

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. 26305 of 2014 (K)

PETITIONER:

**K.MUHAMMED ALI
S/O. KUNHIMARAKKAR, FULL TIME ARABIC TEACHER
GLP SCHOOL, KILINAKKODE, VENGARA
MALAPPURAM DISTRICT, RESIDING AT KARANGADAN HOUSE
PATHANAPURAM, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENTS:

- 1. THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM-695 001.**
- 2. THE DEPUTY DIRECTOR OF EDUCATION
MALAPPURAM-676 505.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION
KANNUR-670 001.**
- 4. THE DISTRICT EDUCATIONAL OFFICER
MALAPPURAM-676 505.**
- 5. THE ASSISTANT EDUCATIONAL OFFICER
VENGARA, MALAPPURAM DISTRICT-676 304.**

R1-R5 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 : COPY OF THE ORDER OF THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION AS NO.GO(RT)NO.1789/95/G.EDN.
DTD.31.5.1995.**

**P2 : COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT AS NO.A3/414/99,
DTD.6.1.1999.**

P2(A): COPY OF ENGLISH TRANSLATION OF EXT.P2.

**P3 : COPY OF THE CIRCULAR ISSUED BY THE FIRST RESPONDENT AS
NO.H2/35637/14, DTD.23.8.2014.**

P3(A): COPY OF ENGLISH TRANSLATION OF EXT.P3.

**P4 : COPY OF THE ORDER OF THE DISTRICT JUDGE, KOZHIKODE IN OP
(ADOPTION) NO.167/2013, DTD.8.7.2013.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 26305 of 2014 (K)

Dated this the 6th day of October, 2015

J U D G M E N T

The petitioner, a Full Time Arabic Teacher who was continuing in an aided school by reason of division fall, was deployed on protection granted by the Government.

2. The petitioner, admittedly, was working in an aided school in Kannur. Though, initially, the petitioner was re-deployed in a Government School at Kannur, subsequently, for reason of PSC appointments being made in the district, the petitioner was re-deployed to Malappuram as per Ext.P2 dated 6.1.1999. The petitioner filed the above writ petition apprehending that his position at Malappuram might be disturbed by a another protected hand and the condition in Ext.P2, that he would be shifted to the parent district only on PSC appointments being made in Malappuram, would be violated.

3. The learned Government Pleader however, submits that primarily the writ petition has been filed only on an apprehension. Further, it is stated that the petitioner, being a teacher protected in the district of Kannur, the list of protected teachers in Kannur would have to be maintained, with the name of the petitioner, as against the aided School in which he is appointed. If a vacancy arises in that School, necessarily the petitioner would have to join such vacancy. Further, any other situations which may arise, lending to the displacement of the petitioner from the present station, would have to be tested on the facts existing at that point of time. The condition in Ext.P2 cannot be interpreted, so as to permit the petitioner to be allowed to continue till a PSC hand joins in Malapurram. There could be many situations which warrant the petitioner's displacement from the present post.

4. In such circumstance, this Court is not inclined to grant the reliefs as prayed for since what is claimed is on a

mere apprehension and any direction issued will be in the abstract realm of an anticipatory order. Definitely, if the petitioner is attempted to be moved out, then the petitioner could challenge it and then there should be an adjudication on the facts and law existing at that point of time. At the time of hearing, the learned counsel maintains that the specific challenge raised against Ext.P3 Circular, is not pressed.

However, for the present, the writ petition would stand closed leaving open the remedy of the petitioner, if any adverse orders are passed.

Sd/-
K.VINOD CHANDRAN,
JUDGE