

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 21846 of 2015 (E)

PETITIONER :

**VIDHYADHARAN
S/O.SIVARAMAN, AGED 48
NJITTUVETIL HOUSE, CHAMPUCHIRA P.O.,
THRISSUR DISTRICT - 680 684, PRESIDENT
PARENT TEACHER ASSOCIATION, CHEMPUCHIRA GOVERNMENT
HIGHER SECONDARY SCHOOL, CHEMBUCHIRA P.O.,
THRISSUR DISTRICT - 680 684.**

**BY ADVS.DR.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN
SRI. S.SIDHARDHAN**

RESPONDENT(S) :

**1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**

**2. THE DIRECTOR,
HIGHER SECONDARY EDUCATION
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 033.**

R1 & R2 BY SPL. GOVT. PLEADER SRI. T.T. MUHAMOOD

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-11-2015, ALONG WITH WP(C) NO. 34710/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:**

Mn

WP(C).No. 21846 of 2015 (E)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1- TRUE COPY OF G.O(P) NO.116/2009/GEN.EDN.DATED 27.5.2009.
- EXT. P2- TRUE COPY OF G.O(MS) NO. 646/66/EDN. DATED 1.12.1965.
- EXT. P3- TRUE COPY OF G.O (MS) 230/66/EDN. DATED 18.5.1966.
- EXT. P4- TRUE COPY OF G.O(P) NO.12/04/P&ARD DATED 10.9.2004.
- EXT. P5- TRUE COPY OF G.O.(P) NO.143/15/GEN.EDN. DATED 27.5.15.
- EXT. P6- TRUE COPY OF THE CIRCULAR NO.AD.C6/5697/2015/H.S.D. DATED 1.7.15 ISSUED BY THE 2ND RESPONDENT.
- EXT. P7- TRUE COPY OF G.O.(P) NO.193/14/GEN. EDN.DATED 22.9.14.
- EXT. P8- TRUE COPY OF G.O.(P) NO.37/15/GEN. EDN DATED 6.2.2015.
- EXT.P9- COPY OF THE ORDER/PROCEEDINGS DATED 8.7.2015 OF THE KERALA STATE HUMAN RIGHTS COMMISSION IN HRMP NO. 6543/2015 WITH ITS ENGLISH TRANSLATION.

RESPONDENT(S)' ANNEXURES :

- ANNEXURE R1(a) COPY OF G.O.(MS) NO. 218/2015/G.EDN DATED 11/8/2015 AND ITS TRANSLATION.
- ANNEXURE R1(b) COPY OF JUDGMENT IN OP(KAT) NO. 249/15.

//TRUE COPY//

P.S. TO JUDGE

Mn

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

=====

W.P. (C) Nos. 21846 & 34710 of 2015

=====

Dated this, the 25th day of November, 2015

J U D G M E N T

Shaffique, J.

WP(C) No.34710/2015 has been filed as a Public Interest Litigation and WP(C) No.21846/2015 has been filed before the learned Single Judge which has been made over to this Court as it was observed that public interest is involved in the matter. The issue raised in both the writ petitions are similar.

2. The contention of the petitioners is that the Government has issued general orders by which teachers are being transferred during the midst of the academic year which will affect the student community at large. It is not in dispute that in regard to service matters, Public Interest Litigation is not maintainable. This position has been decided by the Supreme Court in **Girjesh Shrivastava v. State of M.P** (2010 (4) KLT Supp.130) and other judgments. That apart, it is submitted by the learned special Government Pleader appearing on behalf of the

respondents that most of the teachers who had been transferred have also joined. Certain teachers had challenged the orders of transfer before the Kerala Administrative Tribunal, which are pending consideration. Having regard to the aforesaid facts, being a service matter, we do not think that we will be justified in interfering with the proceedings in a Public Interest Litigation.

3. It is always open for the individual teachers, who are transferred, to take up the matter before the Kerala Administrative Tribunal, if they are aggrieved by the same. No general direction can be issued by this Court. Of course, it is normally in the interest of the students that transfer proceedings should not be effected during the midst of the academic year. But it is borne out from the counter affidavit filed in WP(C) No.21846/15 that there was no general transfers for the last two years and there had been substantial request from teachers from various districts to transfer them to their home districts. These are all factors which called upon the Government to take a policy decision in the matter and therefore it may not be proper for this Court to interfere in such orders of transfer based on such

W.P(C) Nos.21846 & 34710/15

-:3:-

Government Orders issued in this regard.

Hence, we do not think that any direction as sought for can be granted in these writ petitions and accordingly the writ petitions are dismissed.

ASHOK BHUSHAN, CHIEF JUSTICE

A.M. SHAFFIQUE, JUDGE

Rp25/11/2015