

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 30171 of 2015 (V)

PETITIONER(S):

**K S PRIYA, AGED 46 YEARS
APOORVA, PARAKATTA, PO RAMDAS NAGAR
KASARAGOD-671 124.**

BY ADV. SRI.M.SASINDRAN

RESPONDENT(S):

- 1. THE CENTRAL BOARD OF SECONDARY EDUCATION, REGIONAL OFFICE,
2ND FLOOR, BLOCK B, LIC DIVISIONAL OFFICE CAMPUS
PATTOM, THIRUVANANTHAPURAM-695 004.**
 - 2. CHINMAYA VIDYALYA, KASARAGOD
REPRESENTED BY PRINCIPAL, VIDYANAGAR
KASARAGOD-671 123.**
 - 3. THE DISCIPLINARY COMMITTEE
CHINMAYA VIDYALAYA KASARAGOD
REPRESENTED BY ITS CHAIRMAN, CHINMAYA VIDYALAYA
KASARAGOD-671 123.**
 - 4. THE DISCIPLINARY AUTHORITY
CHINMAYA VIDYALAYA, KASARAGOD-671 123
REPRESENTED BY ITS CHAIRMAN**
 - 5. THE PRESIDENT
CHINMAYA VIDYALAYA, KASARAGOD-671 123**
- R1 BY SRI.DEVAN RAMACHANDRAN, SC, CBSE
R2, R4 & 5 BY ADV. SRI.S.SACHITHANANDA PAI
ADV. SMT.PRIYA BABU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : A TRUE COPY OF THE REPRESENTATION FILED BY THE TEACHERS OF THE 2ND RESPONDENT SCHOOL BEFORE THE 4TH RESPONDENT
- EXT.P2 : A TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P3 : A TRUE COPY OF THE RTI APPLICATION FILED BY THE PETITIONER AND OTHERS.
- EXT.P4 : A TRUE COPY OF THE MEMO DT 11-2-2014.
- EXT.P5 : A TRUE COPY OF THE REPLY DT 11-2-2014
- EXT.P6 : A TRUE COPY OF THE NOTICE DT 1-4-2014.
- EXT.P7 : A TRUE COPY OF THE ORDER OF SUSPENSION DT 23-4-2014.
- EXT.P8 : A TRUE COPY OF THE CHARGE MEMO ALONG WITH THE STATEMENT OF ALLEGATIONS DT 17-5-2014.
- EXT.P9 : A TRUE COPY OF THE REPLY DT 23-5-2014 SUBMITTED TO THE EXT P8 CHARGE MEMO
- EXT.P10 : A TRUE COPY OF THE DOMESTIC ENQUIRY REPORT.
- EXT.P11 : A TRUE COPY OF THE SHOW CAUSE NOTICE DT 18-10-2014.
- EXT.P12 : A TRUE COPY OF THE RELEVANT EXTRACTS FROM THE AFFILIATION BYE LAWS OF CBSE
- EXT.P13 : A TRUE COPY OF THE ORDER DT 3-12-2014 ISSUED BY THE DIRECTOR CHINMAYA VIDYALAYA TO THE PETITIONER.
- EXT.P14 : A TRUE COPY OF THE APPEAL DT 5-6-2015 SUBMITTED BY THE PETITIONER BEFORE THE CBSE.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J.

W.P.(C).No.30171 of 2015

Dated this the 20th day of November, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P13 order, by which she was terminated from the service of the respondent School. The respondents raised a contention of maintainability of the writ petition, for reason of the respondent School not being a State under Article 12 of the Constitution of India and also on the question of an alternate remedy, under Clause 49 of Ext.P12 Affiliation Bye-laws of the Central Board of Secondary Education.

2. Heard both sides.

3. This Court in the nature of the orders to be passed, would not at this point, examine the maintainability issue, on the ground of the respondent School being not a State under Article 12 of the Constitution of India. However the alternate remedy persuades this Court to decline jurisdiction under Article

226 of the Constitution of India.

4. The petitioner's counsel would submit that it was a disciplinary committee, who approved the termination of the petitioner and the alternate remedy of an appeal under Clause 49 would be rendered nugatory in such circumstance.

5. The learned counsel for the respondent School would however submit that the disciplinary committee referred to in Ext.P13 is an internal committee and not a disciplinary committee as indicated in Ext.P12. It is also submitted unequivocally by the respondent counsel that no member of the Board as indicated in Clause 49, has been participated in the internal disciplinary committee.

6. In such circumstance, the petitioner shall file an appeal to the respondent School within a period of two weeks from the receipt of a copy of this judgment and the respondent School shall take immediate steps to convene a disciplinary committee as indicated in Clause 49 and

resolve the issue at any rate within a period of three months from the date of receipt of the application of the petitioner. The CBSE is also directed to co-operate, in so far as nominating a member to the disciplinary committee.

The writ petition is disposed of accordingly.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS