

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No.16471 of 2015 (H)

PETITIONER'S:

1. **T.K.RAMACHANDRAN,AGED 48 YEARS,
S/O.BALAN,SECRETARY,SANTI NIKETHAN
SECONDARY SCHOOL SOCIETY,TIRUVALLUR,
REGN.NO.82/1962,A SOCIETY REGISTERED
UNDER SOCIETIES REGISTRATION ACT 1860,
THAZHEKELOTH,POST THIRUVALLUR,VADAKARA TALUK,
THIRUVALLUR AMSOM,DESOM,KOZHIKODE-673541.**
2. **MANIKOTH RAGHAVAN,AGED 68 YEARS,S/O.CHATHU,
VICE PRESIDENT,SANTI NIKETHAN SECONDARY SCHOOL
SOCIETY,TIRUVALLUR,REGN.NO.82/1962,A SOCIETY REGISTERED
UNDER SOCIETIES REGISTRATION ACT 1860,MANIKOTH HOUSE,
PARAVANTHALA,NUTSTREET POST,VADAKARA AMSOM DESOM,
VADAKARA-673104.**
3. **N.GIRISH,AGED 38 YEARS,S/O.KRISHNAN,
GOVERNING COUNCIL MEMBER,SANTI NIKETHAN SECONDARY
SCHOOL SOCIETY,TIRUVALLUR,REN.NO.82/1962,
A SOCIETY REGISTERED UNDER SOCIETIES REGISTRATION
ACT 1860,NOLATHA HOUSE, POST THIRUALLUR,
VADAKARA TALUK,THIRUVALLUR AMSOM DESOM,
KOZHIKODE-673541.**
4. **NARAYANAN P.M,AGED 59 YEARS,S/O.POKKAN,
MUCHILOTTHAZHEKUNNI,PARAVANTHALA,
P.O.NUTSTREET,VADAKARA AMSOM DESOM,
KOZHIKODE-673104.**
5. **PRAJITH KUMAR.C,AGED 42 YEARS,S/O.POKKU,
THODUVAYAIL,POST THIRUVALLUR,VADAKARA TALUK,
THIRUVALLUR AMSOM,DESOM,KOZHIKODE-673541.**

**BY ADVS.SRI.SHYAM PADMAN
SRI.A.RANJITH NARAYANAN
SRI.S.K.SAJU
SRI.JOHN THITHEEMOS**

WP(C).No.16471 of 2015 (H)

RESPONDENT'S:

1. THE DISTRICT EDUCATIONAL OFFICER,
VADAKARA P.O.,VADAKARA-673101.
2. C.H.KUNHIKRISHNA KURUP,S/O.KANARA KURUP,
MANAGER,SANTI NIKETHAN SECONDARY SCHOOL SOCIETY,
TIRUVALLUR,REGN.NO.82/1962,A SOCIETY REGISTERED
UNDER SOCIETIES REGISTRATION ACT 1860,
RESIDING AT 'SIVOHAM HOUSE',MALAPARAMBA HOUSING COLONY,
CHEVAYUR P.O,CHEVAYUR AMSOM,DESOM,
KOZHIKODE TALUK-673017.
3. MOIDU HAJI CHUNDAYIL,AGED 56 YEARS,
S/O.MOOSSA HAJI,'CHUNDAYIL',KOTTAPPALLY P.O,
VILLYAPALLY,KOTTAPPALLY AMSOM DESOM,
VADAKARA TALUK,KOZHIKODE-673542.
4. SANTI NIKETHAN SECONDARY SCHOOL SOCIETY,
TIRUVALLUR,REGN.NO.82/1962, A SOCIETY REGISTERED
UNDER SOCIETIES REGISTRATION ACT 1860,REP. BY ITS
MANAGER C.H.KUNHIKRISHNA KURUP.S/O.KANARA KURUP,
RESIDING AT 'SIVOHAM HOUSE',MALAPARAMBA HOUSING COLONY,
CHEVAYUR P.O,CHEVAYUR AMSOM DESOM,KOZHIKODE TALUK-673017.
5. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
STATE OF KERALA,THIRUVANANTHAPURAM-1.
6. THE STATE OF KERALA,REP.BY THE SECRETARY,
EDUCATION DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-1.

R1,R5 & R6 BY GOVT. PLEADER SMT.LOWSY.A
R2 -R4 BY ADVS.SRI.BIJU ABRAHAM
SRI.B.G.BHASKAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 SERIES:TRUE COPY OF THE NOTICES (4 NOS) DATED 17.2.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER NOS. 1 TO 4.

EXT.P2 SERIES:TRUE COPY OF RECEIPTS DATED 26.2.2014 (3 NOS) ISSUED BY THE 2ND RESPONDENT.

EXT.P3: TRUE COPY OF THE PERSONAL NOTE DATED 20.10.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER NO.1.

EXT.P4: TRUE COPY OF THE REGISTERED LETTER DATED 4.11.2014 ISSUED BY THE PETITIONER NO.1 TO THE 2ND RESPONDENT WITH THE POSTAL ACKNOWLEDGMENT.

EXT.P5 SEREIES:TRUE COPY OF THE REPLY DATED 11.3.2015 ALONG WITH THE COPY OF DOCUMENTS ISSUED BY THE P10 ATTACHED TO THE OFFICE OF THE 1ST RESPONDENT.

EXT.P6: TRUE COPY OF THE PLAINT DATED 1.4.2015 IN O.S NO.12/2015.

EXT.P7: TRUE COPY OF THE WRITTEN STATEMENT FILED BY D6 (R3) DATED 14.5.2015 IN O.S NO.12/2015.

EXT.P8: TRUE COPY OF I.A. NO.231/2015 IN O.S. NO.12/2015 DATED 1.4.2015.

EXT.P9: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 5.4.2015 FILED BY D6 (R3) TO I.A. NO.231/2115 IN O.S. NO.12/2015.

EXT.P10: TRUE COPY OF ORDER NO.KDS B3-1295/15 DATED 24.3.2015 OF THE 1ST RESPONDENT APPROVING RESPONDENT NO.3 AS THE MANAGER.

EXT.P11: TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 9.4.2015 IN I.A NO.243/2015 IN O.S. NO.12/2015.

EXT.P12: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 10.4.2015 FILED BY D1 (R2) IN I.A NO.243/2015 IN O.S NO.12/2015.

EXT.P13: TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 9.4.2015 IN I.A NO.244/2015 IN O.S NO.12/2015.

EXT.P14: TRUE COPY OF THE COUNTER AFFIDAVIT DATED 10.4.2015 FILED BY D6 (R3) IN I.A. NO.244/2015 IN O.S. NO.12/2015.

EXT.P15: TRUE COPY OF THE PETITION AND ORDER I.A NO.231/2015.

EXT.P16: TRUE COPY OF THE PETITION DATED 14.5.2015 FILED BY D6 (R3) IN O.S NO.12/2015.

W.P(C) NO.16471/2015

EXT.P17: TRUE COPY OF THE APPEAL DATED 29.4.2015 FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT.

EXT.P18: TRUE COPY OF THE STAY APPLICATION DATED 29.4.2015 FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT.

EXT.P19: TRUE COPY OF THE REPLY DATED 12.5.2015 WITH THE COPY OF THE NOTE FILES ISSUED BY THE P10 ATTACHED TO THE OFFICE OF THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT.R3(a):A TRUE COPY OF THE GOVERNMENT ORDER DATED 29.4.2015.

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.16471 of 2015

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Dated this the 15th day of June, 2015

J U D G M E N T

The petitioners in the writ petition are persons who claim to be members of a Society, which is the educational agency of the Santhi Nikethan Secondary School. The dispute raised in the writ petition is essentially against Ext.P10 order passed by the 1st respondent approving the appointment of the 3rd respondent as the Manager of the Santhi Nikethan Secondary School. The petitioners would contend that the said appointment of the 3rd respondent as Manager was effected in a meeting that was not properly constituted in accordance with the bye-laws of the Society, and by not issuing the necessary notices to the actual members of the Society including the petitioners. It is pointed out that, in connection with the civil dispute, there is a suit (Ext.P6) filed before the Sub Court, Koyilandy, and it is during the pendency of the suit that Ext.P10 order has been passed by the 1st respondent approving the appointment of the 3rd respondent as Manager of the School. Against Ext.P10 order of the 1st respondent, the petitioners have preferred Ext.P17 appeal before the 5th respondent and the prayer in the writ petition is essentially for a direction to the 5th respondent to consider and pass orders in the appeal preferred by the petitioners within a specified time frame, and to stay the

operation of Ext.P10 to the extent it enables the 3rd respondent to function as the Manager of the School, in the meanwhile.

2. I have heard the learned counsel for the petitioners, the learned Government Pleader for the official respondents and the learned counsel for the 4th respondent School.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that, the Civil suit with regard to the membership of the Society, and the incidental right to appoint a Manager of the School, is pending consideration before the Sub Court, Koilandy in Ext.P6 suit. Under the circumstances, I do not think it will be appropriate for this Court to enter into any finding with regard to the rights of the petitioners vis-a-vis the 4th respondent Society, including the right to the appointment of a Manager. The adjudication in the civil dispute must necessarily be by the civil court before which is pending. The issue to be considered in the writ petition however, is whether the balance of convenience would lie in favour of the petitioners getting an injunction against the 3rd respondent from functioning as a Manager pending a decision by the 5th respondent, in the appeal preferred by the petitioners against Ext.P10 order of the 1st respondent. On a consideration of the submissions on either

side, I am of the view that the balance of convenience lies in favour of permitting the 3rd respondent to function in accordance with the orders of the civil court in Ext.P15 order, pending consideration of Ext.P17 appeal by the 1st respondent. Accordingly, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P17 appeal within a period of one month from the date of receipt of a copy of this judgment, after hearing the petitioners and respondents 2, 3, and 4.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

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CONTINUED AT PAGE NO. -4-

The words “1st respondent” occurring in the 4th and 5th lines at page 3 of the judgment dated 15/06/2015 in W.P.(C).No.16471/2015 are corrected and substituted as “5th respondent” vide order dated 03/09/2015 in R.P.710/2015 in W.P.(C).No.16471 of 2015.

Sd/-
Registrar (Judicial)