

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 24599 of 2015 (Y)

PETITIONERS :

1. K.B.MUHAMMED SHAFI,
S/O.LATE BAVA,
AGED 78 YEARS,
KANJIRAMUKALEL HOUSE,
PAIMATTOM, MANIKINAR.P.O.,
ERNAKULAM DISTRICT -686 693.
2. T.P.ASSAINAR,
S/O.LATE PAREETH,
AGED 66 YEARS,
THURUTHEL HOUSE,
PAIMATTOM, PAREEKKANNY.P.O.,
ERNAKULAM DISTRICT-686693.

BY ADV. SRI.ANTONY MUKKATH

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. DEPUTY DIRECTOR OF EDUCATION,
ERNAKULAM, CIVIL STATION,
KAKKANAD, ERNAKULAM DISTRICT - 682 030.
3. ASSISTANT EDUCATIONAL OFFICER,
KOTHAMANGALAM,
ERNAKULAM DISTRICT.
4. K.M.ABDUL RAHIM,
S/O.SRI.K.P.MOHAMMED HAJI,
KUNNEKKUDIYIL HOUSE,
PAIMATTOM, MANIKINAR.P.O.,
ERNAKULAM DISTRICT - 686693.

BY GOVERNMENT PLEADER SMT.LOWRY.A

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :-

- | | | |
|---------|---|---|
| EXT.P1 | : | COPY OF THE AGREEMENT NO.35 OF 1960
DTD.9.6.1960. |
| EXT.P2 | : | COPY OF THE MINUTES OF THE GENERAL BODY MEETING
HELD ON 26.11.1995. |
| EXT.P3 | : | COPY OF THE BYLAWS DTD.20.1.96. |
| EXT.P4 | : | COPY OF THE BYLAW DTD.8.11.03 ALONG WITH THE
MINUTES OF THE MEETING HELD ON 8.11.03. |
| EXT.P5 | : | COPY OF THE LETTER NO.6/03 DTD.12.11.03 OF THE
MANAGER, LPS VALACHIRA. |
| EXT.P6 | : | COPY OF THE ORDER NO.F5-62611/04/DPI DTD.3.9.04
OF THE ADDL. DPI(C) M TRIVANDRUM. |
| EXT.P7 | : | COPY OF THE MINUTES OF THE ALLEGED EXECUTIVE
COMMITTEE MEETING HELD ON 30.5.14. |
| EXT.P8 | : | COPY OF THE COMPLAINT DTD.12.1.15. |
| EXT.P9 | : | COPY OF THE ORDER NO.G.828/15/K.Dis DTD.16.3.15
OF THE 3RD RESPONDENT. |
| EXT.P10 | : | COPY OF THE APPEAL PETITION DTD.27.3.15 BEFORE
THE 2ND RESPONDENT. |

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.24599 of 2015

Dated this the 13th day of August, 2015

JUDGMENT

The petitioners, who are the members of the Valachira Educational Association, Manikinar.P.O., Kothamangalam Taluk, Ernakulam, which is running an Educational Institution, namely, Valachira Lower Primary School, have filed this Writ Petition seeking the following reliefs:-

- i. to call for the records leading to Ext.P-9 and to set aside the same by the issuance of a writ of certiorari or other appropriate writ, direction or order;
- ii. to issue a writ of mandamus or other appropriate writ, direction or order, interdicting the 4th respondent from functioning as the Manager of the Valachira Lower Primary School, Manikinar PO;
- iii. to issue a writ of mandamus or other appropriate writ, direction or order directing respondents 1 to 3 not to approve the appointments if any, made by the 4th respondent pursuant to Ext.P-9 Order dated 16-03-2015;
- iv. to issue a writ of mandamus or other appropriate writ, direction or order directing the 2nd respondent to consider and pass orders on Ext.P-10 appeal petition within a time-frame that may be fixed by this Hon'ble Court;

v. to issue other appropriate writ, direction or order which this Hon'ble Court deem fit, just and proper in the circumstances of the case;

vi. to allow the above Writ Petition with costs to the petitioner.

2. The bylaw No.6 of Ext.P4 Bylaws provides that the administration of the School shall vest with the Administrative Committee elected by the General Body of the Valachira Educational Association. The Executive Committee of the Valachira Educational Association is elected by the General Body. From the Executive Committee of the Valachira Educational Association, the President, Secretary and Treasurer are elected and they will be the Administrative Committee of the School. Bylaw No.8 of Ext.P4 Bylaws provides that, the President of the Valachira Educational Association will be the Manager of the School. Therefore, according to the petitioners, the President of the Valachira Educational Association alone can function as the Manager of the School.

3. The petitioners would contend that, the 4th respondent is claiming Managership of the School based on the decision of the Executive Committee meeting of the Association claimed to have been convened on 30.5.2014 under the Presidentship of

Sri.K.P.Muhammed Haji. The 1st petitioner is the Member of the Executive Committee. According to the petitioners, no notice was issued to the 1st petitioner regarding the Meeting alleged to have been convened on 30.5.2014 and that no such Executive Committee meeting of the Association was convened on 30.5.2014. Therefore, Ext.P7 alleged Minutes of the meeting held on 30.5.2014 is a concocted document.

4. The petitioners raised their objections before the 3rd respondent. But, the 3rd respondent without considering any of these objections approved the 4th respondent as Manager temporarily for a period of six months as per Ext.P9. Now Ext.P10 appeal filed by the petitioners and others against Ext.P9 is pending before the 2nd respondent.

5. I heard the arguments of the learned counsel for the petitioners and also the learned Government Pleader appearing for respondents 1 to 3.

6. If Ext.P10 appeal is received and pending consideration of the 2nd respondent, the said respondent shall consider and pass appropriate orders thereon strictly in accordance with law, after affording the petitioners as well as the 4th respondent an opportunity

of being heard, as expeditiously as possible, at any rate within a period of two months from the date of receipt of a certified copy of this judgment.

It is made clear that this Court has not expressed anything on the merits of the contentions raised by the petitioners in Ext.P10 appeal and it is for the 2nd respondent to pass appropriate orders thereon, strictly in accordance with law.

ANIL K.NARENDRA, JUDGE

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