

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 19706 of 2013 (K)

PETITIONER(S)/PETITIONERS :

1. AJITHAKUMARI.A,
LOWER PRIMARY SCHOOL ASSISTANT,
LUTHERAN MISSION LOWER PRIMARY SCHOOL, MADATHIKONAM,
VEERANKAVUY P.O.,
THIRUVANANTHAPURAM DISTRICT-695 572
RESIDING AT VYSHNAVAM, PERUMANA, VALIYARATHALA,
OORUTTAMBALAM P.O.
THIRUVANANTHAPURAM DISTRICT-695 007.

2. REENA V.
LOWER PRIMARY SCHOOL ASSISTANT,
LUTHERGIRI UPPER PRIMARY SCHOOL, ARYANAD, ARYANAD P.O.
THIRUVANANTHAPURAM DISTRICT, PIN-695 542
RESIDING AT DIVYAPRABHA, PUZHAMALAKKAL, PULIMOOD
KULAKKADA P.O., ARYANAD, THIRUVANANTHAPURAM-695 542.

BY ADV. SRI.M.V.THAMBAN

RESPONDENT(S)/RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM-695 001.

3. THE DEPUTY DIRECTOR (EDUCATION),
THIRUVANANTHAPURAM-695 001.

4. THE CORPORATE MANAGER ,
CORPORATE MANAGEMENT OF LUTHERAN SCHOOL
INDIA EVEAGLICAL LUTHERAN CHURCH,
THIRUVANANTHAPURAM SYNOD,
KONCORDIA HIGH SCHOOL COMPOUND, PEROORKADA P.O.
THIRUVANANTHAPURAM DISTRICT-695 005.

Addl.5. ASHA GREGORY
W/O.EDWIN, LOWER PRIMARY SCHOOL ASSISTANT,
MADATHICONAM, KATTAKKADA, THIRUVANANTHAPURAM.ADDL. R5 IS
IMPLEADED AS PER ORDER DATED 26.09.2013 IN IA 11854/2013.

ADDL.R6: A.V.DEEPA RANI,
LOWER PRIMARY SCHOOL ASSISTANT,
LUTHERGIRI UPPER PRIMARY SCHOOL, ARYANAD,
RESIDING AT GOKULAM, ANAD P.O. NEDUMANGAD.

(ADDL.R6 IS IMPLEADED AS PER ORDER IN I.A.13297/2013
DATED 1-4-2015)

ADDL R6 BY ADV. SRI.P.RAVINDRAN (SR.)
ADDL.5 BY ADV. SRI.S.SUJIN
R1 -R 3 BY ADV. GOVERNMENT PLEADER ANITHA RAVINDRAN(SR.)
R4 BY ADV. SRI.D.KISHORE
R (ADDL6) BY ADV. SRI.SREEDHAR RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 19706 of 2013 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE ORDER NO.76/2011-2012 DTD.30.5.2011.

P2 : COPY OF THE ORDER NO.F1/34555/11 DTD.28.7.2011.

P3 : COPY OF THE JUDGMENT DTD.16.8.2011 IN WPC NO.18904/2011.

P4 : COPY OF THE GO(RT)NO.5152/2011/G.EDN. DTD.21.11.2011.

P5 : COPY OF THE COMMON JUDGMENT DTD.29.3.2012 IN WPC NO.31696/2011.

P6 : COPY OF THE ORDER NO.F1/84226/11/DPI/K.DIS. DTD.31.7.2013.

RESPONDENT(S) ' EXHIBITS
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EXT.R5(A): COPY OF THE ORDER DATED 16/7/2009 ISSUED BY THE GOVERNMENT OF KERALA.

EXT.R5(B): COPY OF THE CIRCULAR NO. 1/2013-2014 DATED 12/8/2013 ISSUED BY THE MANAGER.

EXT.R6 (A): COPY OF THE CIRCULAR NO.1/2013-2014 DATED 12/8/2013 ISSUED BY THE CORPORATE MANAGER.

EXT.R6(B): COPY OF THE RELIEVING ORDR NO.48/2013 DATED 13/8/2013 OF THE 2ND PETITIONER IN WP(C).

EXT.R4(A): COPY OF THE ORDER NO. 012/2014-2015 DATED 19/2/2015 OF THE 4TH RESPONDENT.

/TRUE COPY/

P.S. TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.19706 OF 2013

Dated this the 1st day of April, 2015

JUDGMENT

This writ petition is filed challenging proceedings of the Director of Public Instructions Ext.P6 dated 31/7/2013 canceling the transfer order effected by the Manager as per Ext.P1. It is to be noted that Ext.P1 order was passed as early as on 30/5/2011. This was interfered by the DPI as per Ext.P6. Though there were several proceedings in between Exts.P1 and P6, I am not adverting to the same for the simple reason that the issue no longer remains as the operation of Ext.P6 was stayed by this court and it was not given effect. It is pending the writ petition the management has taken a decision of rearrangement of the teachers concerned vide order Ext.R4 (a). As per Ext.R4(a), the first petitioner is reappointed at LM LPS Madathikonam from South Aryad, Alapuzha and the second petitioner has been transferred from LM Chullimanoor to Luthergiri UPS Aryanad. The first petitioner has no objection

based on Ext.R4(a) rearrangement. The second petitioner has objection to rearrangement based on Ext.R4(a). I am of the view that if the second petitioner has grievance against such transfer, she has statutory remedy before the DPI. The 2nd petitioner shall move the DPI within two weeks from the date of receipt of a copy of this judgment. Thereafter, appropriate decision shall be taken by the DPI after hearing the affected persons on or before 31/5/2015. The second petitioner contends that the management has passed the order of transfer overlooking the norms under Rule 10 of Chapter 14A KER.

2. The Manager is at free to implement Ext.R4(a), in accordance with law, subject to the challenge being made by others. Certain party respondents have got impleaded in the matter. Their case is that they are not paid salary. If at all there is denial of salary to them, salary shall be paid to them without any delay. However, if the competent authority is of the view that, their deployment to various school was illegal, the Authority is at liberty to recover it from the Manager through appropriate proceedings. With that liberty, salary including arrears due to the additional party

respondents shall be paid without any delay, at any rate, within two months from the date of receipt of a copy of this judgment.

3. Till the DPI takes decision, the 2nd petitioner shall not be relieved from the present school.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/true copy/ PS to Judge.

