

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No.13384 of 2010 (W)

PETITIONER:

**K.PADMADAS,PRESIDENT,B.S.S EDUCATIONAL SOCIETY,
ALATHUR,PALAKKAD DISTRICT.**

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY

RESPONDENT'S:

- 1. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.**
- 2. THE DISTRICT EDUCATIONAL OFFICER,
PALAKKAD.**
- 3. SWAMY SIVANANDA YOGI,PRESIDENT,
BRAHMANANDA SWAMY SIVAYOGI SIDHASRAMAM,
MAIN ROAD,ALATHUR,PALAKKAD DISTRICT.**
- 4. THE DEPUTY DIRECTOR OF EDUCATION,
PALAKKAD.**

**R1,R2 & R4 BY GOVT. PLEADER SRI.P.V.ELIAS.
R3 BY SRI.O.V.RADHAKRISHNAN (SENIOR ADVOCATE)
ADVS.SMT.K.RADHAMANI AMMA
SRI.ANTONY MUKKATH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-04-2015,ALONG WITH W.P(C) NO.18025/2010 AND CONNECTED
CASES THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE REGISTRATION CERTIFICATE NO.118/1984 ISSUED BY THE DISTRICT REGISTRAR, PALAKKAD.

EXT.P2:TRUE COPY OF THE MEMORANDUM OF ASSOCIATION AND RULES AND REGULATIONS OF THE B.S.S EDUCATIONAL SOCIETY,ALATHUR.

EXT.P3:TRUE COPY OF THE LETTER C.NO.17A/PR/NST.B.2/86-87 DATED 17.3.1988 OF THE COMMISSIONER OF INCOME TAX, COCHIN TO THE PRESIDENT OF THE B.S.S. EDUCATIONAL SOCIETY,ALATHUR.

EXT.P4:TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING OF THE B.S.S EDUCATIONAL SOCIETY,ALATHUR HELD ON 8.5.1988.

EXT.P5:TRUE COPY OF THE LETTER DATED 28.5.1988 OF THE PRESIDENT OF B.S.S. EDUCATIONAL SOCIETY TO THE PUBLIC RELATIONS OFFICER,OFFICE OF THE COMMISSIONER OF INCOME TAX, COCHIN.

EXT.P5(a):TRUE COPY OF THE AMENDMENT SENT WITH EXT.P5.

EXT.P6:TRUE COPY OF THE ORDER C.NO.17A/TECH/INST.B-2/86-87 DATED 11.7.1988 ISSUED BY THE COMMISSIONER OF INCOME TAX, KOCHI.

EXT.P7:TRUE COPY OF THE MINUTES OF THE MEETING OF THE GENERAL BODY OF B.S.S EDUCATIONAL SOCIETY,ALATHUR ON 11.12.1988.

EXT.P8:TRUE COPY OF THE AMENDED MEMORANDUM OF ASSOCIATION OF B.S.S EDUCATIONAL SOCIETY,ALATHUR AND THE RULES AND REGULATIONS OF THE SOCIETY (AS AMENDED ON 8.5.1988 AND 11.12.1988).

EXT.P9:TRUE COPY OF THE MINUTES OF THE GENERAL BODY MEETING OF B.S.S EDUCATIONAL SOCIETY,ALATHUR HELD ON 3.9.2007.

EXT.P10:TRUE COPY OF THE MINUTES OF THE EXECUTIVE COMMITTEE MEETING OF B.S.S EDUCATIONAL SOCIETY,ALATHUR DATED 3.9.2007.

EXT.P11:TRUE COPY OF THE APPLICATION DATED 26.9.2007 SUBMITTED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P12:TRUE COPY OF THE ORDER NO.B3-6873/07/K.DIS DATED 24.7.2008 ISSUED BY THE 2ND RESPONDENT.

EXT.P13:TRUE COPY OF THE MINUTES OF THE MEETING OF B.S.S EDUCATIONAL SOCIETY,ALATHUR.

EXT.P14:TRUE COPY OF THE ORDER DATED 21.3.2009 OF THE MUNSIF'S COURT,ALATHUR IN I.A.NO.366/2009 IN O.S NO.85/2009.

W.P(C) NO.13384/2010

EXT.P15:TRUE COPY OF THE NOTICE DATED 12.6.2009 ISSUED BY THE PETITIONER TO ONE OF THE MEMBERS OF THE COMMITTEE.

EXT.P16:TRUE COPY OF THE CERTIFICATE OF POSTING.

EXT.P17:TRUE COPY OF THE MINUTES OF THE MEETING OF THE EXECUTIVE COMMITTEE OF B.S.S EDUCATIONAL SOCIETY,ALATHUR.

EXT.P18:TRUE COPY OF THE ORDER NO.K.DIS/B3-3571/2009 DATED 9.7.2009 ISSUED BY THE 2ND RESPONDENT.

EXT.P19:TRUE COPY OF THE INTERIM ORDER DATED 23.7.2009 PASSED BY THIS HONOURABLE COURT IN W.P(C) NO.20602/2009.

EXT.P20:TRUE COPY OF THE APPEAL DATED 3.8.2009 FILED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT.

EXT.P21:TRUE COPY OF THE STAY PETITION FILED ALONG WITH EXT.P20.

EXT.P21(a):TRUE COPY OF THE ORDER NO.EM(1)/55436/09/DPI DATED 13.8.2009 ISSUED BY THE 1ST RESPONDENT.

EXT.P22:TRUE COPY OF THE JUDGMENT DATED 29.10.2009 OF THIS HONOURABLE COURT IN W.P(C) NO.20602/2009.

EXT.P23:TRUE COPY OF THE CONSTITUTION AND BYELAWS FOR B.S.S EDUCATIONAL SOCIETY SCHOOLS,ALATHUR.

EXT.P24:TRUE COPY OF THE LETTER DATED 29.3.2010 OF THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P25:TRUE COPY OF THE ARGUMENT NOTE DATED 19.3.2010 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P26:TRUE COPY OF THE ORDER NO.EM1/55436/2009/K.DIS DATED 31.3.2010 ISSUED BY THE 1ST RESPONDENT.

EXT.P27:TRUE COPY OF THE AMENDED MEMORANDUM OF ASSOCIATION OF THE BHRAMANANDA SWAMI SIVAYOGI EDUCATIONAL SOCIETY, ALATHUR.

EXT.P28:TRUE COPY OF THE CERTIFICATE DATE 3.12.2011 ISSUED BY THE DISTRICT REGISTRAR,PALAKKAD.

EXT.P29:TRUE COPY OF THE CERTIFICATE DATED 6.12.2011 ISSUED BY THE DISTRICT REGISTRAR,PALAKKAD.

EXT.P30:TRUE COPY OF THE LETTER NO.G3-1405/11 DATED 21.12.2011 OF THE DISTRICT REGISTRAR,PALAKKAD TO THE PETITIONER.

EXT.P31:TRUE COPY OF THE CONSTITUTION AND BYELAWS OF BRAHMANANDA SWAMI SIVAYOGI EDUCATIONAL SOCIETY SCHOOLS,ALATHUR.

Pto

W.P(C) NO.13384/2010

**EXT.P32:TRUE COPY OF THE ORDER NO.B4/10286/12/K.DIS DATED 11.7.2012
ISSUED BY THE 4TH RESPONDENT.**

**EXT.P33:TRUE COPY OF THE ORDER NO.D.DIS.EM1/56995/12/DPI
DATED 26.3.2013 ISSUED BY THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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C.K.ABDUL REHIM, J.

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W.P.(C) No.13384 OF 2010,

W.P.(C) No.18025 OF 2010,

W.P.(C) No.22559 OF 2010,

W.P.(C) No.5161 OF 2011

AND

W.P.(C) No.13519 OF 2013

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Dated this the 9th day of April, 2015

JUDGMENT

Basic issue involved in all these writ petitions pertains to the appointment of Manager for the educational institutions under BSS Educational Society, Alathur, which is the recognized educational agency of those institutions. M/s BSS Educational Society is an entity registered in the year 1984, under the Societies Registration Act, 1860. One Swami Nirmalananda Yogi was the founder president of the Society, who died on 13.8.2007. By virtue of an order passed by the District Educational Officer (DEO), Palakkad in the year 1990, Swami Nirmalananda Yogi was approved as Manager of the educational institutions under the corporate management of the society. After death of

Swami Nirmalananda Yogi on 13.8.2007, the society elected Swami Gangadharananda Yogi as President, in a meeting of its members held on 3.9.2007. Based on the said decision Swami Gangadharanada Yogi made an application to the DEO, Palakkad to approve the change of Managership of the Brahmananda Swami Sivayogi Higher Secondary School, Kollengode and Yogimatha Girls High School, Kollengode, without change of ownership. The said request was approved by the DEO through an order dated 24.7.2008 (Ext.P5 in W.P.(C)18025/2010). The said approval contemplated under Rule 5 of Chapter III KER was granted on the basis that Swamy Gangadharanda Yogi was elected as President of the Society, with effect from 3.9.2007. In the Writ Petitions, W.P.(C) Nos.18025/2010 and 22559/2010) it is stated that, during the year 2009 there occurred an attempt to convene a General Body meeting of the society, along with the General Body of another organization named

'Anandha Mahasabha', which was opposed by a group of the members of the society. In a civil suit filed before the Munsiff Court Alathur as OS No.85/2009, an interim injunction was ordered on 21.3.2009, restraining Swami Gangadharanada Yogi and others from convening meeting of the BSS Educational Society on 22.3.2009, based on a prima facie finding that BSS Educational Society is a separate entity than 'Ananda Mahasabha' and convening of a joint meeting of the general body of the two organisations is not legal. It is contended that subsequently, on 19.6.2009 the Executive Committee meeting of the BSS Educational Society had taken a decision to appoint Shri. K. Padmadas (petitioner in W.P.(C) 22559/2010 and 13384/2010) as Manager of the educational institutions. It is further stated that a meeting of the General Body of the society convened on 18.10.2009 had approved the above decision. It is evident that based on the said decision of the Executive

Committee taken on 19.6.2009, Shri. K. Padmadas had approached the DEO seeking transfer of Managership of 4 schools under the corporate agency, without involving change of ownership, with effect from 19.6.2009. The DEO took note of the resolution adopted by the executive committee on 19.6.2009 to remove Swami Gangadharanada Yogi from the managership and the appointment of Shri. K. Padmadas as Manager. The DEO had also taken into consideration of the judgment of the Munsiff Court Alathur in OS No.85/2009 to the effect that Anandha Maha Sabha and BSS Educational Society are separate legal entities and separate procedures are prescribed for functioning of both these organizations. Therefore, through an order dated 9.7.2009 (Ext.P7 in W.P.(C)18025/2010) Shri. K. Padmadas was approved as the Manager under Rule 5 of Chapter III of KER, with respect to 4 educational institutions, namely:-

- (i) BSSHS Kollengode
- (ii) YMGHS Kollengode
- (iii) ALPS Vanur
- (iv) BSS Gurukulam H.S.S. Alathur (un aided - recognised)

2. The above said order of the DEO was challenged in a writ petition filed before this court by Swami Gangadharanada Yogi, as W.P.(C) No.20602/2009. An interim order was issued by this court on 23.7.2009 restraining Shri. K. Padmadas from making any fresh appointments and by making it clear that decisions if any taken with respect to expenditure or other matters will be subject to further orders to be passed in the writ petition. Swami Gangadharanada Yogi had also challenged the order passed by the DEO in a statutory appeal before the Director of Public Instructions (DPI) Thiruvananthapuram. In an interim order issued by the DPI on 13.8.2009 (Ext.P10 in W.P.(C) 18025/2009) the operation of the

order of the DEO was stayed, subject to disposal of W.P. (C).20602/2009. Thereafter this court disposed of W.P.(C).20602/2009 permitting to pursue the challenge in the appeal filed before the DPI. The appeal in question was disposed of by the DPI through order dated 31.3.2010 (Ext.P13 in W.P.(C)18025/2010). The DPI had set aside the order passed by the DEO dated 9.7.2009 and allowed Swami Gangadharananda Yogi to continue as Manager, based on the earlier order of the DEO dated 26.7.2008. The DPI further observed that till a new constitution of the society is approved by the Deputy Director of Education under Rule 2 of Chapter III KER, Swami Gangadharananda Yogi can continue as the Manager under the educational agency, he being the President of the BSS Educational Society, as done in the case of Swami Nirmalananda Yogi. The DPI had issued further direction to the President of the society to take necessary steps for approval of the constitution of the

W.P.(C) No.13384 OF 2010,
W.P.(C) No.18025 OF 2010,
W.P.(C) No.22559 OF 2010,
W.P.(C) No.5161 OF 2011
AND
W.P.(C) No.13519 OF 2013

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educational agency, by the Deputy Director of Education. The Deputy Director of Education was given instruction to see that managership and the school properties should not go into the hands of persons outside the 'Sidhashramam'. It was also observed that the new constitution which is to be registered should be within the frame of the Rules of the society registered in the year 1984, or according to Rules if any amended with approval of the District Registrar (Registrar of Societies). W.P.(C) Nos.18025/2010 and 13384/2010 are filed challenging the above said order of the DPI.

3. W.P.(C).No.22559/2010 is filed by Shri. K.Padmadas against the refusal to grant approval of the constitution of the society. It is evident that Shri. K.Padmadas had approached the Deputy Director of Education Palakkad (DDE) for getting approval of the constitution, under the Rule 2 of Chapter III KER. But as per Ext.P13 order of the DDE dated 2.6.2010 approval

was declined based on the order of the DPI mentioned in the foregoing paragraphs to the extent of directing the President of the society to submit application for approval of the constitution, and also based on the observation that bye-law (constitutions) submitted by Shri.K.Padmadas does not contain signature of the President of the Society. In W.P.(C)22559/2010 the petitioner is seeking to quash Ext.P13 and inter alia seeks directions to the DDE for acceptance of the application submitted for approval of the constitution.

4. W.P.(C).No.13519/2013 is also filed by Shri. K. Padmadas. Reliefs sought for therein is to quash Ext.P17 order passed by the DPI, dated 26.3.2013 rejecting a revision filed by him against the order of the DDE dated 2.6.2010. The DPI had concurred with the view taken by the DDE that the approval of the constitution submitted by Shri.K.Padmas cannot be granted in view of the fact that the application was submitted not by the President of

the society, nor it contained signature of the President. It was also found that W.P.(C)22559/2010 filed by him regarding the dispute relating to the management is pending before this court.

5. W.P.(C) No.5161/2011 is filed by a Teacher (Physical Education) who was appointed in the BSS H.S.S Kollengode from 1.6.2010. She had approached this court aggrieved by the non-consideration of her appointment for approval by the DEO. Reliefs sought for in the said writ petition is to the extent of directing the DEO to approve her appointment, based on Ext.P1 order of appointment submitted by the Manager. Counter affidavit filed by the 2nd respondent in the said writ petition would indicate that the approval of appointment was kept pending only because the dispute relating to managementship of the school is not settled.

6. From the facts narrated as above, it is evident that the basic issue agitated in all these writ petitions

relate to the approval and transfer of Managership under the society. It is not in dispute that earlier Swami Nirmalanda Yogi was approved as Manager of the institutions. Subsequent to his death Swami Gangadharanada Yogi was also approved as Manager by DEO. It is informed to this court that Swami Gangadharanada Yogi also passed away during pendency of these writ petitions, on 20.4.2014. No impleadment of any person in his place is required because the issue does not relate to any personal interest of the deceased. So also the death of Swami Gangadharanada Yogi will not abate the cause of action in any manner. It is also noticed that, Additional R5 got impleaded in W.P.(C) 18025/2010 claiming successorship of Swami Gangadharananda Yogi. It is also evident that, by virtue of interim orders issued by this court in W.P.(C). Nos.18025/2010 and 13384/2010 Shri. K. Padmadas was continuing under managership of the educational

institutions, subject to conditions incorporated thereunder. Question agitated is with respect to sustainability of approval of Shri. K. Padmadas as Manager of the institutions as ordered by the DEO in his order dated 9.7.2009. There exist severe dispute between the parties regarding validity of removal of Swami Gangadharanada Yogi from the managership. It is pointed out by Senior Counsel appearing on behalf of Swami Gangadharananda Yogi as well as his successor Swami Sivananda Yogi that the alleged decision taken by the Executive Committee in this regard is totally illegal and invalid and is not in accordance with provisions contained in the bye-law of the society. It is pointed out that the civil suit filed in this regard seeking appropriate declaration is pending disposal before the Munsiff's Court Alathur as OS No.175/2009. But this court is of the considered opinion that the issue agitated in these writ petitions are confined within the premise of approval of

managership by the DEO. Rule 2 of Chapter III KER provides that in the case of institutions under the corporate educational agency, the constitution of the educational agency to the extent and in so far as it relates to the management of any school must be subject to approval by the Director, which should prescribe among other things the manner in which the body shall carry out its functions relating to the management of the institutions and the manner in which the body shall be elected or appointed and the conditions and tenure of the office, duties and powers with respect to the management of the institutions etc. It further specifies that in the case of aided schools the manner and appointment of managers also shall be specified in the Rules. It is cautioned that the rules of the Corporate educational agency to be approved by the Director shall not be against the provisions contained in the Educational Act and the Rules or against any Rules passed by the

Department or the Government concerned. Therefore it is evident that the constitution of the educational agency with respect to all matters relating to management of the educational institutions should be approved by the Director. As a corollary any change of management which needs approval under Rule 5 and 5A of Chapter III need to be dealt with in accordance with the constitution of the educational agency approved under Rule 2 of Chapter III. In the case at hand, as mentioned in the order of DPI dated 31.3.2010, the society which is the corporate educational agency has not obtained approval of the constitution as required under Rule 2, at any point of time. Swami Nirmalanada Yogi had continued as Manager since the formation of the society till his death as approved by the DEO. Subsequently Swami Gangadharanada Yogi was also approved as Manager on the basis that he was elected as the successor President of the Society. The DPI observed that the DEO had

approved those persons as Manager of the Educational institutions, without examining as to whether there was any constitution approved under Rule 2 of Chapter III. It was found that as long as the constitution was not approved and managership of Swami Nirmalananda Yogi as well as Swami Gangadharanada Yogi were approved on the basis that they were elected as President of BSS Educational Society, it is only just and proper to allow Swami Gangadharanada Yogi to continue as Manager of the educational institutions, till a new constitution is approved by the DDE. Even though the said finding rendered by the DPI was challenged by Shri. K.Padmas and others, this court had not accepted those challenges in view of the fact that it is mandatory for the corporate educational agency to have approved the constitution under Rule 2 of Chapter III. Further it is to be noticed that Swami Gangadharananda Yogi had passed away later and Shri. K. Padmadas was continuing as Manager of the

institutions based on interim orders issued by this court.

7. Therefore it is necessary that a proper approval of the managership need to be decided after complying with the requirements for approval of constitution as envisaged under Rule. But the learned Counsel appearing on behalf of Shri. K. Padmadas and the petitioners in W.P.(C)No.18025/2010 are challenging the observations contained in the order of the DPI dated 31.3.2010 to the extent it directed the DDE to take necessary steps for approving the constitution, subject to certain conditions stipulated therein. The DPI had observed that the President of the society should take necessary steps for approval of the constitution. Further the DDE was directed to see that the managership and the school properties should not go into the hands of persons outside the 'Sidhashramam'. It was also directed that the new the constitution which is to be approved should be within the frame of the society Rules registered in the year 1984

and according to Rules if any amended with the approval of the Registrar of the Societies.

8. Contention raised is to the effect that the DPI had transgressed beyond the scope of deciding validity and sustainability of the order passed by the DEO in approving the change of managership. Approval of the constitution is a matter which needs to be dealt with by the DDE on independent appreciation and evaluation of the factual aspects based on the formation and bye-laws of the society. It is a decision which need to be taken based on provisions contained in the bye-laws. If there occurs any dispute with respect to the genuineness of the bye-laws or with respect to validity of any alleged amendment brought therein, it should be decided by the DDE based on the materials available with due advertants to provisions governing registration of the society as enumerated under the Societies Registration Act, 1860. The person authorized for submitting the constitution for

approval is also a matter which need to be decided based on the provisions of bye-laws.

9. In the impugned order passed by the DPI a direction was issued to the DDE to see that the managership and properties of the schools should not go to the hands of the persons out side the 'Sidhashramam'. It is contended that the corporate educational agency under the KER with respect to the institution is the BSS Educational Society. It is contended that 'Sidhashramam' mentioned in the order is an organization which is not having any control over the corporate management and with respect to appointment of manager of the educational institutions. Per contra, senior counsel of the opposite side contended that 'Sidhashramam' is controlling over the affairs of the society. However it is not in dispute that managership of the institutions were approved earlier on the basis that the educational agency is the BSS educational society and on the basis that the

managers approved earlier were the Presidents of the society. However, when it comes to the question of approval of constitution the DDE has to consider it based on provisions contained in the bye-laws of the society dealing the management of the educational institutions. Therefore the observations made by the DPI to the extent the 'DDE is directed to see that the managership of the school properties should not go to the hands of persons out side Sidhashramam' was totally unwarranted and uncalled for to decide the issue. However, it is noticed that the DPI had further proceeded to observe that the constitution should be within the framework of the Society Rules registered in 1984 and on the basis of amendment if any with approval of the District Registrar (General). As already observed, approval of the constitution contemplated under Rule 2 is a matter which need to be independently decided by the DDE, based on materials available, having due regard to the legal positions

remaining settled and also with due regard to the provisions contained in the Societies Registration Act 1860. It is needless to observe that any judgment of the civil court which had attained finality pertaining to any of the issues concerned with genuineness or acceptance of the be-laws, will definitely be binding on the said authority.

10. Under the above mentioned circumstances, this court is of the considered opinion that the impugned order passed by the DPI dated 31.3.2010 does not warrant interference to the extent it set aside the order passed by the DEO approving Shri. K. Padmadas as Manager. It is observed that the directions issued by the DPI to the DDE to the extent of approving the constitution as contemplated under Rule 2, need to be confirmed. However, the observations contained in the order of the DPI with respect to the steps to be taken for approval of the constitution as well as the directions issued with

respect to protection of the properties and managership etc., are held as totally unwarranted in the context. This court is of the considered opinion that the entire matter can be relegated to the DDE, Palakkad for an appropriate decision with respect to approval of the constitution under Rule 2. A decision in this regard shall be taken by the DDE after conducting necessary enquiry with opportunity afforded to all the persons who are parties to these writ petitions. A decision with respect to approval of the constitution would be taken by the DDE after taking note of the observations contained herein above, untrammelled by any directions contained in the order of the DPI dated 31.3.2010. A decision in this regard shall be taken by the DDE Palakkad at the earliest, at any rate within a period of one month from the date of receipt of a copy of this judgment.

11. With respect to managership of the educational institutions concerned, till a decision is taken by the DDE

as directed above, the position existing on the basis of the interim orders of this court shall continue. The Educational Officer shall be at liberty to take fresh decision with respect to managership of the institutions, based on the decision which will be taken by the DDE as directed above.

12. The person who got impleaded in W.P.(C) 18025/2010 as per order in I.A.No.12734/2014 dated 3.12.2014 contended that he is the Head Master of BSS Higher Secondary School Kollengode promoted with effect from 1.4.2013. It is submitted that his appointment by promotion was not approved by the Educational Officer because of pendency of these writ petitions and because of the dispute existing with respect to managership. So also the petitioner in W.P.(C) 5161/2011 is a teacher appointed in the interregnum, whose appointment was not approved. It is pointed out that the dispute with respect to competence of the Manager should not be

permitted to affect the rights of the appointees. Decision of a Division Bench of this court in ***Manager St.Mary's H.S. v Beji Abraham [2002 1 KLT 406]*** was pointed out in support of the above contention. This court observed that in view of the fact that the appointment of the manager was subsequently found to be illegal or irregular the rights of the appointees could not be taken away. As far as the appointees are concerned, they are appointed by approved Manager and they are not concerned with the dispute with regard to the managership of the school. Even if there is some irregularity or illegality in the appointment of the Manager, action taken by him during the tenure of his Managership would not be illegal or irregular. All rights and liabilities followed from those actions would be saved by the 'defacto doctrine'. This court is of the opinion that the doctrine mentioned above can be adopted in the case of approval of the above said persons. Since this court

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has already directed the authorities concerned to take an appropriate decision with respect to approval of the constitution and approval of Managership, within the time limit stipulated as above, the educational authority should take decision with respect to approval of those appointments depending upon the out-come of decision which will be taken by the DDE. Necessary orders in this regard shall be issued immediately after the DDE takes a decision in accordance with the directions contained herein above.

All the above writ petitions are disposed of subject to the above directions and observations.

Sd/-
C.K.ABDUL REHIM, JUDGE

SKV