

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 27968 of 2015 (U)

PETITIONER(S):

MOHAMMED MISBAN RAHIL AGED 18 YEARS
MIRSHANA MANZIL, ULİYATHADIKKA, HIDAYATH NAGAR P.O.
KASARGODE - 671 123.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH

RESPONDENT(S):

1. THE PRINCIPAL, GOVERNMENT HIGHER SECONDARY SCHOOL
PATLA, P.O.PATLA, KASARGODE - 671 124.
2. THE REGIONAL DEPUTY DIRECTOR
HIGHER SECONDARY EDUCATION, G.L.P.S BUILDING, KANATHUR
KANNUR - 670 001.
3. THE GOVERNMENT OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF EDUCATION, TRIVANDRUM - 695 001.
4. THE DISTRICT COLLECTOR
KASARGOD - 671 123.
5. THE PARENT TEACHERS' ASSOCIATION
GOVERNMENT HIGHER SECONDARY SCHOOL, PATLA, P.O.PATLA
KASARGOD - 671 124, REPRESENTED BY ITS PRESIDENT.

R1-4. BY ADV. GOVERNMENT PLEADER SMT. M J RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF THE SSLC BOOK OF THE PETITIONER.

EXT.P2 - TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED BY THE 1ST RESPONDENT.

EXT.P3 - TRUE COPY OF THE CONDUCT CERTIFICATE.

EXT.P4 - TRUE COPY OF THE LETTER GIVEN TO THE 4TH RESPONDENT WITH ENDORSEMENT DT. 31.8.2015.

EXT.P5 - TRUE COPY OF THE PETITION FILED BY THE PETITIONER'S FATHER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

ANNEXURE R1(a): TRUE COPY OF THE COMPLAINT DT 19.08.2015

ANNEXURE R1(b): TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT

ANNEXURE R1(c): TRUE COPY OF THE ENQUIRY REPORT

ANNEXURE R1(d): TRUE COPY OF THE PROCEEDINGS OF THE PTA MEETING

ANNEXURE R1(e): TRUE COPY OF THE APPLICATION FOR T C

ANNEXURE R1(f): TRUE COPY OF THE DECISION OF THE PTA

ANNEXURE R1(g): TRUE COPY OF THE LETTER DT 09.09.2015

TRUE COPY

P.A TO JUDGE

K. VINOD CHANDRAN, J.

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W.P.(C) No.27968 of 2015 - U

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Dated this the 19th day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the Transfer Certificate issued, which according to him, is a removal from the rolls of the 1st respondent school.

2. The petitioner is a Plus Two student, studying in the Higher Secondary section and was issued with the Transfer Certificate only on account of an incident, in which ragging was alleged. The Principal of the school has filed a detailed counter affidavit, in which Ext.R1(a) complaint has been produced. The allegation in the complaint is that the complainant was waylaid by the petitioner herein and was instructed to insert his shirt, failing which he was threatened with physical assault. In the complaint it is also alleged that in the altercation that ensued the buttons of the shirt of the complainant came off. On the said

complaint, an enquiry was conducted by a Committee headed by an H.S.ST and two H.S.S.T (Junior)'s as its members.

3. The allegations were found to have been proved and the matter was also placed before the Parent Teachers Association, which had recommended that the complaint would be handed over to the Police and that if the petitioner requests, Transfer Certificate may be issued to him. In such circumstance, the petitioner himself had applied for Transfer Certificate as is indicated in Ext.R1(e).

4. The learned Counsel for the petitioner submits that the petitioner's father is a driver and it was only on the threat of the compliant being referred to the Police that the petitioner had submitted a request for the Transfer Certificate. The petitioner produced a letter across the bar, in which the student, who had made the complaint has submitted that along with the petitioner and other students were also involved in the incident. Hence, it is very clear that the petitioner was also a part of the

group of students, who had waylaid the complainant.

5. Going by the subsequent letter of the complainant also, it cannot be said that the petitioner was not involved in the incident. The only facts, which is clearly discernible is that there were a group of students, in which the petitioner was also a part. The Principal categorically states that the petitioner is the leader of a group of students, who had been creating such incidents and causing disturbances to the peaceful life of the junior students in the campus.

6. Only considering the fervent plea made by the learned Counsel for the petitioner and also the future prospectus of the petitioner herein, this Court would direct consideration of admitting him back to the school on his tendering an apology before the Assembly and his parents and himself undertaking before the Principal that no such untoward incident will occur in future.

7. In such circumstance, only on the facts disclosed

herein, the petitioner is directed to appear before the Principal on 26.10.2015 at 9 a.m, on which date, before the Assembly of the students, the petitioner would apologise to the Principal as also to the student, who was allegedly waylaid and troubled as is indicated at Ext.R1(a). On the petitioner and his parents submitting an undertaking as directed above, the petitioner shall be re-admitted to the school, but shall be strictly monitored and any subsequent like incident could lead to summary expulsion.

The writ petition would stand disposed of as above.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/19 /10 /2015

//true copy//

P.A to Judge