

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

W.P.(C).No.19335 of 2015 (N)

PETITIONER(S):-

THOMAS MATHEW, S/O.C.T.MATHEW,
MANAGER, MARTHOMA HIGH SCHOOL,
KANAKAPPALAM, PIN-686 509, KOTTAYAM DISTRICT,
RESIDING AT THANKAGINI, KANAKAPPALAM, (VIA) ERUMELY,
PIN-686 509, KOTTAYAM DISTRICT.

BY ADVS.SMT.SREEDEVI KYLASANATH
SRI.M.JAYAKRISHNAN
SRI.ACHUTH KYLAS

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM-695 014.
3. THE DISTRICT EDUCATION OFFICER, KANJIRAPPALLY,
KOTTAYAM DISTRICT - 686 509.
4. C.T.GEORGE, S/O.C.J.THOMAS,
THANKAGINI, KANAKAPPALAM (VIA) ,
ERUMELY-686 509, KOTTAYAM DISTRICT.

R1 TO R3 BY GOVERNMENT PLEADER SMT.A.LOWSY.
R4 BY ADVS. SRI.V.A.MUHAMMED
SRI.M.SAJJAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1- TRUE COPY OF THE JUDGMENT DATED 25-9-2014
IN WPC 24288/14.

EXHIBIT P2- TRUE COPY OF THE ORDER NO. B4/8552/2012/K.DIS
DATED 9-1-2015.

EXHIBIT P2(a)- TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT P3- TRUE COPY OF THE APPEAL MEMORANDUM DATED 14-2-2015
SUBMITTED BEFORE 2ND RESPONDENT.

EXHIBIT P3(a)- PROOF OF ACKNOWLEDGEMENT SHOWING THE
RECEIPT OF APPEAL MEMORANDUM.

EXHIBIT P4- A TRUE COPY OF THE DOCUMENT SHOWING THE PURCHASE
OF PROPERTY BY PETITIONER'S FATHER ON 2-11-2002 FOR
THE SCHOOL.

EXHIBIT P4(a)- TRUE COPY OF THE DOCUMENT SHOWING THE
PURCHASE OF PROPERTY BY PETITIONER'S FATHER ON
25-7-2003 FOR THE SCHOOL.

EXHIBIT P4(b)- TRUE COPY OF THE DOCUMENT SHOWING THE SALE OF
4TH RESPONDENT'S PROPERTY FOR THE SCHOOL TO
PETITIONER'S FATHER.

EXHIBIT P5- TRUE COPY OF THE POWER OF ATTORNEY IN FAVOUR OF
PETITIONER.

EXHIBIT P6- TRUE COPY OF THE INFORMATION SOUGHT REGARDING THE
NUMBER OF SCHOOLS FUNCTIONING UNDER THE MARTHOMA
CORPORATE MANAGEMENT IN KOTTAYAM DISTRICT.

EXHIBIT P7- TRUE COPY OF THE REPLY DATED 19-3-2014.

EXHIBIT P8- TRUE COPY OF THE REPORT LETTER NO. ET3/80456/2014/DPI
DATED 11-2-2015.

EXHIBIT P9- TRUE COPY OF THE LEGIBLE TYPED 1936 AGREEMENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.19335 of 2015-N

Dated this the 16th day of October, 2015

JUDGMENT

The petitioner is the son of one C.T.Mathew, who was the Manager of one Marthoma High School, Kanakappalam, an aided school. The petitioner claims that he was nominated by his father C.T.Mathew and on his death on 28.06.2012, the petitioner is entitled to be posted as Manager.

2. However, the 4th respondent, the brother of C.T.Mathew, claims that he has the support of the majority of the members of the Corporate entity, who are the legal heirs of one C.J. Thomas; the father of C.T.Mathew and 4th respondent, who was originally the individual management who conducted the school which was established and continued even before the Kerala Education Act, 1958 came into force. This Court would not examine the rival contentions of the parties as stated herein above.

3. Suffice it to say that the petitioner had sought for approval as Manager on the basis of the nomination by his father C.T.Mathew, which was declined by Exhibit P2. An appeal is said to have been filed, at Exhibit P3, which is said to be pending before the 2nd respondent. While so, the 4th respondent also filed an application for approving him as the Manager, on the strength of the alleged support of the majority of the members of the Corporate entity. That was directed to be considered by the 2nd respondent by Exhibit P8. The short contention raised on behalf of the petitioner is that Exhibit P3 appeal is pending before the Director of Public Instruction and the same would be rendered redundant insofar as Exhibit P8 is concerned.

4. Exhibit P8 is also alleged to have been passed even without hearing the petitioner. In such circumstance. Exhibit P8 is only to be set aside on the ground of violation of principles of natural justice. It is made clear that this Court has not gone into the merits of Exhibit P8 order. The same has to be considered afresh by the 2nd respondent along with Exhibit P3 appeal. In such circumstance, the petitioner and the 4th respondent shall appear before the office of the Director of Public Instruction, personally or

through their representative, on 30.10.2015, on which date they shall be intimated a date of hearing with acknowledgement taken. There would be no further need for a separate notice to be issued. The issue shall be considered and disposed, at any rate within a period of three months from 30.10.2015, untrammelled by any observation herein.

The writ petition is disposed of as above.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]