

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C) .NO. 18824 OF 2015 (C)

PETITIONER:

ABDU RAHMAN P, AGED 52
S/O LATE MOOSAMAIN, NEDUMPOKIL HOUSE
VALIYAPARAMB(P.O), PULIKKAL, MALAPPURAM-673637
(FATHER AND GUARDIAN OF MINOR MOHAMMED ASHFAR
STUDENT OF XTH CLASS EMEA HSS, KONDOTTI).

BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA
SRI.MANJUNATH MENON

RESPONDENT(S) :

1. THE STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL SECRETARY
GOVERNMENT EDUCATION, SECRETARIAT
TRIVANDRUM-695001.

2. KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS,
SREEGANESH.T.C.14/2036
BEHIND OLYMPIC ASSOCIATION BUILDING
VANROSS JUNCTION, KERALA UNIVERSITY.P.O, TRIVANDRUM-34
REPRESENTED BY ITS CHAIRMAN.

3. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM-676 505.

4. THE DISTRICT EDUCATIONAL OFFICER,
MALAPPURAM-676 505..

5. THE HEAD MISTRESS,
E.M.E.A.HSS SCHOOL, THURACKAL.P.O, KONDOTTI
MALAPPURAM-673638.

R5 BY ADV. SRI.V.A.MUHAMMED
R5 BY ADV. SRI.M.SAJJAD
R1,R 3 & R4 BY ADV. GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 TRUE COPY OF ORDER DATED 21/02/2015 OF 2ND RESPONDENT

P2 TRUE COPY OF LETTER DATED 02/05/2015 ISSUED BY 5TH RESPONDENT

P3 TRUE COPY OF REPLY TO EXHIBIT P2 DATED 15-05-2015 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT

P4 TRUE COPY OF COMPLAINT DATED 21-05-2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

P5 TRUE COPY OF SUMMONS ISSUED BY THE 2ND RESPONDENT ON 28-5-2012

P6 TRUE COPY OF REPRESENTATION DATED 23-05-2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 3 AND 4.

EXT.P6: TRUE COPY OF LETTER DATED NIL SUBMITTED BY A TEACHER TO THE HEADMISTRESS OF THE SCHOOL

EXT.P7:TRUE COPY OF REPRESENTATION DATED 30.12.2014 SUBMITTED BY THE STUDENTS OF 9-G

EXT.P8:TRUE COPY OF REPRESENTATION DATED 31.12.2014 SUBMITTED BY THE STUDENTS OF 9-C

EXT.P9:TRUE COPY OF THE LETTER ISSUED BY THE PRESIDENT OF THE PANCHAYAT

EXT.P10:TRUE COPY OF THE LETTER DATED 4.6.2015 ISSUED BY THE MEMBER OF THE WARD

EXT.P11:TRUE COPY OF REPRESENTATION DATED 5.6.2015 SUBMITTED BEFORE THE CHILD COMMISSION

RESPONDENT(S) ' EXHIBITS:

EXT R5 (A) : TRUE COPY OF THE LETTER OF THE PETITIONER'S SON

EXT R5 (B) : TRUE COPY OF THE STATEMENT OF THE PETITIONER'S SON

EXT R5 (C) : TRUE COPY OF THE LETTER OF THE HEADMISTRESS DATED 04.06.2014

EXT R5 (D) : TRUE COPY OF THE COVERING LETTER DATED 25.05.2015 OF THE DISTRICT EDUCATIONAL OFFICER

EXT R5 (E) : TRUE COPY OF THE LETTER OF THE HEADMISTRESS DATED 01.06.2015

EXT R5 (E) (I) : TRUE COPY OF THE COVERING LETTER OF THE HEADMISTRESS DATED 2.06.2015

EXT R5 (F) : TRUE COPY OF THE LETTER OF THE SRI.K.SAIDALI

EXT R5 (F) (1) : TRUE COPY OF THE LETTER OF THE SRI.P.MUSTHAF A

EXT R5 (F) (2) : TRUE COPY OF THE LETTER OF THE SRI.C.MUHAMMED KOYA

EXT R5 (F) (3) : TRUE COPY OF THE LETTER OF THE SRI.M.P.SHEMEER BABU

EXT R5 (F) (4) : TRUE COPY OF THE LETTER OF THE SRI.P.MUHAMMED FAISAL

EXT R5 (F) (5) : TRUE COPY OF THE LETTER OF THE SRI.AHAMMED IQBAL

EXT R5 (G) : TRUE COPY OF THE LETTER DATED 23.2.2015 OF THE HEADMISTRESS

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.18824 of 2015

.....
Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner in this writ petition is the father of one Mohammed Ashfar.P., who is a student studying in the Xth standard in the E.M.E.A Higher Secondary School, Thurackal P.O., Kondotti. In the writ petition, the grievance of the petitioner is that while his son was promoted from class IX to class X, he was not permitted to join the School for the Xth standard citing various acts of indiscipline that was committed by him while he was studying in the School. The facts in the writ petition would reveal that, when the 4th respondent did not permit the petitioner's son to attend the classes for standard IX, he had submitted a complaint before the 2nd respondent and the 2nd respondent had by Ext.P1 order directed the 4th respondent to permit the petitioner's son to appear for the examinations of standard IX and to attend revisional classes and model examinations. Thereafter, the petitioner's son appeared for the IXth standard examination and fared well in the same and it was accordingly that he was found eligible for promotion to the Xth standard. It is while so, that the petitioner received a letter from the 5th respondent informing the petitioner of various acts of indiscipline committed by the petitioner's son. It is the specific case of the petitioner that thereafter, the petitioner's son was

not permitted to attend classes in the Xth standard and, on account of the refusal on the part of the 5th respondent, the petitioner's son has not been able to attend classes in the School. It is also stated that, the 5th respondent had indicated to the petitioner that, the management of the School was prepared to issue a transfer certificate so as to enable the petitioner to admit his son to another School in the neighbourhood, since the management of the 5th respondent School was not in favour of the petitioner's son continuing to attend the School during the present academic year.

2. A counter affidavit has been filed by the 5th respondent wherein the stand of the 5th respondent, as noted above, against the petitioner's son is reiterated. It is pointed out that, the petitioner's son was given various opportunities to reform and the said steps did not yield any result. A reply affidavit has also been filed by the petitioner refuting the averments in the counter affidavit filed by the petitioner.

3. When the matter came up for orders on 27.07.2015, I directed the petitioner, his son and the 5th respondent to appear before this Court so as to ascertain the gravity of the problem that was faced by the 5th respondent vis-a-vis the petitioner's son. On a

discussion with the petitioner, his son and the 5th respondent, I find that the petitioner is willing to educate his son in another School. The only apprehension that he has is with regard to the adverse impact that the allegations raised against his son may have on the reputation of the petitioner and his family members. Taking note of the said situation, as well as the necessity to have the petitioner's son educated in a nearby School, I had asked the Government Pleader to get instructions from the 4th respondent District Educational Officer, Malappuram with regard to whether the petitioner's son could be accommodated in the nearby Government School namely, the Government Higher Secondary School, Kottappuram. The learned Government Pleader on instruction submits that, if the 5th respondent School issues a transfer certificate to the petitioner's son, and the petitioner, together with his son, approaches the 4th respondent with the said certificate, then the 4th will take appropriate steps to enroll the petitioner's son as a student of the Xth standard in the Government Higher Secondary School, Kottappuram. Taking into account the overall circumstances of this case, I dispose the writ petition with the following directions:

- i. The 5th respondent shall permit the petitioner's son to rejoin the School forthwith and continue to attend the classes in the Xth standard for a period

up to 07.08.2015.

ii. The petitioner shall, on 07.08.2015, prefer an application for obtaining a transfer certificate from the 5th respondent. On receipt of the said application, the 5th respondent shall promptly issue the transfer certificate sought for by the petitioner without any adverse remark. The transfer certificate so issued shall indicate the name of the Government Higher Secondary School, Kottappuram as a School to which the petitioner's son is to be transferred/admitted.

iii. On receiving the transfer certificate from the 5th respondent, the petitioner shall approach the 4th respondent on 10.08.2015, and the 4th respondent shall take immediate steps to get the petitioner's son enrolled in the Government Higher Secondary School, Kottappuram.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

