

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. 24719 of 2015 (L)

PETITIONER:

**JANCY. T. KURIAKOSE, AGED 52 YEARS
W/O.FR.MATHEW JACOB, PUTHUSSERY HOUSE, PUDUPPADY
ENGAPUZHA, KOZHIKODE DISTRICT - 673 586.**

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

- 1. THE CATHOLICATE & M.D. SCHOOLS
(CORPORATE MANAGEMENT), DEVALOKAM, KOTTAYAM - 04
REP. BY ITS MANAGER.**
- 2. THE HEADMASTER
MGM H.S.S., PUDUPADI, KOZHIKODE DISTRICT-673 586.**
- 3. THE DISTRICT EDUCATIONAL OFFICER
THAMARASSERY - 673 573.**

**BY ADVS. SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR
BY GOVERNMENT PLEADER SMT. A LOWSY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P-1 - COPY OF THE EXISTING G.O. DATED 27.05.2015 STIPULATING
THE NORMS AND CONDITION FOR TRANSFER OF HIGHER
SECONDARY SCHOOL TEACHERS
- EXT.P-2 - COPY OF THE GENERAL POLICY GUIDELINES ISSUED BY THE
GOVERNMENT IN RESPECT OF THE TRANSFER OF GENERAL
EMPLOYEES IN ALL DEPARTMENT AND VACATION
DEPARTMENT DATED 10.09.2004.
- EXT.P-3 - COPY OF THE TRANSFER ORDER ISSUED BY THE IST
RESPONDENT TO THE PETITIONER DATED 10.08.2015.

RESPONDENTS' EXHIBITS:-

- EXT. R-1(A) - COPY OF THE ENQUIRY REPORT ALONG WITH COVERING
LETTER DATED 17.06.2015.

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.24719 of 2015

Dated this the 8th day of October, 2015.

JUDGMENT

The petitioner is aggrieved with the transfer effected in the middle of the academic year. However, the Management seeks to substantiate the transfer on the basis of Ext.P1 report. The instance which led to Ext.P1 report was examined by this Court in another case, where the Peon was also transferred pursuant to the enquiry initiated against the Peon and the petitioner herein.

2. The petitioner allegedly was the noon-meal-in-charge of the School and the incident was with respect to rice being transported out of the School. The Peon, who was on leave on that particular day, was found loading of the rice into a lorry near the premises of the School, even before the School hours. This Court looking at Rule 10(4) of Chapter XIV A of the Kerala Education Rules, 1959, found that administrative exigencies would also include allegations of corruption, misuse of official position, disciplinary action etc. The transfer of the Peon was sustained.

3. In the case of the petitioner, it is to be noticed that at best only supervisory lapse can be alleged against her going by the report. The report of the Deputy Director of Education, Kozhikkode specifically directs the transfer of the Peon. No such direction is issued as against the petitioner herein. A reading of the report would indicate that, there was also a move to shift the rice from the building in which it was stored and the petitioner's contention is that it was only to facilitate such transfer that the petitioner had issued a letter.

4. Looking at the totality of the circumstance, this Court is of the opinion that the transfer of the petitioner is not expedient. Ext.P3 hence would stand set aside. The enquiry definitely would be continued against both the persons. The observations made in this judgment are only in the nature of prima facie observations and the enquiry has to be proceeded with and concluded untrammelled by any observations made herein.

The writ petition allowed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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//True Copy//

P.A. to Judge.