

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 17054 of 2015 (F)

PETITIONER:

**M. REETHA AGED 26 YEARS
W/O.DHARMAPALAN, VANNATHAN VEEDU, MAVULLACHAL PO
THIMIRI, CHERUVATHUR, KASARAGOD DISTRICT.**

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS:

- 1. DISTRICT SOCIAL JUSTICE OFFICER
KASARGOD, PIN-671 123.**
- 2. DISTRICT PROGRAM OFFICER,
DISTRICT LEVEL INTEGRAL CHILD DEVELOPMENT SERVICE (ICDS) CELL
KASARGOD, PIN-671 123.**
- 3. PRESIDENT
KAYYUR CHEEMENI GRAMA PANCHAYATH, KASARAGOD DISTRICT
PIN-671 123**
- 4. JAMEELA P.P.
ANGANVADI WORKER, CHEMBRAKANAM C.NO.14
KASARAGOD DISTRICT, PIN-671 121.**

BY ADV. GOVERNMENT PLEADER SMT. M.J. RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03-11-2015, ALONG WITH WPC. 26603/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF DECISION BEARING NO.421/2011 TAKEN BY 3RD RESPONDENT, THE KAYYUR-CHEEMENI GRAMA PANCHAYAT, DATED 12-12-2014.
- P2 : TRUE COPY OF REPORT SUBMITTED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.
- P3 : TRUE COPY OF COMMUNICATION BEARING NO.DSJO/KSD/C2-3438/14 DATED 30-01-2015 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT.
- P4 : TRUE COPY OF ORDER OF 2ND RESPONDENT BEARING REF.NO.ICDS/NLR/A-488/2014 DATED 24-4-2015
- P5 : TRUE COPY OF JOINING REPORT OF THE 4TH RESPONDENT DATED 25-4-2015.
- P6 : TRUE COPY OF LETTER DATED 27-4-2015 ISSUED BY DISTRICT CONGRESS COMMITTEE PRESIDENT, KASARGOD TO HON'BLE MINISTER FOR PANCHAYATH AND SOCIAL JUSTICE.
- P7 : TRUE COPY OF ORDER BEARING NO.DSJO/KSD/C2/3438/14 DATED 7-5-2015 ISSUED BY THE 1ST RESPONDENT.
- P8 : TRUE COPY OF ORDER BEARING NO.ICDS/NLR/-488/2014 DATED 11-4-2015.
- P9 : TRUE COPY OF RELEVANT PAGE OF PROCEEDINGS IN ORDER NO.ICDS/A1-24624/03 OF THE DIRECTOR OF THE SOCIAL WELFARE DEPARTMENT DATED 21-5-2004.

RESPONDENT(S)' EXHIBITS

- R5(A) TRUE COPY OF THE ORDER G.O.(MS) 82/2010/SWD DATED 24.11.2010
- R5(B) TRUE COPY OF THE ORDER G.O.(MS) 31/2012/SWD DATED 30.05.2012
- R5(C) TRUE COPY OF THE ORDER IN W.A. NO.1528/10
- R5(D) TRUE COPY OF THE INTERIM ORDER IN W.P.(C) NO.25614/09

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) Nos. 17054 & 26603 of 2015

Dated this the 3rd day of November, 2015

J U D G M E N T

The writ petitions are filed by one Rita, who is the parent of a child attending the Anganvadi at Chembrakanam, C.No.14, and the Anganvadi worker posted there.

2. W.P.(C) No.17054/2015 was filed challenging the endorsement made in Ext.P6, by which the transfer of the petitioner at Ext.P4 was stayed. This Court by interim order dated 12.8.2015 directed that the endorsement shall be of no consequence since the Government Orders referred to therein were quashed by this Court in a batch of writ petitions, vide: judgment dated 24.7.2015. On the basis of the interim order the transfer of the Anganvadi worker was revived, which was challenged in W.P.(C) No.26603/2015, and stayed.

3. The allegations leading to the complaint, obviously, led to an enquiry being conducted in the presence of the parents, whose students were attending the Anganvadi, and also the President and Ward Member of the Panchayat. Ext.P2 is the enquiry report in which the complaints were found to be genuine, despite the fact that there were certain parents who supported the Anganvadi worker. However, an amicable settlement was arrived at directing the Anganvadi worker to behave properly to the children. Subsequently, the Supervisor, of the Social Justice Department, who inspected the Anganvadi, again detected similar instances of cruelty on the children, which was reported and eventually led to Ext.P4 being issued. Ext.P4 was stayed in Ext.P6 only since a subsequent Government Order cancelled the provision for transfer of Anganvadi workers. The said Government Order, as has been noticed in the interim order dated 12.8.2015, has been set aside by this Court. Hence, an Anganvadi worker is definitely transferable.

4. The contention of the Anganvadi worker that her transfer is politically motivated is belied by the enquiry report and the action taken by the department, which, in fact, was interdicted by the Minister's office on the basis Ext.P6 letter. Ext.P6 letter is seen to be issued by the President of the District Congress Committee of the political party claiming that the petitioner is an active member of the party, on which representation the transfer was stayed. Political motivation, obviously, worked to the benefit of the Anganavadi worker; and not against her.

5. In such circumstance, this Court does not find any reason to interfere with the transfer. The endorsement made at Ext.P6 has already been stayed by this Court by interim order dated 12.8.2015 and has no effect insofar the Government Orders referred to therein has been set aside by this Court in W.P.(C) Nos.16481 & 16494/2011.

W.P.(C) Nos 17054 & 26603/2015.

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W.P.(C) No. 17054/2015 is allowed and W.P.(C) No. 26603/2015 is dismissed, without any interference caused to the transfer. Parties to suffer their respective costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE