

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 24761 of 2015 (U)

PETITIONER:

**K.T PAULOSE AGED 51 YEARS
S/O. THOMAS, KURUTHOLAYIL HOUSE, ENGAPUZHA
PUDUPPADY, 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 HEADMASER
MGM H.S.S PUDUPADI, KOZHIKODE DISTRICT - 673 586.**
- 3. THE DISTRICT EDUCATIONAL OFFICER
THAMARASSERY - 673 573.**
- 4. SHEEJA VARGHESE, AGED 45 YEARS
OFFICE ATTENDANT, FATHER'S NAME NOT KNOWN
M.P.M HIGHER SECONDARY SCHOOL, CHUNGATHARA
MALAPPURAM DISTRICT - 679 334.**

**R1 BY ADVS. SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR
R3 BY GOVERNMENT PLEADER SMT. A LOWSY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - A TRUE COPY OF THE APPOINTMENT OF THE PETITIONER IN M.P.M HIGH SCHOOL, CHUNGATHARA DT. 04.2.2004.**
- P2 - A TRUE COPY OF THE EXISTING G.O DT. 27.5.2015 STIPULATING THE NORMS AND CONDITION FOR TRANSFER OF HIGHER SECONDARY SCHOOL TEACHERS IS**
- P3 - A TRUE COPY OF THE GENERAL POLICE GUIDELINES ISSUED BY THE GOVERNMENT IN RESPECT OF THE TRANSFER OF GENERAL EMPLOYEES IN ALL DEPARTMENT AND VACATION DEPARTMENT DT. 10.9.2004.**
- P4 - A TRUE COPY OF THE TRANSFER ORDER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DT. 10.8.2015.**

RESPONDENT(S)' EXHIBITS

- R1(A) TRUE COPY OF THE ENQUIRY REPORT ALONG WITH COVERING LETTER DATED 17.06.2015**

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 24761 of 2015 (U)

Dated this the 6th day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the transfer effected at Ext.P4, wherein, the petitioner has been transferred from Pudupady M.G.M. Higher Secondary School to M.P.M. Higher Secondary School, Chungathara, both under the same Corporate Management.

2. The petitioner contends that 'exigency of service' was cited as the reason, and counter affidavit discloses that there were allegations of misappropriation of rice, levelled against the petitioner. The petitioner contends that the transfer is punitive and has to be set aside by this Court.

3. The transfer, even between schools under the same Corporate Management, is regulated by Chapter XIV of Kerala Education Rules, 1959, specifically, Rule 10. Rule 10(4) is extracted hereunder:

“(4) Cases coming under administrative interest shall include unsuitability, allegations of corruption, misuse of official position, disciplinary action, incompetence, and consistent poor performance.”

4. The counter affidavit of the respondent reveals that there was an allegation of rice having been taken from the school and transported elsewhere. It was alleged to have been loaded into the lorry by the petitioner herein, on a day in which he was on leave and at a time before the school hours. On such an allegation being raised, the noon-meal supervisor had conducted preliminary enquiry; pursuant to which the Deputy Director of Education, Kozhikode, conducted a further enquiry; the report and conclusions of which are available in Ext.R1(a).

5. Though the learned counsel invited this Court to look into the report and the specific finding that there was excess rice stocked in the school, it is to be noticed that the allegation is with respect to rice having been removed from

the school without proper authorisation and at the instigation of the petitioner. The stock position in the School may not be relevant. The Deputy Director had conducted an investigation and had also submitted the report to the Manager by Ext.R1(a), specifically recommending initiation of proceedings, against the petitioner. It is the categorical submission of the Manager that, only in anticipation of the initiation of disciplinary proceedings, the petitioner has been transferred to the other school, as per Ext.P4.

6. Considering the allegations levelled against the petitioner, this Court does not find any reason to interfere with the transfer order since it is appropriate that the petitioner be kept away from the school, while the proceedings are concluded. However, it is made clear that if any disciplinary proceedings are initiated, the petitioner shall be given duty leave to attend such proceedings in the School from which he was transferred and he shall also be

entitled to the expenses incurred for travelling, as per norms.

The writ petition would stand dismissed with the above observation. It is made clear that this Court has not expressed any opinion on the allegations raised against the petitioner.

Sd/-
K.VINOD CHANDRAN,
JUDGE