

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 9671 of 2015 (H)

PETITIONER(S) :

THE MANAGER, MANNAM MEMORIAL ENGLISH MEDIUM U.P.SCHOOL,
KUNISSERI, ALATHUR, PALAKKAD DISTRICT.

BY ADVS.SRI.JACOB SEBASTIAN
SMT.SHAMSEERA. C.ASHRAF
SRI.T.U.SUJITH KUMAR
SMT.ANU JACOB

RESPONDENT(S) :

1. STATE OF KERALA
REP. BY SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
TRIVANDRUM - 695 001.

3. THE ASSISTANT EDUCATIONAL OFFICER
ALATHUR, PALAKKAD

R BY GOVERNMENT PLEADER: ADV.SRI.M A FAYAZ SR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1 - A TRUE COPY OF THE GOVERNMENT ORDER DATED FEBRUARY 8, 1999.

EXT P2 - A TRUE COPY OF THE GOVERNMENT ORDER DT. MAY 27, 2000.

EXT P3 - A TRUE COPY OF THE GOVERNMENT ORDER DT. APRIL 2, 2005.

EXT P4 - A TRUE COPY OF THE GO(MS) 184/2013 GENERAL EDUCATION DATED JUNE 10, 2013.

EXT P5 - A TRUE COPY OF THE GOVERNMENT ORDER DATED OCTOBER 10, 2014.

EXT P6 - A TRUE COPY OF THE APPLICATION FOR RECOGNITION SUBMITTED BY THE PETITIONER DT. 15.7.13.

EXT P7 - A TRUE COPY OF THE LETTER DT. 28.8.14 SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT.

EXT P8 - A TRUE COPY OF THE VISIT REPORT OF THE THIRD RESPONDENT DATED JANUARY 14, 2015.

EXT P9 - A TRUE COPY OF THE LETTER DATED JANUARY 16, 2015 OF THE THIRD RESPONDENT.

RESPONDENT(S) ' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.9671 of 2015
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Dated this the 08th day of April, 2015

JUDGMENT

This writ petition is filed by Manager of Mannam Memorial English Medium U.P. School, Kunisseri, Alathur, Palakkad feeling aggrieved by insistence of consent of nearby schools for the purpose of obtaining recognition to the school in unaided sector.

2. The petitioner is an applicant for recognition by the Government. The application is produced as Ext.P6. Ext.P4 is the Government Order stipulating guidelines for granting recognition for unrecognized school that follow State syllabus. Ext.P8 is the report of Assistant Educational Officer, Alathur. The report recommends recognition to petitioner's school as petitioner has satisfied all the conditions as per the guidelines. However, report was submitted with a rider that petitioner shall obtain consent of the Heads of the nearby schools. Based on Ext.P9, petitioner's proposal was rejected stating that petitioner failed to obtain the required consent letters from the Heads of nearby schools. Petitioner challenges insistence of consent from nearby schools for the purpose of recognition.

3. Petitioner's case is that the school was established in the year 1979. Hence distance norms and area norms would not apply to the petitioner's school. It is further submitted that nowhere in the KER provides for obtaining consent from nearby schools for the purpose of recognition.

4. Learned Government Pleader points out Chapter V of Kerala Education Rules. Learned Government Pleader submits that distance from each of the existing schools to the area where new schools are proposed to be opened has to be considered while granting recognition to new schools. Learned Government Pleader therefore submits that AEO is justified in insisting for production of consent from the Heads of nearby schools.

Chapter V of KER deals with opening and recognition of schools. Rule 2 of above Chapter provides for procedure for determining the areas where new schools are opened. It refers preparation of lists one in respect of aided schools and another in respect of unaided schools. Though it stipulates that while preparing the list the distance from each of the existing schools to the area where new schools are proposed to be opened has to be reckoned, nevertheless it does not indicate that consent from nearby schools are to be obtained. It is to be

noted that thrust of the Regulation is for quality education, whether it be in aided or unaided sector. The Government does not have any financial implication in granting recognition to a new school. The Government need to satisfy that requisite facilities are being provided in new schools for quality education. Distance of another school though may be relevant, is not decisive for granting recognition to the new school if otherwise new schools satisfies all other conditions. In that view of the matter, Exts.P8 and P9 are set aside to the extent insisting production of consent from nearby schools and following directions are issued:

(i) The 3rd respondent is directed to forward the proposal without insisting production of consent letter from nearby schools within a period of one week from the date of receipt of a copy of this Writ Petition.

(ii) Thereafter on receipt of proposal from the petitioner, DPI shall take necessary action thereon within a further period of four weeks.

The Writ Petition is disposed of. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

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