

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM**

**FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936**

**WP(C).No. 34984 of 2011 (W)**  
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**PETITIONER(S):**  
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**MINI SAMSON, (HEADMISTRESS (UNDER SUSPENSION),  
S.S.M.U.P.SCHOOL, POOZHANAD), 'ALLIEDS',  
T.C.NO.26/2012 TRA-A21, TUTOR'S LANE,  
STATUE ROAD, THIRUVANANTHAPURAM-695001.**

**BY ADVS.SRI.S.P.PARAVINDAKSHAN PILLAY**

**SMT.N.SANTHA**

**RI.K.A.BALAN**

**SRI.PETER JOSE CHRISTO**

**SRI.S.A.ANAND**

**RESPONDENT(S):**  
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- 1. DEPUTY DIRECTOR (EDUCATION),  
THIRUVANANTHAPURAM, KILLIPPALAM, PIN-695002.**
- 2. THE ASSISTANT EDUCATIONAL OFFICER,  
KATTAKKADA, PIN-695572.**
- 3. MANAGER, S.S.M.U.P.SCHOOL,  
POOZHANAD - 695125.**

**R1 & 2 BY SENIOR GOVERNMENT PLEADER SRI.SOJAN JAMES**

**R3 BY ADVS. SRI.M.R.ANISON**

**SMT.T.B.REMANI**

**SMT.P.A.RINUSA**

**SMT.ANNIE JACOB**

**SMT.K.P.GEETHA MANI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-02-2015,  
ALONG WITH WPC. 33219/2014, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**PJ**

APPENDIX

PETITIONER(S) EXHIBITS

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- EXHIBIT-P1- TRUE COPY OF THE MEMO OF CHARGES  
NO. C/3254/2010 DTED 15/10/2010 OF THE  
ASSISTANT EDUCATIONAL OFFICER, KATTAKADA.
- EXHIBIT-P2- TRUE COPY OF THE EXPLANATION DATED 28/10/2010  
SUBMITTED BY THE PETITIONER TO EXT.P1
- EXHIBIT-P3- TRUE COPY OF THE ORDER NO. 9/2011 DATED 01/06/2011  
OF THE MANAGER, S.S.M.U.P SCHOOL, POOZHANAD.
- EXHIBIT-P4- TRUE COPY OF THE LETTER NO. C/3254/2010 DATED  
04/06/2011 THE ASSISTANT EDUCATIONAL OFFICER,  
KATTAKADA, ADDRESSED TO THE MANAGER.
- EXHIBIT-P5- TRUE COPY OF THE REPRESENTATION DATED 09/06/2011  
SUBMITTED BY THE PETITIONER BEFORE THE DEPUTY  
DIRECTOR (EDUCATION), THIRUVANANTHAPURAM.
- EXHIBIT-P6- TRUE COPY OF THE ORDER NO.C/3254/2010 DATED  
13/06/2011 OF THE ASSISTANT EDUCATIONAL OFFICER,  
KATTAKADA.
- EXHIBIT P7- TRUE COPY OF THE PETITION DATED 28/7/11 SUBMITTED BY THE  
PETITIONER TO THE DEPUTY DIRECTOR (EDUCATION), KILLIPPALAM,  
THIRUVANANTHAPURAM
- EXHIBIT P8- TRUE COPY OF MEMO OF CHARGES ISSUED BY THE MANAGER  
NO.18/2011-12 DATED 1/9/11 TO THE PETITIONER WITH THE  
STATEMENT OF ALLEGATIONS APPENDED
- EXHIBIT P9- TRUE COPY OF THE EXPLANATION DATED 16/9/11 SUBMITTED BY THE  
PETITIONER BEFORE THE MANAGER, S.S.M.U.P. SCHOOL, POOZHANAD
- EXHIBIT P10- TRUE COPY OF LETTER NO.18/2011-12 DATED 19/10/11 OF THE  
MANAGER, S.S.M.U.P.S. POOZHANAD
- EXHIBIT P11- TRUE COPY OF THE REPRESENTATION DATED 28/7/11 SUBMITTED BY  
THE PETITIONER BEFORE THE ASSISTANT EDUCATIONAL OFFICER,  
KATTAKADA
- EXHIBIT P12- TRUE COPY OF LETTER NO.C/3254/2011 DATED 7/12/11 THE  
ASSISTANT EDUCATIONAL OFFICER, KATTAKADA
- EXHIBIT P13- TRUE COPY OF THE REPRESENTATION DATED 17/12/11 SUBMITTED  
BY THE PETITIONER BEFORE THE ASSISTANT EDUCATIONAL  
OFFICER, KATTAKADA

WP(C).No. 34984 of 2011 (W)

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- EXHIBIT P14- TRUE COPY OF THE ORDER O.B5-20954/2010 DATED 2/2/12 OF THE R1
- EXHIBIT P15- TRUE COPY OF THE SUBMISSION DATED 11/2/12 OF THE PETITIONER  
SUBMITTED BEFORE THE R3
- EXHIBIT P16- TRUE COPY OF THE REPRESENTATION DATED 15/3/12 SUBMITTED BY  
THE PETITIONER BEFORE THE R1
- EXHIBIT P17- TRUE COPY OF THE REPRESENTATION DATED 15/3/12 SUBMITTED BY  
THE PETITIONER BEFORE THE R2
- EXHIBIT P18- TRUE COPY OF THE ORDER NO.VI/15236/2012/DPI-KDIS DATED  
13/9/2012 OF THE R3
- EXHIBIT P19- TRUE COPY OF THE REPRESENTATION DATED 1/10/12 SUBMITTED BY  
THE PETITIONER BEFORE THE R3
- EXHIBIT P20- TRUE COPY OF THE PETITION DATED 12/10/12 SUBMITTED BY THE  
PETITIONER BEFORE THE DIRECTOR OF PUBLIC INSTRUCTION
- EXHIBIT P21- TRUE COPY OF THE G.O.(RT) NO.1472/2013/GEDN DATED 27/3/13
- EXHIBIT P22- TRUE COPY OF THE LETTER NO.68433/H1/2012/GEDN DATED 31/8/13
- EXHIBIT P23- TRUE COPY OF THE ORDER NO.20/2013-14 DATED 11/10/13 OF THE R3
- EXHIBIT P24- TRUE COPY OF THE REPRESENTATION DATED 1/1/14 SUBMITTED BY  
THE PETITIONER BEFORE THE R3
- EXHIBIT P25- TRUE COPY OF THE APPLICATION FOR VOLUNTARY RETIREMENT OF  
THE PETITIONER
- EXHIBIT P26- TRUE COPY OF LETTER NO.G4/10147/14 DATED 9/6/14
- EXHIBIT P27- TRUE COPY OF LETTER NO.659/2011 DATED 15/4/12

**RESPONDENTS' EXHIBITS**

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- EXHIBIT R3(A)- A TRUE COPY OF THE SHOW CAUSE NOTICE DATED 20/2/12
- EXHIBIT R3(B)- A TRUE COPY OF THE LETTER DATED 15/4/12
- EXHIBIT R3(C)- A TRUE COPY OF THE NOTICE DATED 26/5/12 ISSUED BY THE  
DIRECTOR OF PUBLIC INSTRUCTIONS.
- EXHIBIT R3(D)- A TRUE COPY OF THE ACKNOWLEDGMENT RECEIVED FROM THE  
POSTAL DEPARTMENT.

/ TRUE COPY /

PJ

P.S. TO JUDGE

**C.K. ABDUL REHIM, J.**

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**W.P.(c) No. 34984 OF 2011-W**  
**&**  
**W.P.(c) No. 33219 OF 2014-B**  
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DATED THIS THE 6<sup>th</sup> DAY OF FEBRUARY, 2015.

**J U D G M E N T**

Both these writ petitions are filed by the Headmistress of S.S.M. U.P. School, Poozhanad. Issue involved in both these cases relate to suspension of the petitioner and the disciplinary action initiated against her. Hence both these writ petitions considered together and disposed of through this common judgment.

2. In W.P (c) No.34984/2011 Ext.P6 order of suspension is under challenge. The petitioner sought relief to the extent of reinstating her in service and also sought for directions to finalise the disciplinary action within a time limit. During pendency of the writ petition there arose various incidental issues wherein it was alleged that the Manager of the school concerned had willfully disobeyed directions issued by various Educational authorities to reinstate the petitioner. Ultimately action was initiated against the Manager on the basis of an interim order passed by this court in W.P (c) No.34984/2011. The order passed in

this regard by the Deputy Director of Education against the Manager was challenged by him before this court in W.P (c) No.15689/2012. Meanwhile the interim order passed by this court in W.P (c) No.34984/2011 was taken up in appeal in W.A No.1238/2012 and a Division Bench of this court had intercepted with the same through judgment dated 02-07-2012. In view of the above said developments further actions based on proceedings issued by the Deputy Director against the Manager was interfered by this court through judgment W.P (c) No.15689/2012 (Ext.P8 in W.P (c) No.33219/2014). While disposing the said writ petition filed by the Manager it was brought to notice of this court that the disciplinary action initiated against the petitioner was finalised and the Manager had proposed imposition of punishment by way of compulsory retirement. It is pointed out that Ext.P7 (in W.P (c) No.33219/2014) request submitted before the District Educational Officer seeking permission for imposing the punishment of compulsory retirement on the petitioner is pending.

3. Meanwhile, the petitioner had requested for voluntary retirement which was not allowed by the authorities on the basis that, by virtue of an audit objection certain liabilities were fixed against the petitioner. However in the judgment in W.P (c) No.15689/2012 this court directed the DEO to take an appropriate decision on the basis of Ext.P7 request made by the Manager, within 2 weeks from the date of receipt of a copy of this judgment. Exhibit P9 (in W.P (c) No.33219/2013) is the consequential order issued by the DEO. Instead of taking a decision on the request made by the Manager with respect to the proposal for imposing compulsory retirement, the DEO had again directed the Manager to finalise the disciplinary proceedings initiated against the petitioner. It is aggrieved by Ext.P9 W.P (c) No.33219/2014 is filed.

4. Learned counsel for the petitioner pointed out that challenging the fixation of liability against the petitioner on the basis of the audit reports, she had approached this court in W.P (c) No.17909/2012. A copy of

the judgment in the said case dated 15-01-2015 is produced for perusal. It is evident that this court had quashed the proceedings through which the liability was fixed against the petitioner, holding that there exist no provision enabling the DPI to fix liability against the Headmistress and that the only course available is to initiate disciplinary action under Rule 65 of Chapter XIVA K.E.R. Learned counsel submits that in view of the fact that there remains no order fixing liability against the petitioner, there is no impediment in considering the request for voluntary retirement.

5. While considering challenge against Ext.P9 in W.P (c) No.33219/2014 this court is of the considered opinion that the said order is issued totally in violation of the directions contained in Ext.P8 judgment (judgment in W.P (c) No.15689/2012). Specific direction was to take a decision on the request made by the Manager seeking permission for imposition of punishment of compulsory retirement. Instead of taking a decision as directed, the DEO, presumably without proper application of mind, had

directed the Manager to finalise the disciplinary proceedings. Such an action on the part of the DEO prima facie amounts to violation of the directions contained in the judgment.

6. As things stands now, the petitioner concedes that she is ready and amenable to relieve from the post either by way of voluntary retirement or on imposition of punishment of compulsory retirement. It is for the Educational officer, who is the 4<sup>th</sup> respondent in W.P (c) No.33219/2014 to take an appropriate decision either to allow the request of the petitioner for voluntary retirement or to permit the Manager to impose punishment of compulsory retirement, whichever is feasible. A decision in this regard has to be taken considering all relevant provisions governing the matter. It is to be noticed, that despite several round of litigations in the matter the authorities have not taken any effective steps to put a quietus to the issue and the petitioner as well as the Manager were compelled to approach this court on repeated occasions.

7. Under the above mentioned circumstances these writ petitions are disposed of by directing the DEO, Neyyattinkara to take a final decision in the matter as directed above, after affording an opportunity of personal hearing to the petitioner as well as the Manager. A decision in this regard shall be taken at the earliest possible, at any rate within a period of 6 weeks from the date of receipt of a copy of this judgment.

Sd/-  
**C.K. ABDUL REHIM**  
**JUDGE**

AMG

True copy

P.A. to Judge