

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 20333 of 2014 (N)

PETITIONER :

**THE CORPORATE MANAGER,
CORPORATE EDUCATIONAL AGENCY,
ARCH DIOCESE OF TRICHUR, TRISSUR.**

**BY SRI.KURIAN GEORGE KANNANTHANAM,SENIOR ADVOCATE
ADVS. SRI.TONY GEORGE KANNANTHANAM
SRI.THOMAS GEORGE**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF GENERAL EDUCATION,
THIRUVANANTHAPURAM-695 001**
- 2. THE DIRECTOR, HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001**
- 3. THE MANAGER, SREE NARAYANA MEMORIAL HIGH SCHOOL,
CHAZHOOR.P.O., TRICHUR-680 571.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.T.T.MUHAMOOD
R3 BY SRI.RENJITH THAMPAN,SENIOR ADVOCATE
ADV. SMT.P.R.REENA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER DATED 7/8/2010 ISSUED BY THE 2ND RESPONDENT.**
- P2 COPY OF THE ORDER DATED 11/6/2013 ISSUED BY THE 1ST RESPONDENT.**
- P3 COPY OF THE NOTIFICATION DATED 17-6-2013 ISSUED BY THE 2ND RESPONDENT.**
- P4 COPY OF THE COVERING LETTER DATED 20/6/2013 BY THE PETITIONER.**
- P5 COPY OF THE APPLICATION IN THE PRESCRIBED FORMAT WITH DOCUMENTS.**
- P6 COPY OF THE APPLICATION DATED 16/6/2010 HIGHER SECONDARY CURSE 2010-11**
- P7 COPY OF THE ORDER DATED 31/7/2014 ISSUED BY THE 1ST RESPONDENT.**
- P8 COPY OF THE ANNEXURE-1 OF EXT.P7 CONTAINED THE LIST OF NEW SCHOOLS.**
- P9 COPY OF THE ANNEXURE -II CONTAINED THE LIST OF SCHOOLS NEWLY UPGRADED FROM ERNAKULAM TO KASARGODE DISTRICTS.**

RESPONDENT'S EXHIBITS:

- R3(A) COPY OF THE RESOLUTION DATED 15/05/2013 ALONG WITH LETTER OF PANCHAYATH PRESIDENT.**
- R3(B) COPY OF THE LETTER DATED 04/05/2013 ISSUED BY THE MLA TO THE HON'BLE MINISTER.**
- R3(C) COPY OF THE REPRESENTATION DATED 02/05/2013 OF THE PARENT TEACHERS ASSOCIATION**
- R3(D) COPY OF THE APPLICATION FILED BY 3RD RESPONDENT FOR SANCTION OF HIGHER SECONDARY DIVISION**
- R3(E) COPY OF THE PLUS ONE RANK LIST OF 3RD RESPONDENT SCHOOL FOR ADMISSION**
- R3(F) COPY OF THE JUDGMENT IN WP(C).NO.24539/2010 DATED 02/09/2014**

/TRUE COPY/

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P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.20333/2014**

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Dated this the 26th day of March, 2015

J U D G M E N T

The petitioner is the Corporate Manager. They were sanctioned Plus Two courses for the academic year 2010-11 as per G.O.(MS).No.128/10/G.Edn., dated 20/07/2010. Their schools, St.Antony's High School, Puthenpeedika in Anthikad Panchayat and St.Antony's High School, Pazhuvil in Chazhur Panchayat are Serial Nos.14 and 94 respectively in the Annexure appended to the above government order. Challenging the above government order, the third respondent herein had filed W.P.(C).No.24539/2010. Therein, this Court granted an interim order against operation of the above said government order. Thereafter, the second respondent passed Ext.P1 order dated 07/08/2010 deferring all further proceedings including allotment and admission of students in the seven schools noted therein till

10/08/2010, in the light of the interim order passed by this Court in the aforesaid writ petition.

2. In the meanwhile, the Government as per Ext.P2 invited applications for Higher Secondary courses and batches. The petitioner applied for sanction of Higher Secondary courses 2013-14. The third respondent also applied for the same. It appears that the petitioner's application has not been considered. The Government by Ext.P7 government order, G.O.(MS).No.143/2014/G.Edn. dated 31/07/2014 granted upgradation to various schools including the third respondent. There are three lists annexed to Ext.P7 government order. Annexure-1 pertains to upgradation of the schools in the Panchayats where there are no Higher Secondary Schools. Annexure-2 pertains to upgradation of the High Schools in Ernakulam District upto Kasargode District. Annexure-3 list is pertaining to Higher Secondary Schools where additional batches of Plus Two courses are granted. The third respondent is included in Annexure-2.

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3. The learned Senior Counsel appearing for the writ petitioner submits that the third respondent is included in Annexure-2 list of Ext.P7 government order taking note of the fact that the petitioner has already been sanctioned the school by way of G.O.(MS). No.128/10/G.Edn., dated 20/07/2010. It is further submitted that in Chazhur Grama Panchayat there is no other school other than the petitioner's school which was granted sanction for Higher Secondary courses prior to the sanction now granted to the third respondent as per Ext.P7 government order. Thus, the non inclusion of the third respondent in Annexure-1 list of Ext.P7 will indicate the fact that the Government acknowledged the fact that there already existed a sanctioned school in Chazur Grama Panchayat. It is further submitted that the writ petition filed by the third respondent challenging sanctioning of the school to the petitioner herein has been closed and the interim order passed therein has been vacated and therefore, it is submitted that the original sanction would resurrect. The third

respondent has no dispute that the petitioner is having sanction for Higher Secondary course in terms of G.O.(MS).No.128/10/G.Edn., dated 20/07/2010. The Government filed a counter affidavit. It is stated in para.9 as follows:

“9. In the meantime the Hon'ble High Court vacated stay order in W.P.(C).Nos.24539 & 24596 of 2010 against granting higher secondary batches to petitioner's school as per G.O.(MS).No.128/10/G.Edn., dated 20/07/2010 and he is now free to pursue action for starting higher secondary batches in his school from the academic year 2015-16.”

4. Therefore, the question is whether the grant of Higher Secondary Course to the petitioner in terms of G.O.(MS).No.128/10/G.Edn., dated 20/07/2010 should be interfered with by this Court for the simple reason that the third respondent has been included in Annexure-2 list of Ext.P7. I do not find any intervention of this Court. The petitioner could have admitted students to Higher Secondary Courses from the academic year 2010-11 itself. This Court did not also

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interfere with the sanction granted to the petitioner. The sanction granted has also not been cancelled so far.

5. In the light of the above, I am of the view that the petitioner is entitled to succeed and accordingly, there shall be a direction to respondents 1 and 2 to grant Plus Two course to St.Antony's High School, Pazhuvil, Chazhur in the light of G.O.(MS). No.128/10/G.Edn., dated 20/07/2010 from the commencing academic year.

The writ petition is disposed of. No costs.

SD/-

A.MUHAMED MUSTAQUE, JUDGE

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