAIT, AGED 61 YEARS
MANAGER, HAJI HASSAN YACOOB SAIT
MEMORIAL UPPER PRIMARY SCHOOL, KUTTETHERUVU
KAYAMKULAM, ALAPPUZHA.**

**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,
ALAPPUZHA.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
MAVELIKKARA, ALAPPUZHA DISTRICT.**
- 5. THE ASSISTANT EDUCATIONAL OFFICER,
KAYAMKULAM, ALAPPUZHA DISTRICT.**

BY GOVERNMENT PLEADER SRI.ABHIJITH LESSIL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE CIRCULAR NO.24540/0G3/G.EDN.OF THE GOVERNMENT
- P2: COPY OF THE G.O.(RT.)NO.4642/04/G.EDN.OF THE GOVERNMENT
- P3: COPY OF THE CIRCULAR NO.6708/G3/06/G.EDN.OF THE GOVERNMENT
- P4: COPY OF THE ADMISSION REGISTER
- P5: COPY OF THE G.O.(MS.)NO.148/03/G.EDN.OF THE GOVERNMENT
- P6: COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
ASST.EDL.OFFICER
- P7: COPY OF THE ONE DAY VERIFICATION REPORT
- P8: COPY OF THE OBJECTION FILED BEFORE THE DY.DIRECTOR OF EDUCATION
- P9: COPY OF THE REQUEST FOR HIGHER LEVEL VERIFICATION FILED BY THE
PETITIONER
- P10: COPY OF THE INSPECTION REPORT OF THE INSPECTING OFFICER
(ASST.ENGINEER)
- P11: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC19358/2006D
- P12: COPY OF THE ORDER NO.B1-6375/06 OF THE DIST.EDUCATIONAL OFFICER
- P13: COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT
- P14: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC1458/2007W
- P15: COPY OF THE G.O.(RT.)NO.1906/07/G.EDN.OF THE GOVERNMENT
- P16: COPY OF THE CIRCULAR NO.H1/72901/06 OF THE R2
- P17: COPY OF THE LETTER NO.H1/2901/06 OF THE DIRECTOR OF PUBLIC
INSTRUCTION
- P18: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC.30657/05Y

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

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P.S. TO JUDGE

K. SURENDRA MOHAN,J.

W.P(C) NO.16364 OF 2007

Dated this the 22nd January, 2015.

JUDGMENT

The petitioner is the Manager of HHYSM UP School, Kuttetheruvu under the fifth respondent. The case of the petitioner is that, his school had English medium divisions in the U.P.Sections of the School for the academic year 2005-06. As per Ext.P2 Government Order, students who were undergoing private study were permitted to be admitted to Government as well as aided schools upon their qualifying an admission test to be conducted by the respective schools. Admission to such students are regulated by Ext.P3 circular. Ext.P5 permits parallel English medium divisions in Malayalam medium schools. In spite of the above, on a one day verification conducted on 12.7.2006 the Verifying Officer refused to reckon the strength of the students admitted as per

Ext.P3 circular. The student strength of the English Medium division of Standard I also was not reckoned. Ext.P7 is the student strength that was available on the said date. In Ext.P7, the student strength has been reckoned without taking into account the English medium divisions. The petitioner objected to the said procedure that was adopted and submitted Ext.P8 representation to the third respondent. However, the third respondent considered the matter and by Ext.P12 rejected the petitioner's contention. Though the petitioner challenged Ext.P12 in revision before the Government, by Ext.P15 order the petitioner's revision was also rejected. This writ petition has been filed challenging Exts.P12 and P15.

2. According to the counsel for the petitioner Smt.Jenzia P.A as per Exts.P2 and P3 it was permissible to admit students who were undergoing private study, to the petitioner's school. It was following the procedure stipulated by Ext.P3 that students were so admitted. As per Ext.P5, parallel English

medium divisions were also permissible. It was accordingly that, the petitioner had been conducting parallel English medium divisions. Therefore, there was nothing wrong in the procedure that was followed by the petitioner. Though an objection has been raised, that the petitioner has not been following the syllabus prescribed by the NCERT a different syllabus was followed for the only reason that, NCERT syllabus was a little tough for the students and such text books were not available in the market. The counsel has handed over to me across the Bar copy of G.O.No:2902/14 dated 19.7.2014 by which, the students who were admitted as stated above have also been reckoned for finalising the student strength and staff fixation from the academic year 2007-08 onwards. It is contended that, since for the subsequent years from 2007 onwards the situation having been accepted by the Government there is no justification for not accepting the said process for the academic year 2006-07 alone. Therefore, the counsel seeks the issue of appropriate orders setting aside

Exts.P12 and P15.

3. A detailed counter affidavit has been filed by the first respondent. The Govt. Pleader who represents the respondents opposes the contentions of the petitioner. It is contended that, during the academic year concerned no English medium division had been sanctioned to the petitioner's school. The petitioner was therefore conducting an unaided unrecognized school in the same premises in which he was conducting the recognized Malayalam medium school. There is no provision for counting the students of the unrecognized English medium school while determining the staff strength of the recognized Malayalam medium school. It was for the said reason that, the students of the English medium classes were not reckoned. It was only on 27.1.2007 that a request was submitted by the petitioner to amalgamate the existing unaided/unrecognized English medium school with the existing aided/recognized Malayalam medium school. It was only after the said request was sanctioned that, the

students of the English medium section have been permitted to be counted. Therefore, it is contended that there is nothing wrong in counting the strength of the students of the English medium section also from the year 2007-08 onwards. According to the learned Govt. Pleader, the above aspects have been considered and properly adverted to in Exts.P12 and P15. Therefore, no interference with the said proceedings is warranted.

4. Heard. As already noticed above, the case of the respondents is that the English medium school conducted by the petitioner was without any permission from the authorities. The English medium school had not been sanctioned during the year 2005-06. The petitioner has not produced any documents evidencing that the school had obtained sanction to start an English medium school during the year 2005-06. Therefore, I accept the contentions of the learned Govt. Pleader that, the English medium classes conducted by the petitioner during the relevant year were

without any sanction from the authorities. In view of the above, it cannot be said that the action of the fourth respondent and the other authorities in not reckoning the strength of the students of the English medium classes for computing the student strength of the petitioner's school was improper. Only students of the recognised school could be counted for computing the student strength. Apart from the above, it has been pointed out in Exts.P12 and P15 that, the petitioner had not been following the prescribed syllabus or the prescribed text books for imparting instructions to the students in the said school. The same is yet another infirmity in the manner of functioning of the English medium school. It is true that, the school has subsequently been recognised and permitted to be amalgamated as evident from the Govt. order dated 19.7.2014 referred to earlier. Obviously for the reason that the English medium section had not been permitted during the year 2006-07, the Govt. order dated 19.7.2014 has granted permission for retaining the students of the English

medium section only from 2007-08 onwards. The said G.O therefore shows that, the English medium section obviously did not enjoy the recognition of the authorities during the year 2006-07.

In view of the above I do not find any infirmity in Exts.P12 and P15 warranting an interference with them. The writ petition fails and is accordingly dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

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