

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 16858 of 2013 (S)

PETITIONER :

1. P.KUTTAPPA KURUP, AGED 83 YEARS
S/O.PADMANABHAN NAIR, KALPANA, ERAVANKARA P.O.
MAVELIKKARA.
2. NAVEEN BIJU, AGED 40 YEARS
S/O.GOPALAKRISHNA KURUP, NAVASRI, ERAVANKARA P.O.
MAVELIKKARA.

BY ADVS.SRI.M.V.THAMBAN
SRI.R.REJI
SMT.THARA THAMBAN
SRI.B.BIPIN

RESPONDENTS :

1. STATE OF KERALA,
REP. BY ITS SECRETARY TO THE GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN - 695 001.
2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,
NANDAVANAM, THIRUVANANTHAPURAM, PIN - 695 001.

R1 & R2 BY SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
BY GOVERNMENT PLEADER, SRI.T.T. MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 16858 of 2013 (S)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1: TRUE COPY OF THE GO(MS)NO.107/2002/G.EDN. DATED 18/05/2002.

EXT.P2: TRUE COPY OF THE COMMON JUDGMENT DATED 11/06/2004 IN W.A
NOS.030/2001 AND W.A NO.2796/2001.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 16858 OF 2013

Dated this the 11th day of August, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel appearing for the petitioners and learned Government Pleader.

2. This writ petition is filed as a Public Interest Litigation praying for the following reliefs:

“i) To issue a declaration that the Govt. High School at Eravankara is entitled to be upgraded as Higher Secondary Schools by virtue of the Govt. Order vide GO(MS) No.107/2002/G.Edn. Dated 18.05.2002.

ii) To issue a writ of mandamus or other writ or order directing the respondents to take emergent action to grant Plus 2 to the Govt. High School at Eravankara without any further delay.”

3. Petitioners' case in the writ petition is that the Government High School, Eravankara, Alappuzha District is entitled to be upgraded as Higher Secondary School as per Government Order, GO(MS) No. 107/2002/G.Edn. Dated 18.05.2002, which is produced as Ext.P1. Paragraph 9 of Ext.P1 Government Order dated 18.05.2002 reads as follows:

“9. Under the circumstances explained above, Government Order that considering the overall educational

scenario of Alappuzha district and the present financial position of the State, the cases of the school which have been recommended for grant of +2 schools will be given due consideration and weightage when Government take a decision to grant any more +2 Schools in the District.”

4. Petitioners contend that though the institution satisfy all requirements for upgradation, the same has not been upgraded.

5. Learned Government Pleader after obtaining instructions submitted that according to the policy of the Government, upgradation was given to 140 schools in Grama Panchayat area and 382 batches on the eight northern districts from Ernakulam to Kasaragode. It is submitted that paragraph 9 of the Government Order clearly indicates that as and when any decision is taken to grant upgradation in Alappuzha District, the petitioner's school shall also be considered.

6. Learned Government Pleader further submits that the subsequent policy of the Government has already been upheld by a Division Bench of this Court reported in **State of Kerala v. St.Roch's High School** [2014 (3) KLT SN 15(Case No.13)].

7. We have considered the submissions of learned counsel for the parties and perused the records. In view of paragraph 9 of the Government Order, the State Government has clearly come up with the policy and when any decision is taken to grant upgradation in Alappuzha District, petitioners' claim shall also be considered.

8. In view of the aforesaid, we do not see any good ground to issue any direction as prayed for on the policy dated 18.05.2002 with regard to the Government High School, Eravankara, Alappuzha District.

In view of the above as on date no direction as prayed for can be issued. The Writ Petition is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**