

K.P.Mohammed Vs. the State of Kerala

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Court : Kerala

Decided On : Jul-11-2014

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : K.P.Mohammed

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN FRIDAY, THE 11^H DAY OF JULY 2014 20TH ASHADHA, 1936 WP(C).No. 17535 of 2014 (N)

----- PETITIONER(S): -----

K.P.MOHAMMED, AGED 78 YEARS, S/O. LATE K.P.MOIDEEN KUTTY, MEMBER OF THE CORPORATE EDUCATIONAL AGENCY OF AMUP SCHOOL, VADAKKANGARA, MANJERI, MALAPPURAM DISTRICT. BY ADVS.SRI.V.A.MUHAMMED SRI.M.SAJJAD RESPONDENT(S):

----- 1. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS, JAGATHY, THIRUVANANTHAPURAM-695 014.

3. THE DEPUTY DIRECTOR OF EDUCATION, DOWN HILL, MALAPPURAM.

4. THE DISTRICT EDUCATIONAL OFFICER, MANJERI, MALAPPURAM DISTRICT-676122.

5. THE ASSISTANT EDUCATIONAL OFFICER, MANJERI, MALAPPURAM DISTRICT-676122. BY SENIOR GOVERNMENT PLEADER SRI.M.A.FAYAZ THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 1107-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PJ WP(C).No. 17535 of 2014 (N) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- P1 : COPY OF THE GO(RT)NO.1669/2013/G.EDN. DTD.15.4.2013 OF THE GOVERNMENT. P2 : COPY OF THE

ORDER

OF THE DIRECTOR OF PUBLIC INSTRUCTION DTD.11.6.2009. P3 : COPY OF THE

ORDER

OF THE ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTION, DTD.7.5.2013. P4 : COPY OF THE OBJECTION OF THE PETITIONER DTD.28.3.2013. P5 : COPY OF THE

ORDER

OF THE ASSISTANT EDUCATIONAL OFFICER DTD.26.4.2013. RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ P.N.RAVINDRAN,J.

----- W.P.(C)No.17535 of 2014
----- Dated this the 11th day of July, 2014

JUDGMENT

The petitioner, who claims to be a member of the corporate educational agency of A.M.U.P.School, Vadakkangara, has filed this writ petition challenging Ext.P3 order dated 7.5.2013 issued by the Additional Director of Public Instruction, whereby in exercise of the power conferred on him under rule 5 of Chapter VII of the Kerala Education Rules, 1959, he directed that with effect from the academic

year 2013-14 the school shall follow the general calendar instead of the Muslim calendar as was being done earlier. One of the grounds raised in the instant writ petition is that though the petitioner had filed Ext.P1 objections to the proposal to change the calendar he was not put on notice or heard. It is also contended that in any case the objections ought to have been considered while issuing Ext.P3.

2. When the writ petition came up for admission hearing before me on 9.7.2014 I directed the learned Government Pleader to get instructions from the Assistant Educational Officer, Manjeri as to whether classes were held in A.M.U.P.School, Vadakkangara in April and May 2014 and also to ascertain whether a copy of Ext.P3 order was communicated to the existing Manager of the school. The learned W.P(C)No.17535/2014 -:2:- Government Pleader was also directed to get instructions as to whether the petitioner was put on notice and heard before Ext.P3 order was passed.

3. When the writ petition came up for further hearing today, Sri.M.A.Fayaz, learned Senior Government Pleader appearing for the State of Kerala submitted with reference to instructions received from the Assistant Educational Officer, Manjeri that the school had not worked during the mid summer vacation of the academic year 2013-14 meaning thereby that during April and May 2014 classes were not held. In other words, the submission of the learned Government Pleader is to the effect that during the academic year 2013-14 the school followed the general calendar and not the Muslim calendar. Learned Government Pleader also made available to me a copy of the letter dated 15.4.2013 sent by the Manager of the school wherein he had stated that he has no objection to the resolution adopted by the Parent Teacher Association on 20.3.2013 to shift to the general calendar. In such circumstances the mere failure of the Additional Director of Public Instruction to issue notice to and hear the petitioner does not by itself vitiate Ext.P3. From the facts disclosed, even if the petitioner had been heard the Additional Director of Public Instruction could have come to the same conclusion having regard to the fact that W.P(C)No.17535/2014 -:3:- the decision of the Parent Teacher Association and Students Council is unanimous. If the parents, students and teachers have no grievance regarding the shifting of the calendar, I find no reason why the petitioner should be aggrieved. In the light of the fact that Ext.P3 order

was issued by the Additional Director of Public Instruction pursuant to the unanimous resolution adopted by the Parent Teacher Association as well as the Students Council and the Manager of the school had also consented to the change, I am of the opinion that notwithstanding the objections raised by the petitioner, the petitioner cannot successfully challenge Ext.P3. Merely for the reason that he is a member of the corporate educational agency, the petitioner cannot, in my opinion, impose his individual will on the parents, students, teachers and other members of the educational agency. I therefore, find no good grounds to entertain the challenge to Ext.P3. The writ petition fails and is accordingly dismissed. P.N.RAVINDRAN, JUDGE ahg. P.N.RAVINDRAN,J.

----- W.P(C)No.17535 of 2014

JUDGMENT

11h July, 2014

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