

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 25569 of 2010 (U)

PETITIONER:

**K.U.SHAJI, AGED 34, S/O.UNNIKRISHNAN,
KANAKANTHARA HOUSE, ELANAD P.O., TALAPPILLY TALUK.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SMT.PREETHY KARUNAKARAN
SRI.K.RAVI (PARIYARATH)**

RESPONDENTS:

- 1. THE STATE OF KERALA, REP.BY THE
SECRETARY TO THE GOVT., GENERAL EDUCATION, DEPARTMENT
GOVT.SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF EDUCATION,
THIRUVANANTHAPURAM-695 001.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR-680 001.**
- 4. THE HEADMISTRESS, THRIKANAYA A L P
SCHOOL, THRIKANAYA, ELANAD
PIN-680 586.**
- 5. THE ASST.EDUCATIONAL OFFICER,
WADAKKANCHERY, THRISSUR-680 582.**
- 6. P.P.AMMINI, TEACHER,
A.L.P.SCHOOL, THRIKANAYA, ELANAD P.O.
THRISSUR-680 586.**

R6 BY ADV. SRI.P.C.SASIDHARAN

R4 BY ADV. SRI.D.SREEKUMAR

R1, R2, R3 & R5 BY GOVERNMENT PLEADER SMT. A. LOWSY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-10-2015,
ALONG WITH WPC. 14508/2014, & 9933/2014 THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PRESIDENT OF PTA BEFORE THE DIRECTOR OF EDUCATION, THIRUVANANTHAPURAM
- P2 : TRUE COPY OF THE ACKNOWLEDGEMENT CARD GIVEN BY THE D D, THRISSUR DATED 29.3.2010
- P3 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE P T A COMMITTEE OF THE A L P SCHOOL BEFORE THE SUB INSPECTOR OF POLICE, PAZHAYANNUR POLICE STATION
- P4 : TRUE COPY OF THE COMPLAINT LODGED BY ONE RADHA SURESH BEFORE THE P T A COMMITTEE
- P5 : TRUE COPY OF THE COMPLAINT BY THE PETITIONER BEFORE THE P T A A L U P school DATED 24.3.2010
- P6 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE DIRECTOR OF EDUCATION, DATED 25.3.2010
- P7 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE petitioner BEFORE THE SUB INSPECTOR OF POLICE PAZHAYANNUR POLICE STATION WITH A COPY OF C I, CHELAKARA DATED 25.3.2010
- P8 : TRUE COPY OF THE RECEIPT ISSUED BY THE C I, CHELAKARA DATED 25.3.2010
- P9 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE MANAGER OF THE A L U P school BEFORE THE A E O DATED 18.5.2010

RESPONDENT'S EXHIBITS

- R4(A) TRUE COPY OF THE ORDER NO.E.1839/09/L.DIS DATED 23.06.2010
- R6(A) TRUE COPY OF THE REPORT OF THE A E O DATED 29.5.2010
- R6(B) TRUE COPY OF THE PROCEEDINGS OF THE A.E.O DATED 23.06.2010
- R6(C) TRUE COPY OF THE REPRESENTATION PREFERRED BY PARENTS BEFORE THE A.E.O.
- R6(D) TRUE COPY OF THE NEWS ITEM APPEARED IN THE MALAYALA MANORAMA NEWS DAILY DATED 03.02.2008

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 25569 of 2010

&

W.P.(C) Nos. 9933 & 14508 of 2014

Dated this the 8th day of October, 2015

J U D G M E N T

The three writ petitions raise the issue of a disciplinary proceeding against one L.P.S.A., who is the petitioner in W.P.(C) No.9933/2014.

2. W.P.(C) No. 25569/2010 is claimed to be filed by the parent of a student, who filed a complaint against the 6th respondent, the L.P.S.A. Except for the statement that the petitioner has two children studying in the respondent School, nothing is stated as to who are the students. The L.P.S.A. who was impleaded as the 6th respondent has denied that the petitioner has any children studying in the School. In any event, with respect to the complaint of the petitioner that the teacher had been attempting to divide the children on the basis of religion; it was enquired into by the D.E.O. and as is seen from Ext.R4(a) report of the

A.E.O., the A.E.O. has been assured that no such incident has occurred and that the petitioner would not conduct herself in any manner causing difficulty to the children or other teachers of the School. In such circumstance, W.P.(C) No.25569/2010 does not survive for any consideration. The same stands dismissed.

3. The other two writ petitions are with respect to the suspension and the enquiry, said to have been initiated against the L.P.S.A. W.P.(C) No.9933/2014 has been filed by the L.P.S.A. contending that despite Educational Authorities having refused to extend the suspension order at Ext.P1, beyond the 15 days period, the petitioner was not allowed to join duty in the School. As per Interim Order dated 29.05.2014, this Court had directed the petitioner to be reinstated in service. It was also directed that the petitioner would be entitled to the salary and allowances from 20.3.2014 and the Government could recover the same

from the Manager, if he was found to be in default in not complying with the orders of the Educational Authorities. The Interim Order is made absolute. Definitely, the Government could act in accordance with the provisions under the K.E.R. to recover the amounts, if the management is found to be in default.

4. The petitioner, admittedly, was reinstated and all the arrears from 20.3.2014 is also said to have been paid. At this point of time, the petitioner's grievance was with respect to increments not being sanctioned for reason only of the 15 days suspension period between 5.3.2014 and 20.3.2014 being not regularised. The petitioner's increment date falling on 1.10.2014, the petitioner again filed an Interlocutory Application No.10649/2014 seeking that her increment be sanctioned. The Headmistress is on record in the above writ petition contending that without regularisation of the 15 days suspension period the

increment cannot be sanctioned. In such circumstance, the writ petition of the Manager assumes relevance.

5. W.P.(C) No.14508/2014 is a writ petition in which the refusal of the Educational Authority to extend the period of suspension and the direction of reinstatement at Ext.P12 was challenged. Admittedly, a revision is pending before the Government. The Government would have to consider the revision and the A.E.O. also would have to take steps if so required, for an enquiry against the teacher as per Ext.P9 charge memo. The regularization of the 15 days could only be after the enquiry proceedings are finally settled. However, that need not detain the Headmistress from applying for sanction of increment or the Government from sanctioning it, one a date after 15 days from the date of increment.

6. In such circumstance, there shall be a direction to the Headmistress to send the necessary papers to the

Educational Authority for sanction of increment on the day, 15 days from the date of increment of the petitioner. The same shall be subject to the result of the enquiry proceedings and the manner in which the 15 days suspension period is treated. It is directed that the Government also shall sanction the increment as expeditiously as possible, at any rate within a period of one month from the date of receipt of the necessary papers from the Headmistress.

The writ petitions are disposed of leaving open the contentions of either parties regarding the suspension and the allegations levelled against the teacher to be agitated in appropriate proceedings. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE