

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 27090 of 2009 (E)

PETITIONER(S):

1. **A.K.MOIDUTTY SAHIB,
MANAGER, ALP SCHOOL, THEKKUMALA,
MELMURI P.O., PALAKKAD DISTRICT.**
2. **A.K.MUHAMMED ALI,
MANAGER, ALP SCHOOL, MELMURI,
MELMURI P.O., PALAKKAD DISTRICT.**
3. **P.T.LATHA,
LPSA, ALP SCHOOL, MELMURI,
MELMURI P.O., PALAKKAD DISTRICT.**
4. **K.S.SHAFEEDA,
LPSA, ALP SCHOOL, MELMURI,
MELMURI P.O., PALAKKAD DISTRICT.**
5. **K.KRISHNAKUMAR,
LPSA, ALP SCHOOL, MELMURI,
MELMURI P.O., PALAKKAD DISTRICT.**
6. **P.THAHIRA,
LPSA, ALP SCHOOL, MELMURI,
MELMURI P.O., PALAKKAD DISTRICT.**

**BY ADVS.SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SMT.DHANYA CHANDRAN
SRI.A.HAROON RASHEED**

RESPONDENT(S):

1. **STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION, DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.**

Msv/

WP(C).No. 27090 of 2009 (E)

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
TRIVANDRUM.
3. THE ASSISTANT EDUCATIONAL OFFICER,
PATTAMBI, PALAKKAD DISTRICT.
4. SMT.INDIRADEVI,
LPSA, ALP SCHOOL, THEKKUMALA,
MELMURI P.O., PALAKKAD DISTRICT.
5. SMT.K.V.SUDHA,
LPSA, ALP SCHOOL, THEKKUMALA,
MELMURI P.O., PALAKKAD DISTRICT.
6. SMT.K.PRIYA,
LPSA (LEAVE SUBSTITUTE),
ALP SCHOOL, THEKKUMALA,
MELMURI P.O., PALAKKAD DISTRICT.

R1 TO R3 BY GOVERNMENT PLEADER SRI. S.JAMAL
R4 TO R6 BY ADV. SRI.ELVIN PETER P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-02-2015, ALONG WITH WPC. 31761/2009 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF ORDER NO.G1-88988/2004/K.DIS./DPI DATED 23.7.2005
ISSUED BY THE 2ND RESPONDENT.**

**EXT.P2: TRUE COPY OF ORDER NO.F/3457/06/K.DIS. DATED 20.6.2006 ISSUED BY THE
3RD RESPONDENT.**

**EXT.P3: TRUE COPY OF APPEAL MEMOANDUM SUBMITTED BY RESPONDENTS
4 TO 6 BEFORE 1ST RESPONDENT DATED 9.10.2008.**

**EXT.P4: TRUE COPY OF HEARING NOTICE DATED 4.12.2008 VIDE
NO.65130/F2/08/G.EDN. ISSUED BY THE 1ST RESPONDENT.**

**EXT.P5: TRUE COPY OF WRITTEN SUBMISSION OF THE 1ST PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P6: TRUE COPY OF WRITTEN SUBMISSION OF THE 2ND PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P7: TRUE COPY OF WRITTEN SUBMISSION OF THE 3RD PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P8: TRUE COPY OF WRITTEN SUBMISSION OF THE 4TH PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P9: TRUE COPY OF WRITTEN SUBMISSION OF THE 5TH PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P10: TRUE COPY OF WRITTEN SUBMISSION OF THE 6TH PETITIONER BEFORE
THE 1ST RESPONDENT DTD.30.12.2008.**

**EXT.P11: TRUE COPY OF G.O.(RT) NO.3730/09/G.EDN. DATED 29.8.2009 ISSUED BY
THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M.SHAFIQUE, J

W.P.C.Nos.27090 & 31761 of 2009,
18458 & 21342 of 2010, 22759 of 2011
and 17599 of 2012

Dated this the 26th day of February 2015

J U D G M E N T

These writ petitions have been filed by separate parties with reference to the issues that has arisen in two schools being originally owned by the 1st petitioner in W.P.C.No.27090/2009.

2. The issues developed when the management of one of the schools namely ALP School, Meloor was transferred by the owner in favour of his son. By Ext.P1 in W.P.C.No.31761/2009, the Director of Public Instructions had granted permission to transfer the management involving change of ownership of the said School in favour of Sri.A.K.Muhammed Ali. The assignee was thereafter appointed as the Manager. He, later by Ext.P3, has made Smt.A.K.Beevikutty as the Manager of the school. Certain teachers challenged the change of ownership and

appointment of Manager, inter alia contending that if there is any such change, their seniority will be affected. That apart, there cannot be any appointment of Manager effective from a previous date as seen from Ext.P2. The matter was taken up before the Government and by Ext.P5 order dated 29/08/2009, the Government cancelled Exts.P1 and P2, which has the effect of cancelling Ext.P3 as well. This is being challenged by the petitioner inter alia contending that Ext.P5 order dated 29/08/2009 has been passed without notice to the petitioner.

3. W.P.C.No.27090/2009 has been filed by the original owner of the School challenging the very same order Ext.P5 produced in W.P.C.No.31761/2009. Other writ petitions are filed by the teachers challenging the subsequent appointment of teachers and also seeking for approval. Few teachers also challenge Ext.P5 order on other grounds which is already indicated.

4. The main contention urged by the learned counsel

appearing for the petitioner in W.P.C.No.31761/2009 is that the order Ext.P5 was passed without notice to the petitioner, who is the Manager of the School. Perusal of Ext.P5 does not indicate that any such notice had been issued to the Manager. Even in the Counter affidavit filed by the Government, no such contention has been urged. The other petitioners as well as the respondents have a different case as well.

5. Under such circumstances, I am of the view that this is an instance where Ext.P5 came to be passed in gross violation of the principles of natural justice and therefore the issue requires to be heard afresh after notice to the affected parties. A decision in Ext.P4 appeal will ultimately result in an appropriate decision in the other claims made by the teachers as well.

Under such circumstances, these writ petitions are disposed of as under:

- i) Ext.P5 in W.P.C.No.31761/2009 is set aside.

ii) There will be a direction to the 1st respondent to consider Ext.P4 appeal with notice to all the affected parties including the petitioner in W.P.C.No.31761/2009 and appropriate orders shall be passed within a period of three months from the date of receipt of a copy of this judgment.

iii) All contentions raised by the other petitioners in these cases are left open to be decided in appropriate proceedings.

iv) Interim orders in the other writ petitions shall continue until a final decision is taken by the Government in this regard.

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

