

Avinash.U.Krishnan Vs. State of Kerala

Avinash.U.Krishnan Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1126000

Court : Kerala

Decided On : Jan-29-2014

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Avinash.U.Krishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM WEDNESDAY, THE 29TH DAY OF JANUARY 2014 9TH MAGHA, 1935 WP(C).No. 25603 of 2013 (A)

----- PETITIONERS: ----- 1.
AVINASH.U.KRISHNAN, AGED 52 S/O.UNNIKRISHNAN NAIR, MANJAPPALLIL,
NARIYANANI P.O, PONKUNNAM.

2. RAJALEKSHMI AMMA, AGED 73 W/O.LATE R.K.THAMBI, MANJAPALLIL,
KOORALI, THE PRESENT MANAGER OF K.V.U.P.SCHOOL, KOORALI. BY
ADV. SRI.K.A.HASSAN. RESPONDENTS: ----- 1. THE STATE OF
KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION , GOVERNMENT
SECRETARIAT, TRIVANDRUM - 695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTION, OFFICE OF THE DIRECTOR
OF PUBLIC INSTRUCTION, TRIVANDRUM - 695 001.

3. THE DEPUTY DIRECTOR OF EDUCATION, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, KOTTAYAM - 686 001.

4. THE DISTRICT EDUCATIONAL OFFICER, OFFICE OF THE DISTRICT EDUCATIONAL OFFICER, KANJIRAPALLY - 686 507.

5. THE ASSISTANT EDUCATIONAL OFFICER, OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER, KANJIRAPALLY - 686 507. BY GOVERNMENT PLEADER SMT. LOWSY.A. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2901-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.25603/2013-A: APPENDIX PETITIONERS' EXHIBITS: EXT.P1: TRUE COPY OF THE INTERIM

ORDER

WAS PASSED BY THIS HON'BLE COURT ON72/13 IN W.P.(C).NO. 2861/13. EXT.P2: TRUE COPY OF THE INTERIM

ORDER

WAS PASSED BY THIS HON'BLE COURT ON36/13 IN W.P.(C).NO. 2861/13. EXT.P3: TRUE COPY OF THE CERTIFICATE ISSUED BY L.S.G.D ASSISTANT-ENGINEER, ELIKULAM GRAMA PANCHAYAT DATED255/13. EXT.P4: THE TRUE COPY OF THE COMMISSION REPORT IN O.S21913 OF THE MUNSIFF COURT, KANJIRAPALLYDATED168/2013. EXT.P5: THE TRUE COPY OF THE LETTER DATED208/13 FROM THE HEAD MASTER TO THE MANAGER K.V.U.P. SCHOOL, KOORALI. EXT.P6: THE TRUE COPY OF THE LETTER TO A.E.O DATED218/13 FROM THE MANAGER, K.V.U.P.SCHOOL, KOORALI. EXT.P7: THE TRUE COPY OF THE LETTER DATED269/13 FROM THE HEAD MASTER TO THE MANAGER K.V.U.P. SCHOOL, KOORALI. EXT.P8: TRUE COPY OF THE LETTER FROM THE MANAGER TO THE A.E.O DATED269/13. EXT.P9: TRUE COPY OF THE RECEIPTS OF LETTER FROM THE A.E.O TO THE MANAGER K.V.U.P.SCHOOL DATED710/13. EXT.P10: THE TRUE COPY OF THE

JUDGMENT

IN W.A NO.392/11 IN W.P.(C). 8634/2011 DATED 13/8/12. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. C.K. ABDUL REHIM, J.

----- W.P.(c) No. 25603 OF 2013A
----- DATED THIS THE 29th DAY OF JANUARY,
2014.

JUDGMENT

The first petitioner is the title holder and the 2nd petitioner is the Manager of an aided school. The school in question was started in the year 1920 and completed functioning for more than 90 years. Exhibits P1 & P2 orders were issued by this court in a writ petition filed by a student of the school, directing shifting of the school to a nearby building owned by the 'Sree Dharma Sastha Devaswom'. But those orders were not implemented for various reasons and the functioning of the school was not shifted. Meanwhile, all the 178 students available in the school applied for Transfer Certificates and left the school. Now there are no students studying in the school. The school building in question was certified to be in an unfit condition for conducting classes, as per Ext.P3 letter issued by the Assistant Engineer of the Local Self Government Department. Intimation regarding discontinuance of W.P.(c) No.25603/2013 -2- functioning of the school was given to respondents 4 & 5 through Exts.P5 and P6 letters, and the authorities were requested to take appropriate further actions.

2. Present grievance is that, despite specific request made by the petitioner to the 5th respondent to take the records and other valuable articles into possession and to keep them in safe custody, the 5th respondent is not taking any action. Exhibit P8 is the request submitted before the 5th respondent in this regard. Averments in the writ petition is to the effect that the school building is in a most dilapidated condition and there was incidents of break open of the Office Room by some miscreants. According to the petitioners it is not at all possible to keep the records in safe custody due to the dilapidated condition and other physical situation prevailing in the area. Since the 5th respondent has not taken any action to receive the records and other valuable articles and to keep them in safe custody, this writ petition is filed seeking appropriate direction. W.P.(c) No.25603/2013 -3-

3. In a statement filed by the 5th respondent it is mentioned that, the Headmaster and the staff of the school had transferred the school to an unsafe building owned by a Co-operative Society, without prior permission of the Manager and the Departmental authorities. According to the 5th respondent this was done with a specific intention to close down the school and the non-shifting of the school to the newly constructed building of the Devaswom, despite specific orders issued from this court, was a purposeful action. The intention of the staff of the school was to get themselves included in the 'Teachers' Bank' introduced by the Government, is the allegation. However, it is stated that the matter was already addressed to the Deputy Director and to the Director of Public Instructions and a specific direction with respect to further action is awaited. According to the 5th respondent the request of the Manger to take over the records of the school cannot be acceded to since the recognition of the school is not at all withdrawn. It is also pointed out that, the building wherein the office of W.P.(c) No.25603/2013 -4- the 5th respondent is now functioning is in acute shortage of space to keep such records. The 5th respondent had pointed out that another school under the same management is situated within a distance of 3 Kms and the records can be shifted to that place, till a final decision is taken in the matter of closing down of the school concerned.

4. It is evident that the school is not functioning at present. The fact that the school building is in a dilapidated condition is also not disputed. Provisions contained in Rule 25 of Chapter V of K.E.R contemplates that, when an school is close down or discontinued or its recognition is withdrawn, the Manager shall handover all the records and accounts of the school to the educational authorities, and the Department should take necessary steps for taking charge of the records and accounts. But in the case at hand the school is not closed down nor its recognition is withdrawn. The appropriate authority is yet to take a decision on those aspects. But the fact remains that the school has discontinued functioning. This court is of the W.P.(c) No.25603/2013 -5- considered opinion that Rule 25 takes in such a contingency also. Therefore the educational authority is bound to receive the records and accounts of the school from the Manager, in a case where the recognition is not officially withdrawn when the school had discontinued functioning, especially because of the fact that keeping of records in a proper

custody is only to ensure that the students are facilitated to get necessary extracts of their School Register in future occasions.

5. Under such circumstances this court is of the view that the refusal to accept the records cannot be justified. The 5th respondent is bound to receive the records in a contingency like this, when it is revealed that the school had discontinued functioning. Therefore interest of justice will be achieved by directing the 5th respondent to accept the records, accounts and other valuable articles and to keep them in safe custody, on a provisional basis, subject to final decision on the matter of closing down or withdrawal of recognition of the school. W.P.(c) No.25603/2013 -6- 6. Hence this writ petition is disposed of directing the 5th respondent to take a decision on the basis of Ext.P8 and to receive the records and accounts and other valuable articles of the school and to make arrangement to keep them in safe custody. Necessary steps in this regard shall be taken by the 5th respondent within a period of one month from the date of receipt of a copy of this judgment.

7. It is made clear that this court has not expressed any opinion on the issue regarding closure or withdrawal of recognition of the school. The petitioner is not entitled to take any further action with respect to the property of the school on the basis of handing over of custody of the records to the 5th respondent, till a final decision is taken on the issue of closure of the school or on withdrawal of its recognition. Sd/- C.K. ABDUL REHIM, JUDGE. AMG True copy P.A to Judge

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com