

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 16308 of 2015 (K)

PETITIONER :

THE MANAGER, C.H.M.K.M. U P SCHOOL, MUNDAKKULAM,
P.O.MUTHUPARAMBA, (VIA) KONDOTTY, NILAMBUR,
MALAPPURAM DISTRICT.

BY ADVS.SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR

RESPONDENTS :

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 ASSISTANT EDUCATIONAL OFFICER,
KIZHISSERY, MALAPPURAM DISTRICT 673 638.

R1-R3 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
BY SR.GOVERNMENT PLEADER SRI.JOE KALLIATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.16308 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 : COPY OF THE APPLICATION FOR UPGRADATION OF
PETITIONER'S SCHOOL DTD.5.5.2015.

EXT.P2 : COPY OF THE JUDGMENT IN W.P.(C)
No.25623/2011 DTD.22.5.2014.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C).No.16308 of 2015

Dated this the 15th day of July, 2015

JUDGMENT

Petitioner is the Manager of C.H.M.K.M. U.P.School, Mundakkulam in Malappuram District has filed this writ petition seeking a writ of mandamus commanding the respondents to sanction upto VIIIth Standard in the petitioner's school from the academic year 2015-2016 onwards and for other consequential reliefs.

2. Today, when the case was taken up for consideration, the learned counsel for the petitioner and also the learned Senior Government Pleader appearing for the respondents would point out that the issue raised in this writ petition is squarely covered by the judgment of this Court in ***Manager, LPGS, Veliyam, Kollam v. State of Kerala and Others [2015 (3) KHC 703]***. The learned Senior Government Pleader would also point out that the view taken by the learned Single Judge in the aforesaid judgment has already been endorsed by a Division Bench of this Court in its judgment in WA No.96/2015.

3. I heard the arguments of the learned counsel for the petitioner and also the learned Senior Government Pleader appearing for the respondents.

4. Paragraphs 5 and 6 of the judgment of the learned Single Judge in ***Manager, LPGS, Veliyam, Kollam v. State of Kerala and Others [2015 (3) KHC 703]*** read thus:-

“5. On a consideration of the steps taken by the State Government thus far, in the light of its obligation to give effect to the provisions of the RTE Act in the State, I find that the State Government will now need to complete the following tasks so as to put itself in a position where it will be able to effectively consider the applications preferred by the petitioners herein for upgradation of their schools.

(i) The data with regard to children up to the age of 14 years will have to be gathered and analysed, and a report drawn up showing the educational need of each area within the territorial limits of the various local authorities in the State.

(ii) Based on a comparison of the aforesaid data, with the data obtained with regard to the current infrastructural facility available in the said areas, a decision will have to be taken as regards the sanctioning of new schools/upgradation of existing schools in the area concerned. The progress report dated

13.05.2015 prepared by the State Project Director, SSA, Kerala indicates that steps are well underway towards collection of the aforesaid data and preparation of the necessary software that will process the same. Specific time schedules between June 15th and July 15th, 2015 have also been indicated for completing the process.

(iii) The State Government will also need to evolve suitable criteria that will determine which, among the many applications for sanction of new schools/upgradation of existing schools, will be preferred for the said grant.

(iv) It is only thereafter, that the State Government can call for and consider the applications for the grant of new schools/upgradation of existing schools in each area.

6. When queried on the time that would be required by the State Government for completing the aforesaid exercise, the learned Additional Advocate General would submit that the State would require eight months time for the same. On a consideration of the task that the State Government is expected to undertake, I am of the view that the time of eight months, requested for by the State Government, is excessive. In my view, taking into account the time frame indicated by the State Project Director, SSA, Kerala in the progress report referred to above, as well as the time required for incidental

activities, a time frame of four months from today should suffice for the State Government to put itself in a position to call for applications for sanction of new schools/upgradation of existing schools. Accordingly, I direct the State Government to ensure that the necessary steps required for processing applications for opening new schools/upgradation of existing schools, in accordance with the provisions of the RTE Act, is put in place within four months from today ie. on or before 31.10.2015. Thereafter, the State Government shall complete the process of calling for applications for sanction of new schools/upgrading existing schools, considering them and taking an appropriate decision thereon, within a further period of two months, so that the said process is completed on or before 31.12.2015. It will be open to the petitioners herein to respond to any notice inviting applications that is published by the State Government pursuant to the directions in this judgment. In view of the directions issued above, I am of the view that till such time as the process of consideration of applications is completed by the State Government, existing schools need not be permitted to admit students to standards which have not been sanctioned in the said schools through a formal process of upgradation. This observation is made in the light of I.A.No.7592/2015, preferred in W.P (C) No. 14814/2015, wherein the petitioner seeks permission to admit students in Standard V in his school where, currently, only classes upto standard IV have been sanctioned. To similar effect are the prayers in W.P. (C).No.14833/2015 and W.P.(C).No.15219/2015 where

the petitioners seek a direction to the Educational Authorities to sanction Standard V and VIII respectively in their Schools which, at present, have only classes up to Standard IV and VII respectively. My findings above would necessitate a dismissal of I.A.No.7592/2015 in W.P.(C).No.14814/2015 and W.P.(C).Nos.14833/2015 and 15219/2015. I do so."

In view of the judgment of this Court in ***Manager, LPGS, Veliyam, Kollam v. State of Kerala and Others [2015 (3) KHC 703]***, which has already been endorsed in W.A.No.96 of 2015 this Writ Petition is disposed of making it clear that the petitioner will also be governed by the directions contained in the aforesaid judgment of the learned Single Judge.

ANIL K.NARENDRAN, JUDGE

jv/skj