

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).NO. 32246 OF 2014 (E)

PETITIONER(S):

**THE MANAGER,
PATTARIYA SAMAJAM HIGH SCHOOL,
PALLIPURAM, CHERTHALA, ALAPPUZHA DISTRICT- 688 541.**

**BY ADVS.DR.V.N.SANKARJEE,
SRI.S.SIDHARDHAN,
SRI.V.N.MADHUSUDANAN,
SRI.PRATHAP. S.R.K.,
SMT.R.UDAYA JYOTHI.**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT EDUCATIONAL OFFICER,
CHERTHALA -688 524.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
ALAPPUZHA- 688 001.**
- 4. L. REMA, W/O.G.V. APPUKUTTAN NAIR,
HEADMISTRESS (UNDER SUSPENSION),
PATTARIYA SAMAJAM HIGH SCHOOL, PALLIPURAM,
CHERTHALA, ALAPPUZHA DISTRICT- 688 541.**

**R1 TO R3 BY SR. GOVT. PLEADER SRI.V. VIJULAL.
R4 BY ADV. SMT.ANU SIVARAMAN.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-03-2015, ALONG WITH WP(C).NO.6030 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1	TRUE COPY OF THE COMPLAINT DATED 30-06-2013 SUBMITTED BY SHRI BABU TO THE PETITIONER.
EXHIBIT P1(A)	ENGLISH TRANSLATION OF EXT.P1.
EXHIBIT P2	TRUE COPY OF THE COMPUTER RECEIPT.
EXHIBIT P3	TRUE COPY OF THE COMPLAINT SUBMITTED BY THE MOTHER OF SAYUJYA I.S TO THE PETITIONER-MANAGER
EXHIBIT P3(A)	ENGLISH TRANSLATION OF EXT.P3.
EXHIBIT P4	TRUE COPY OF THE MEMO DATED 23-05-2014 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.
EXHIBIT P4(A)	ENGLISH TRANSLATION OF EXT.P4.
EXHIBIT P5	TRUE COPY OF THE REPLY DATED 26-05-2014 SUBMITTED BY THE 4TH RESPONDENT TO EXT.P4.
EXHIBIT P5(A)	ENGLISH TRANSLATION OF EXT.P5.
EXHIBIT P6	TRUE COPY OF THE SUSPENSION ORDER DATED 27-05-2014 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.
EXHIBIT P6(A)	ENGLISH TRANSLATION OF EXT.P6.
EXHIBIT P7	TRUE COPY OF THE ORDER DATED 07-06-2014 ISSUED BY 3RD RESPONDENT.
EXHIBIT P7(A)	ENGLISH TRANSLATION OF EXT.P7.
EXHIBIT P8	TRUE COPY OF THE REVISION PETITION DATED 17-06-2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
EXHIBIT P9	TRUE COPY OF THE JUDGMENT DATED 29-08-2014 IN WP(C).NO. 20473/2014.
EXHIBIT P10	TRUE COPY OF JUDGMENT DATED 21-10-2014 IN W.A NO. 1474/2014.
EXHIBIT P11	TRUE COPY OF THE ORDER DATED 13-11-2014 ISSUED BY THE GOVERNMENT.

WP(C).NO. 32246 OF 2014 (E)

**EXHIBIT P12 TRUE COPY OF THE PETITIONER'S WRITTEN ARGUMENTS
DATED 04-11-2014 IN EXT.P-8. (WITHOUT ANNEXURES).**

**EXHIBIT P13 TRUE COPY OF THE ORDER/PROCEEDINGS DATED 01/12/2014
ISSUED BY THE 3RD RESPONDENT WITH ENGLISH
TRANSLATION.**

RESPONDENT'S EXHIBITS:-

**EXT.R4A COPY OF THE ORDER DATED 01/12/2014 ISSUED BY THE
3RD RESPONDENT.**

**EXT.R4B COPY OF THE REPORT DATED 01/12/2014 OF THE 4TH RESPONDENT
TO THE 2ND RESPONDENT.**

**EXT.R4C COPY OF THE REPRESENTATION SUBMITTED BY THE
4TH RESPONDENT BEFORE THE KERALA STATE HUMAN
RIGHTS COMMISSION.**

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.32246 of 2014 & 6030 of 2015

Dated this the 9th day of March, 2015

JUDGMENT

W.P.(C) No.32246/2014 is filed by the Manager challenging Ext.P11 order passed by the Government reviewing the suspension in terms of Rule 67(8) of Chapter XIV-A of the Kerala Education Rules (KER). The Headmistress was suspended with effect from 27.5.2014 beyond the period of 15 days. The Deputy Director of Education cancelled the suspension by Ext.P7 order. Challenging the above order, the Manager approached the Government. Thereafter, the Government rejected the Manager's revision as per Ext.P11. It is challenging the above order, the Manager has approached this Court.

2. W.P.(C) No.6030/2015 is filed by the Headmistress seeking a direction to pay the salary during the period of

suspension from 27.5.2014 to 30.11.2014 by the first respondent. It is now admitted that the Headmistress has been reinstated consequent upon the order passed by the Government from 1.12.2014 onwards.

3. The grievance of the Manager is that in the impugned order, particularly, in paragraphs 7 and 8, certain findings are made, which amount to quashing the entire disciplinary proceedings initiated against the Headmistress. It is submitted that such finding is beyond the power of authority.

4. The authority could exercise the power in the matter relating to revocation of suspension alone. Necessarily, when any finding is made, that has to be understood in the context of revoking or reviewing the suspension. Notwithstanding, if any such observation, the Manager is free to approach the authorities under Rule 75(b) of Chapter XIV-A

of KER before the Deputy Director of Education concerned for conducting formal enquiry in the matter. It is made clear that any finding made in Ext.P11 will not stand in the way of the Deputy Director of Education in considering such request of the Manager. The Deputy Director of Education shall consider such request untrammelled by any finding in Ext.P11 as to the validity of action initiated by the Manager. With that liberty, W.P.(C) No.32246/2014 is disposed of as there is no other infirmity in reviewing the suspension order.

5. The grievance of the Headmistress has already been highlighted before the Deputy Director of Education by Ext.P9 produced in W.P.(C) No.6030/2015 for claiming salary. It is for the authority, who has passed the order to revoke suspension to decide the manner in which the suspended period has to be regularised. The petitioner claims that in terms of Rule 67(8) of the KER, this period has to be treated

as duty for all other practical purposes.

In view of the pendency of Ext.P9, an appropriate decision shall be taken by the Deputy Director of Education after hearing the petitioner and the Manager within a period of four weeks from the date of receipt of a copy of this judgment.

These writ petitions are disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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