

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 19515 of 2008 (W)

PETITIONER:

**THE CHIEF EXECUTIVE OFFICER
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD
THAMARAKULAM, KOLLAM.**

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

**1. THE PRINCIPAL,
ANANTHAPURI EDUCATIONAL SOCIETY
SARASWATHY VIDYALAYA, VATTIYOORKAVU
THIRUVANANTHAPURAM.**

**2. THE REGIONAL TRANSPORT OFFICER
THIRUVANANTHAPURAM.**

**R1 BY ADVS. SRI.E.K.MADHAVAN
SMT.P.VJAYAMMA
SRI.V.KRISHNA MENON
SMT.UMA GOPINATH
SRI.P.J.ANILKUMAR
SRI.DEVIDAS.U.K**

R2 BY GOVERNMENT PLEADER SRI. MANOJ P.KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 19515 of 2008 (W)

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF ORDER DATED 10.4.2008 ISSUED BY THIS
HON'BLE COURT IN W.A. NO.752/08**
- P2 : TRUE COPY OF STATEMENT OF OBJECTIONS DATED 11/4/2008
SUBMITTED BEFORE THE LOK AYUKTA**
- P3 ; TRUE COPY OF ORDER DATED 9.5.2008 OF THE LOK AYUKTA**
- P4 : TRUE COPY OF ORDER DATED 10.4.2008 ISSUED BY THIS HON'BLE
COURT IN W.A. NO.752/08**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 19515 of 2008 (W)

Dated this the 10th day of August, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P3 order of the Lok Ayukta, which, following a judgment of this Court, directed that no contributions as per the Motor Transport Workers Welfare Fund Act, 1985, (for brevity 'Act of 1985') would be demanded from the 1st respondent, for reason of the 1st respondent being an educational institution. The Lok Ayukta also directed refund of Rs.9,000/- collected as such contribution, from the 1st respondent.

2. The learned Standing Counsel for the petitioner urges before this Court that Ext.P3 is one passed without jurisdiction and relies on the judgment in **University of Kerala v. Parvathy Krishna and Another - 2014 (2) KLT 233.**

3. The learned counsel for the respondent, however, submits that the issue is settled, insofar as the educational institutions being exempted, by a decision of a Division Bench of this Court in W.A. No.752/2008 and connected matters. The same is not disputed by the petitioner. But, however, they contend that an appeal is filed before the Hon'ble Supreme Court.

4. As of now, the educational institutions, as per the Division Bench decision of this Court, is held to be exempted from the contribution under the Act of 1985. Necessarily there need be no interference caused to Ext.P3 order. The question as to whether the Lok Ayukta has jurisdiction is left open. However, it is made clear that the 1st respondent would also be governed by the consequences of the Special Leave Petition filed before the Hon'ble Supreme Court, going against the dictum as held by the Division Bench of this Court.

5. In such circumstance, there shall be no 'action taken report' filed before the Lok Ayukta and no further proceeding need be proceeded with by the Lok Ayukta.

The writ petition is disposed of with the reservation as indicated above and the further direction that the amounts, directed to be refunded only if the Hon'ble Supreme Court rejects the challenge against the judgment, on the respondent then making a claim for refund.

Sd/-
K.VINOD CHANDRAN,
JUDGE