IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 18501 of 2015 (K)

PETITIONER(S):

C. BASHEER
PRESIDENT, PARENT TEACHER ASSOCIATION
KULAMANGALAM AMLP SCHOOL, VALACHERRY
MALAPPURAM DISTRICT, RESIDING AT CHATHULLI HOUSE
KULAMANGALAM, BAVAPPADI, P.O VALANCHERRY
MALAPPURAM DISTRICT.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.Y.JAFAR KHAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF GENERAL EDUCATION
THIRUVANANTHAPURAM 695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
JAGATHY, THIRUVANANTHAPURAM 695 014.

3. THE ADDITIONAL DIRECTOR (GENERAL)
DEPARTMENT OF EDUCATION
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTIONS
JAGATHY, THIRUVANANTHAPURAM 695 014.

4. ASSISTANT EDUCATIONAL OFFICER
KUTTIPPURAM, MALAPPURAM DISTRICT, 679 571.

5. MANAGER
KULAMANGALAM AMLP SCHOOL, VALANCHERRY
MALAPPURAM DISTRICT. 676 552.

R5 BY ADV. SRI.M.SAJJAD
R5 BY ADV. SRI.V.RAJASEKHARAN NAIR
R BY GOVERNMENT PLEADER, SMT. LOUSY A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18501 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **COPY OF RECEIPT DATED 19.5.15 ISSUED FROM THE OFFICE OF THE HONOURABLE MINISTER FOR EDUCATION, GOVERNMENT OF KERALA.**

EXHIBIT P2. **COPY OF ORDER NO.H4/46414/15/D.P.I DATED 12.6.15 ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

EXT.R5(a) **TRUE COPY OF THE LETTER OF THE ASSISTANT EDUCATIONAL OFFICER DATED 08.06.2015.**

EXT.R5(b) **TRUE COPY OF THE LETTER OF THE HEAD MASTER OF THE SCHOOL DATED 25.04.2015.**

EXT.R5(c) **TRUE COPY OF THE LETTER OF SMT.THAYUMMA DATED 06.04.2015.**

EXT.R5(d) **TRUE COPY OF THE NOTICE CALLING PTA MEETING OF THE SCHOOL.**

EXT.R5(e) **TRUE COPY OF THE MINUTES OF THE PTA MEETING HELD ON 04.04.15**

EXT.R5(f) **TRUE COPY OF THE LETTER OF THE PRESIDENT OF VALANCHERRY PANCHAYAT DATED 15.04.2015.**

EXT.R5(g) **TRUE COPY OF THE STAFF MEETING OF THE SCHOOL HELD ON 16.02.2015.**

EXT.R5(h) **TRUE COPY OF THE ORDER No.K.Dis.E/36008/2015 DATED 29.06.2015 OF THE ASSISTANT EDUCATIOINAL OFFICER, KUTTIPPURAM.**

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 18501 of 2015

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Dated this the 14th day of July, 2015

JUDGMENT

The petitioner is the President of the Parent Teachers Association of the 5th respondent school. He was appointed as the President of the said Association on 16.06.2015. In the writ petition, the petitioner challenges Ext.P2 order dated 12.06.2015 of the Additional Director of Public Instructions, which permitted the school to shift to the General Calender from the Muslim Calender, that was earlier followed. The reasons given in Ext.P2 order for granting permission to the school to shift to the General Calender are that, it was represented to the Additional DPI that there was a shortage of drinking water and that the heat during the summer months was causing great inconvenience to the students. It was taking note of the said request of the School, the Manager, the recommendations of the AEO and the recommendations of the PTA, that Ext.P2 order came to be passed. In the writ petition, the case of the petitioner is that Ext.P2 order was passed without the knowledge of the PTA and that the petitioner, who is the present President of the PTA was surprised to see the said order dated 12.06.2015 of the Director of Public Instructions. It is the case of the petitioner in the writ petition that as per Rules 4 and 5 of Chapter VII of Kerala Education Rules, if the calender pattern is to

be changed from the existing pattern, unanimous consent of PTA is the main criterion for requiring such a change. It is his specific case that no such decision was taken by the PTA prior to Ext.P2 order and that no General Body meeting was convened for the purpose of discussing the change of calender. It is under these circumstances, that the petitioner impugns Ext.P2 order.

2. A counter affidavit has been filed on behalf of the 5th respondent, wherein reference is made to Ext.R5(a) letter of the Assistant Educational Officer, recommending the change of calender in the school from the Muslim calender to the General calender. Ext.R5(b) is produced as a letter addressed by the Head Master of the school to the AEO. Ext.R5(c) is produced as a consent letter of the Manager addressed to the AEO intimating her willingness to follow the General calender. Ext.R5(d) is produced as the copy of the notice that called for the meeting of the PTA on 04.04.2015 and Ext.R5(e) is produced as the attendance register in connection with the said meeting. The stand of the 5th respondent in the counter affidavit is essentially that the petitioner was not the President of the PTA at the time when the meeting of the PTA was held, which recommended a change in the calender, and he

became the President of the PTA only on 16.06.2015. The averments in the writ petition with regard to the malafides etc are also denied in the counter affidavit of the 5th respondent. In a reply affidavit filed by the petitioner, traversing the averments in the counter affidavit filed by the 5th respondent, the petitioner would point out that the documents produced by the 5th respondent along with his counter affidavit are all fabricated and cannot be relied upon. It is his case that, if a meeting of the PTA is now called, and their views ascertained in the matter of change of calender in the school, then it will be evident that all the parents of the children in the school will be against the change in the calender from the Muslim calender to the General calender.

3. I have heard the learned counsel for the petitioner, the learned counsel for the 5th respondent and also the learned Government Pleader for the official respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the view that, inasmuch as there is a factual dispute that is now raised by the petitioner with regard to the genuineness of the documents,

that are stated to have been considered by the 3rd respondent, while passing Ext.P2 order, it is for the petitioner to impugn Ext.P2 order before the Government by filing a revision petition against the said order. In proceedings under Article 226 of the Constitution of India, this Court is not expected to hold an enquiry on factual matters and resolve factual disputes. I also note that the interim order, that was passed on 22.06.2015, was passed on the basis of the averments in the writ petition, that suggested that the petitioner was the President of the PTA during the relevant point of time when the decision to change calender in the school from the Muslim calender to the General calender was taken by the PTA. The averments in the counter affidavit filed by the 5th respondent, as also the averments in the reply affidavit filed by the petitioner, indicate that the petitioner was not the President of the PTA during the relevant time, when the discussions and the deliberations that preceded the decision in Ext.P2 order took place. Thus, while relegating the petitioner to the alternate remedy of filing a revision petition against Ext.P2 order before the State Government, I also deem it appropriate not to continue the interim order of stay of operation of Ext.P2 order, that was passed on 26.02.2015. Accordingly, the writ petition is disposed by

relegating the petitioner to the alternate remedy of filing a revision petition before the 1st respondent. If the petitioner files a revision petition against Ext.P2 order within a period of two weeks from the date of receipt of a copy of this judgment, then the 1st respondent shall consider the same and pass orders thereon, after hearing the petitioner, the Manager of the school and the 5th respondent, within a period of one month thereafter. While passing orders as directed, the 1st respondent shall advert to the contentions of the petitioner with regard to the genuineness of the documents that are relied upon by the 5th respondent, and pass appropriate orders in the revision petition. I make it clear that, till such time as orders are passed by the 1st respondent in the revision petition, the school shall be governed by the General calender, which has been directed to be followed in Ext.P2 order of the 2nd respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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