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Lawrence Thomas Vs. State of Kerala

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Court : Kerala

Decided On : Aug-01-2014

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Lawrence Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS FRIDAY,THE1T DAY OF AUGUST201410TH SRAVANA, 1936 WP(C).No. 16099 of 2014 (J) ---------- PETITIONER(S): ---------- LAWRENCE THOMAS P.T.A PRESIDENT, SANTHOME HIGHER SECONDARY SCHOOL KOLAKKAD, KANNUR - 670 673 RESIDING AT KANNANANICKAL HOUSE, KOLAKKAD P.O. KANNUR DISTRICT - 670 673. BY ADV. SRI.KALEESWARAM RAJ RESPONDENT(S): ---------- 1. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT THIRUVANANTHAPURAM.

2. THE DIRECTOR DIRECTORATE OF HIGHER SECONDARY EDUCATION HOUSING BOARD BUIDLING, SANTHI NAGAR THIRUVANANTHAPURAM -695 001. SENIOR GOVERNMENT PLEADER SRI.M.A.FAYAZ THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0108- 2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 16099 of 2014 (J)

---------- APPENDIX PETITIONER(S)' EXHIBITS ---------- EXHIBIT-P1-TRUE COPY OF THE LETTER DATED2106/2001 SUBMITTED BY THE HEADMASTER OF SANTHOME HIGHER SECONDARY SCHOOL, KOLAKKAD. EXHIBIT-P2-TRUE COPY OF THE REQUEST DATED1007/2013. EXHIBIT-P3-TRUE COPY OF THE REPRESENTATION DATED1006/2013. EXHIBIT-P4-TRUE COPY OF THE CIRCULAR DATED2007/2013. EXHIBIT-P5-TRUE COPY OF THE APPLICATION FILED BY THE PRINCIPAL. EXHIBIT-P6-TRUE COPY OF THE CIRCULAR DATED2509/2013. EXHIBIT-P7-TRUE COPY OF THE REPLY DATED1304/2014 TOGETHER WITH LIST OF SCHOOLS. EXHIBIT-P8-TRUE COPY OF THE NATURAL SCIENCE SCHEME MANUAL. RESPONDENT(S)' EXHIBITS ---------- NIL. sdk+ ///True copy/// P.S. to Judge ALEXANDER THOMAS, J.

========== W.P.(C).No. 16099 of 2014 Dated==========2014 this the 1st day of August,

JUDGMENT

The petitioner claims to be the President of the Parent- Teachers Association (PTA) of the Santhome Higher Secondary School, Kolakkad, Kannur, which is an aided higher secondary school. It is the case of the petitioner that the PTA of the school as well as the management of the school has been making consistent and repeated efforts since 2001 for allotment of a National Service Scheme (N.S.S) unit to their school. The aided high school was established in the year 1982-83 and the higher secondary section was commenced in the school in the year 1998, it is averred. The petitioner contends that the school is entitled and eligible for grant of N.S.S. unit due to various factors. That the school was started in the year 1982-83 and it is situated predominantly in a backward area and that it is catering to the educational needs of the children of the persons hailing from socially, educationally and economically backward sections of the society. That there are about 300 students in the school and that the school satisfies the criterion for

2. :- commencement of the N.S.S. unit as provided in the National Service Scheme (N.S.S) Manual adopted by the respondents as per Ext.P8. It is alleged that relatively new schools are allotted N.S.S. units. It is in the background of these factual averments and contentions, that the petitioner has filed this Writ Petition (Civil) with the following prayers: "i) To declare that Santhome Higher Secondary School, Kolakkad is entitled to allotment of N.S.S. Unit; ii) To declare that Respondents 1 and 2 are bound to consider the request made by Santhome Higher Secondary School, Kolakkad for allotment of N.S.S. Unit; iii) To issue a writ of mandamus directing the respondents to allot an N.S.S. Unit in Santhome Higher Secondary School, Kolakkad; iv) To issue a writ of mandamus directing the respondents to take a decision on Exts.P3 and P5 within a time frame to be fixed by this Hon'ble Court; v) To issue such other orders, directions or writs as may be prayed for and that this Hon'ble Court may deed fit on the facts and circumstances of the case." 2. The 2nd respondent-Director of Higher Secondary Education, Thiruvananthapuram, has filed a statement dated 18.7.2014. The 2nd respondent has resisted the pleas and contentions of the petitioner and has specifically denied the contentions based on of hostile discrimination. It is averred by the 2nd respondent that as per circular No.56/NSS/DHSE/2014 dated W.P.C.16099/14 - :

3. :- 20.07.2013, applications were called for sanctioning 50 N.S.S. units to be sanctioned to higher secondary schools in the State after withdrawing N.S.S. units under different colleges affiliated to Universities in State of Kerala and that pursuant to the said notification, 469 applications were received, as against the 50 N.S.S. units available for allotment. Out of the 1463 higher secondary schools in the Government and aided sector in the State, only 450 such higher secondary schools have N.S.S. units and that, out of the 53 aided schools in Kannur district, only 17 such schools have N.S.S. units. That the Central and State Governments are sanctioning grant for functioning of the N.S.S. units in the ratio of 7:5 and that the Government of India stopped sanctioning of aided N.S.S. units since 2008 and that last year, 50 N.S.S. units were sanctioned to Plus Two schools by withdrawing excess N.S.S. units granted to various colleges affiliated to the Universities in the State. It is submitted by the learned Government Pleader that the Santhome Higher Secondary School as well as another school in the Kannur district, viz., St.Thomas Higher Secondary School, Kelakam, were among the various

applicants for allotment of N.S.S. units. That N.S.S. units were alloted to Government/aided schools considering W.P.C.16099/14 - :

4. :- the following criteria:- (1) schools not having National Cadet Corps (NCC)/Student Police Cadets (SPC), (2) student strength, (3) number of girl students, (4) number of SC/ST students and (5) area of the school situated. The Santhome Higher Secondary School had Student Police Cadet (SPC) unit, but the St.Thomas School has no SPC unit and it is after consideration of these relevant aspects that the St.Thomas School was considered for the allotment of N.S.S. Unit and accordingly, it is on this basis that the N.S.S. unit could not be sanctioned to the Santhome School, for which, the claim is made by the petitioner in his capacity as the President of the Parent-Teachers Association of that school.

3. Heard Sri. Kaleeswaram Raj, the learned counsel for the writ petitioner and the learned Senior Government Pleader appearing for respondents 1 and 2.

4. Sri.Kaleeswaram Raj, learned counsel for the petitioner contends on the basis of paragraph 15 of the statement dated 18.7.2014 filed by the 2nd respondent-Director in this case and submits that the Government may be directed to consider the request of the petitioner contained in Exts.P3 and P5, more particularly in the light of the aspects stated in para 15 of the W.P.C.16099/14 - :

5. :- Statement. In para 15 of such statement, it is stated as follows: "15. It is respectfully submitted that, Government of India Ministry of Youth Affairs & Sports, New Delhi vide their letter dated 16.6.2014 has instructed the second respondent's office that, due to paucity of funds Central Government is not (sic) a position to sanction NSS units in the schools be it Government or Aided any further. So those schools who wish to start NSS units with their own resources can be given permission to start NSS units in their respective schools. So the above proposal is placed before the Government for necessary Government permission in this regard. After getting necessary orders from the first respondent, sanction can be given to those Higher Secondary Schools to start NSS units with their own funds. Until such time the second respondent is not in a position to sanction order allotted NSS units to petitioner's school." Learned counsel for the petitioner also submits that he would limit his prayers by pressing only prayers 2 and 4 in the Writ Petition

for the time being, which are as follows: "ii) To declare that Respondents 1 and 2 are bound to consider the request made by Santhome Higher Secondary School, Kolakkad for allotment of NSS unit; xxx xxx iv) To issue a writ of mandamus directing the respondents to take a decision on Exts.P3 and P5 within a time frame to be fixed by this Hon'ble Court." In the light of the limited request made by the learned counsel for the petitioner, it is ordered that the State Government will consider the request of the petitioner made out in Exts.P3 and P5, more particularly in the light of the aspects stated in para 15 of the above said Statement. Learned Government Pleader submits that there is a procedure to be followed for allotment and sanction of N.S.S. unit W.P.C.16099/14 - :

6. :- for any school and that a decision can be taken on the request of the petitioner only after completion of such procedure. The respondents are directed to set in motion the process for consideration of the request of the petitioner, as directed above, without much delay. The 1st respondent will complete such procedure as far as it relates to the claim of the petitioner's school within two months from the date of receipt of a certified copy of this judgment. After completion of such procedure, the Government would afford an opportunity of hearing to the petitioner and consider the submissions and contentions of the petitioner and take a decision thereon within four months thereafter. The Government should take a decision on the request of the petitioner contained in Exts.P3 and P5, taking into consideration of all relevant factors of the matter in the light of the aspects mentioned hereinabove. With these observations and directions, the Writ Petition (Civil) stands finally disposed of. Sd/- sdk+ ALEXANDER THOMAS , JUDGE ///True copy/// P.S. to Judge W.P.C.16099/14 - :

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