

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 24323 of 2015 (S)

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PETITIONER(S) :-

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SHAJI PAYYANIKKAL, AGED 44 YEARS  
S/O. KUNJAN, AMRITA BHAVAN, URULANTHANNY  
POST KUTTAMPUZHA, KOTHAMANGALAN  
ERNAKULAM DISTRICT - 686 681.

BY ADVS.SRI.K.SHRIHARI RAO  
SMT.N.SHOBHA  
SRI.A.S.SREEKANTH

RESPONDENT(S) :-

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY  
HIGHER EDUCATION DEPARTMENT, SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.
2. DIRECTOR OF COLLEGIATE EDUCATION,  
VIKAS BHAVAN, THIRUVANANTHAPURAM - 695 033.
3. DEPUTY DIRECTORS OF COLLEGIATE EDUCATION  
OFFICE OF DEPUTY DIRECTOR OF COLLEGIATE EDUCATION  
MARKET FED BUILDING, GANDHINAGAR, KADAVANTHARA  
ERNAKULAM DISTRICT - 682 020.
4. THE DISTRICT COLELCTOR  
CIVIL STATION, KAKKANAD, ERNAKULAM DISTRICT - 682 030.
5. THE SECRETARY  
SCHEDULED TRIBES DEVELOPMENT DEPARTMENT, SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.

BY SPL.GOVERNMENT PLEADER SMT.P.K.SANTHAMMA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :-  
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EXHIBIT P1 : TRUE COPY OF THE REPORT DATED 23-1-2015 SUBMITTED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT WITH ENGLISH TRANSLATION.

EXHIBIT P2 : TRUE COPY OF THE FORWARDING LETTER DATED 31-3-2015 OF THE 3RD RESPONDENT SENDING EXHIBIT P1 COPY TO THE PETITIONER WITH ENGLISH TRANSLATION.

EXHIBIT P3 : TRUE COPY OF THE LETTER DATED 6-6-2015 FROM THE 4TH RESPONDENT TO THE PETITIONER WITH ENGLISH TRANSLATION.

EXHIBIT P4 : TRUE COPY OF THE LETTER DATED 3-6-2015 OF THE 1ST RESPONDENT TO THE PETITIONER WITH ENGLISH TRANSLATION.

EXHIBIT P5 : TRUE COPY OF THE LETTER DATED 23-2-2015 OF THE PANCHAYAT PRESIDENT, KUTTAMPUZHA TO THE HON'BLE MINISTER FOR EDUCATION WITH ENGLISH TRANSLATION.

EXHIBIT P6 : TRUE COPY OF THE RESOLUTION DATED 20-08-2014 OF THE KUTTAMPUZHA GRAMA PANCHAYAT WITH ENGLISH TRANSLATION.

EXHIBIT P7 : TRUE COPY OF THE FORWARDING LETTER DATED 18-09-2014 OF THE PRESIDENT OF THE KUTTAMPUZHA GRAMA PANCHAYAT SENT TO THE HON'BLE MINISTER FOR EDUCATION WITH ENGLISH TRANSLATION.

EXHIBIT P8 : TRUE COPY OF THE LETTER DATED 23-02-2014 OF SRI T.U KURUVILA MLA, KOTHAMANGALAM TO THE HON'BLE MINISTER FOR EDUCATION WITH ENGLISH TRANSLATION.

EXHIBIT P9 : TRUE COPY OF THE LETTER DATED 13-1-2015 OF THE PANTHAPRA TRIBAL SETTLEMENT COLONY THROUGH 2 PERSONS TO THE 3RD RESPONDENT WITH ENGLISH TRANSLATION.

EXHIBIT P10 : TRUE COPY OF THE LETTER DATED 13-1-2015 SUBMITTED TO THE LOCAL MLA SRI KURUVILA BY THE PANTHAPRA TRIBAL SETTLEMENT COLONY THROUGH 2 PERSONS WITH ENGLISH TRANSLATION.

RESPONDENT(S) ' EXHIBITS :- NIL  
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//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &  
A.M. SHAFFIQUE, J.**

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**W.P.(C) No.24323 of 2015**  
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**Dated this the 11<sup>th</sup> day of August 2015**

**J U D G M E N T**

**Ashok Bhushan, CJ.**

Heard.

2. This writ petition has been filed in the form of public interest litigation praying for quashing Ext.P4 order of the Government dated 3.6.2015, by which, the petitioner was informed that his request to establish and start a Government Arts and Science College at Kuttampuzha cannot be accepted.

3. Learned counsel for the petitioner submits that preliminary enquiry report, Ext.P1, was submitted, wherein, recommendation has been made by the Deputy Director of Collegiate Education stating that starting a college will be of great help to the people of Kuttampuzha Grama Panchayat, particularly that of Scheduled Caste/Scheduled Tribes and other socially backward class peoples. The submission of the learned counsel for the petitioner is that, there is no reference

in Ext.P1 regarding the decision taken by the Government as communicated by letter dated 3.6.2015.

4. The English translation of letter dated 3.6.2015, Ext.P4, reads as follows :-

“In Kothamangalam constituency, within 20-40kms MA College, Kothamangalam, St.Peters College, Kolencherry, Nirmala College, Muvattupuzha, Aided Colleges are available and because of financial difficulty of the Government it is not possible to start a college and your request is hereby rejected.”

The financial difficulty cited by the Government has turned down the request made by the petitioner to start a college. Ext.P4 was issued in response to the letter dated 6.4.2015 sent by the petitioner. The mere fact that there is no reference in Ext.P1 regarding the letter dated 3.6.2015 in no manner vitiates the decision taken by the State Government. When the State Government has come up with the reason 'financial difficulty', it is not proper for this Court to issue any mandamus to start a college. We only observe that the fact that communication dated 3.6.2015 issued to the petitioner refusing to accept his request shall not preclude the Government from

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considering the essentiality of a college as and when appropriate recommendations are considered.

With the above observation, this writ petition is dismissed.

**Sd/-  
ASHOK BHUSHAN  
CHIEF JUSTICE**

**Sd/-  
A.M. SHAFFIQUE  
JUDGE**

Jvt