

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).NO. 10936 OF 2015 (N)

PETITIONER(S) :

1. RUKHIYABI AGED 64 YEARS
W/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541.

2. T.K.JAMEELA
D/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541.

3. T.K.FATHIMATH ZUHARA
D/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541

4. T.K.ANEERA
D/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541

5. T.K.ASEENA
D/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541

6. T.K.JASEENA
D/O.LATE T.K.ABDUL KHADER HAJI, PATTUVATHIL HOUSE
CHATTANCHAL, THEKKIL, KASARGOD -671 5541

BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD

RESPONDENT(S) :

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

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
JAGATHY, THIRUVANANTHAPURAM-695 014.

3. THE DISTRICT EDUCATIONAL OFFICER
KASARGOD

4. SRI.T.K.MOIDEENKUTTY HAJI
PATTUVATHIL HOUSE, CHATTANCHAL, THEKKIL
KASARGOD-671 541.

5. SRI.T.K.MAHIN HAJI
PATTUVATHIL HOUSE, CHATTANCHAL, THEKKIL
KASARGOD-671 541.

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6. T.K.ABDULLA HAJI
PATTUVATHIL HOUSE, CHATTANCHAL, THEKKIL
KASARGOD-671 541.

R5&6 BY ADV. SRI.A.DINESH RAO
R4 BY ADV. SRI.S.RAMESH BABU (SR.)
R4 BY ADV. SRI.P.RAVINDRA NATH
R4 BY ADV. SRI.N.KRISHNA PRASAD
BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1. TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DATED 19/5/1976.

EXT.P2. TRUE COPY OF THE G.O.(MS) NO.1225/78/RD DATED 11/8/1978 OF THE GOVERNMENT

EXT.P3. TRUE COPY OF THE LETTER OF THE MANAGER ADDRESSED TO THE DIST.EDL. OFFICER DATED 26/7/1977.

EXT.P4. TRUE COPY OF THE APPLICATION OF THE MANAGER DATED 4/11/1977.

EXT.5. TRUE COPY OF THE APPLICATION OF THE MANAGER DATED 30/5/1977.

EXT.P6. TRUE COPY OF THE APPLICATION FOR PERMISSION TO OPEN A HIGHER SECONDARY SCHOOL DATED 13/6/2000.

EXT.P7. TRUE COPY OF THE LETTER OF THE MANAGER DATED 17/11/2008.

EXT.P8. TRUE COPY OF THE CERTIFICATE ISSUED BY THE TAHSILDAR DATED 13/10/2009.

EXT.P9. TRUE COPY OF THE APPLICATION OF THE 1ST PETITIONER DATED 20/3/2010.

EXT.P10. TRUE COPY OF THE CONSENT LETTER DATED 25/2/2010.

EXT.P11. TRUE COPY OF THE DECISION REPORTED IN 2007 (1) KLT 127 DATED 20/10/2006.

EXT.P12. TRUE COPY OF THE ORDER NO.EMS 5/34279/2010/DPI/K.DIS DATED 10/11/2010 OF THE 2ND RESPONDENT

EXT.P13. TRUE COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT DATED 24/11/2011.

EXT.P14. TRUE COPY OF THE NOTICE DATED 9/11/2012.

EXT.P15. TRUE COPY OF THE HEARING NOTE.

EXT.P16. TRUE COPY OF THE LETTER OF THE GOVERNMENT DATED 9/10/2013.

EXT.P17. TRUE COPY OF THE REPLY STATEMENT FILED BEFORE THE GOVERNMENT BY THE PETITIONERS DATED 25/10/2013.

EXT.P18. TRUE COPY OF THE REPLY STATEMENT FILED BY THE 4TH RESPONDENT DATED 22/11/2013.

EXT.P19. TRUE COPY OF THE NOTICE DATED 28/12/2013.

EXT.P20. TRUE COPY OF THE HEARING NOTE SUBMITTED ON 20/2/2014.

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EXT.P21. TRUE COPY OF THE JUDGMENT IN WPC NO.10495/2014 J DATED 18/6/2014.

EXT.P21(A). TRUE COPY OF THE G.O.(RT) NO.876/2015/G.EDN DATED 4/3/2015 OF THE GOVERNMENT.

EXT.P22. TRUE COPY OF THE CERTIFICATE DATED 28/1/2005.

EXT.P23. TRUE COPY OF THE LETTER OF THE DIST. EDL. OFFICER DATED 16/1/2013 ALONG WITH ORDER DATED 15/3/2012.

EXT.P24. TRUE COPY OF THE LETTER OF THE DIST. EDL. OFFICER DATED 14/6/2010.

RESPONDENT(S) ' EXHIBITS:

EXT.R6(A): A TRUE COPY SALE DEED NO.1544/1963 REGISTERED BEFORE THE SUB REGISTRAR'S OFFICE, KASARAGOD.

EXT.R6(B): MALAYALAM TRANSLATION OF THE SALE DEED DATED 07.10.1963

EXT.R6(C): A TRUE COPY OF G.O.(M.S)NO. 254/75/G/EDN. DATED 18.10.1975

EXT.R6(D): A TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT EDUCATIONAL OFFICER DATED 01.06.1976

EXT.R6(E): A TRUE COPY OF G.O.(M.S)NO. 1225/78/ED DATED 11.08.1978

EXT.R6(F): A TRUE COPY OF THE APPLICATION DATED 20.03.2010

EXT.R6(G):- A TRUE COPY OF THE NOTICE NO.B4/6014/2009 DATED 05.04.2010 ISSUED BY DISTRICT EDUCATIONAL OFFICER

EXT.R6(H): A TRUE COPY OF THE LETTER NO.B4/6014/2009 DATED 13.04.2010 ISSUED BY THE DISTRICT EDUCATIONAL OFFICER

EXT.R6(I): A TRUE COPY OF THE MEMORANDUM DATED 28.04.2010

EXT.R6(J): A TRUE COPY OF THE ORDER IN W.P.(C).NO.35908/2010 AND DATED 12.04.2011

EXT.R6(K): A TRUE COPY OF THE JUDGMENT IN W.P(C).NO.35908/2010 DATED 20.11.2012

EXT.R6(L): A TRUE COPY OF THE ARGUMENT NOTES FILED BY RESPONDENT NO.4

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.10936 of 2015
.....
Dated this the 19th day of June, 2015

J U D G M E N T

The pleadings in the writ petition reveal that there exists a management dispute with regard to the management of Chattanchal Higher Secondary School, Chattanchal, Kasargode district. By Ext.P21 judgment of this Court, there was a direction to the Government to consider and pass orders on a revision petition that was pending before the Government, after issuing notice, and affording the petitioners and the 4th respondent an opportunity of being heard. In Ext.P21 (a) order that was since passed by the Government, it is seen that the petitioner in the writ petition was not heard prior to the passing of the said order, as directed in the judgment of this Court. It is pointed out by learned Senior counsel for the respondents that, although no hearing was afforded to the petitioner after the judgment that directed the disposal of the revision petition by the Government, it is the fact that, prior to Ext.P21 judgment, the petitioner was heard by the revision authority. Be that as it may, I am of the view that, inasmuch as Ext.P21 judgment specifically contemplated that there was to be a hearing, prior to the passing of any order pursuant to the judgment, and it is a fact that the petitioner was

not heard prior to Ext.P21 (a) order, the interests of fairness would mandate that a fresh order be passed by the revision authority namely, the 1st respondent, after hearing the petitioners and the party respondents. Accordingly, I quash Ext.P21 (a) order and direct the 1st respondent to pass fresh orders in the revision petition, after hearing the petitioner and the party respondents, within a period of one month from the date of receipt of a copy of this judgment. It will be open to the petitioners as well as the contesting respondents to place on record any material which they rely upon in support of their contentions. If any such material is produced before the 1st respondent, in connection with the revision petition, the 1st respondent shall consider the same and deal with the said material in the order to be passed by him. The 1st respondent shall bear in mind that the issue that is agitated before him in the revision petition is essentially as to whether the educational agency in respect of the School in question is an individual educational agency or a corporate agency, and the decision to be passed by the 1st respondent shall reflect a consideration of the said issue.

A.K.JAYASANKARAN NAMBIAR
JUDGE

