

Principal vs State of Kerala

Principal vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1286569

Court : Kerala

Decided On : Apr-05-2024

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Mr. Justice M.a.Abdul Hakhim

Appeal No. : WP(C)/1931/2024

Appellant : Principal

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA, 1946 WP(C) NO. 15455 OF 2023 PETITIONERS:

1 KERALA CBSE SCHOOL MANAGEMENT ASSOCIATION (REGD) REPRESENTED BY ITS GENERAL SECRETARY P.S. RAMACHANDRAN PILLAI, REG.NO. 174/1996, PENTA TOWER, 7TH FLOOR, KALOOR, KOCHI, PIN - 682017 2 PRINCIPAL ST: JOHN'S SCHOOL, KEERUKUZHAY, THUMPAMON, PATHANAMTHITTA, PIN -

689502 3 PRINCIPAL VIDYADHIRAJA VIDHAYA PEEDOM CENTRAL SCHOOL, PONNARAMTHOTTAM, MAVELIKKARA, ALAPPUZHA, PIN - 4 SENIOR PRINCIPAL ST: THOMAS SENIOR SECONDARY SCHOOL, PUNALUR, KOLLAM, PIN - 691305 BY ADVS. P.MOHANDAS (ERNAKULAM) K.SUDHINKUMAR SABU PULLAN GOKUL D. SUDHAKARAN R.BHASKARA KRISHNAN K.P.SATHEESAN (SR.)

-:2:- RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE SECRETARY, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

2 KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS REPRESENTED BY ITS REGISTRAR, TC NO. 14/2036, VANROSS JUNCTION, THIRUVANANTHAPURAM, PIN - 695034 3 THE DIRECTOR OF GENERAL EDUCATION DIRECTORATE OF GENERAL EDUCATION, JAGATHY, THYCAUD, THIRUVANANTHAPURAM, PIN - 695014 4 THE REGIONAL DIRECTOR CENTRAL BOARD OF SECONDARY EDUCATION, BSNL RTTC CAMPUS, KAIMANAM, THIRUVANANTHAPURAM, PIN - 695040 5 THE CENTRAL BOARD OF SECONDARY EDUCATION REPRESENTED BY ITS SECRETARY, VIKAS MARG, C BLOCK, PREETHI VIHAR, NEW DELHI, PIN - 110062 BY ADVS. THOUFEEK AHAMED Nirmal S SHRI.T.B.HOOD, SPL.G.P. TO A.G.

DR.K.P.SATHEESAN, SR.ADVOCATE THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.04.2024, ALONG WITH WP(C).1931/2024, 15707/2023 AND CONNECTED CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: -:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL

HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA, 1946 WP(C) NO. 1931 OF 2024 PETITIONER(S): PRINCIPAL JEEVASS CMI CENTRAL SCHOOL JEEVASS CMI EDUCATIONAL & CHARITABLE TRUST, R.S. ROAD, NEAR RAILWAY STATION ALUVA. (BY ITS PRESENT PRINCIPAL MRS.PREETI GEORGE), PIN - 683101 BY ADVS. ISAAC KURUVILLA ILLIKAL BABY ISSAC ILLICKAL RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 2 PRINCIPAL SECRETARY TO GOVERNMENT GENERAL EDUCATION DEPARTMENT GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 -:4:- 3 THE DIRECTOR OF GENERAL EDUCATION DIRECTORATE OF GENERAL EDUCATION JAGATHI, THYCAUD, THIRUVANANTHAPURAM, PIN - 695014 4 COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS REPRESENTED BY ITS SECRETARY PRAGATI HOUSE, 3RD FLOOR, 47- 48 NEHRU PLACE, NEW DELHI, PIN - 110019 BY ADVS. ADVOCATE GENERAL OFFICE KERALA SHRI.T.B.HOOD, SPL.G.P. TO A.G. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.04.2024, ALONG WITH WP(C).15455/2023 AND CONNECTED CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: -:5:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA, 1946 WP(C) NO. 15707 OF 2023 PETITIONER/S: CHITRA KALA. K. PRINCIPAL, THE SPRINGS INTERNATIONAL SCHOOL, TANA, MAMPAD, MALAPPURAM DISTRICT, PIN - 676542 BY ADV K.VIDYASAGAR RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,

GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 2
SECRETARY TO GOVERNMENT GENERAL EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001 3 THE DIRECTOR OF
GENERAL EDUCATION STATE OF KERALA, OFFICE OF THE
DIRECTOR OF GENERAL EDUCATION, JAGATHI, THYCAUD,
THIRUVANANTHAPURAM, KERALA, PIN - 695014 -:6:-

4 KERALA STATE COMMISSION FOR PROTECTION OF CHILD
RIGHTS SREE GANESH, VANROSS JUNCTION, NEAR BAKERY
JUCTION, THIRUVANANTHAPURAM, REPRESENTED BY ITS
REGISTRAR, PIN - 695034 5 THE REGIONAL OFFICER CENTRAL
BOARD OF SECONDARY EDUCATION, BLOCK - B, 2 ND FLOOR, LIC
DIVISIONAL OFFICE CAMPUS, PATTOM, THIRUVANANTHAPURAM,
PIN - 695004 6 THE REGIONAL DIRECTOR, CENTRAL BOARD OF
SECONDARY EDUCATION, BSNL RTTC CAMPUS, KAMMANAM,
THIRUVANANTHAPURAM, PIN - 695040 BY ADVS. ADVOCATE
GENERAL OFFICE KERALA Nirmal S SHRI.T.B.HOOD, SPL.G.P. TO
A.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04.04.2024, ALONG WITH WP(C).15455/2023 AND CONNECTED
CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: -
:7:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED
MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL
HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA,
1946 WP(C) NO. 15723 OF 2023 PETITIONER: BRO. REGY SCARIA
AGED 45 YEARS PRINCIPAL, MARYGIRI ENGLISH MEDIUM
SCHOOL KOOTTUMUGHAM(P.O.), SREEKANDAPURAM KANNUR,
PIN - BY ADVS. A.C.VENUGOPAL VIDHYA. A.C RESPONDENTS: 1

THE STATE OF KERALA REPRESENTED BY SECRETARY TO GOVERNMENT EDUCATION DEPARTMENT, SECRETARIAT, ANNEXE-II THIRUVANANTHAPURAM, PIN - 695001 2 DIRECTOR OF GENERAL EDUCATION DIRECTORATE OF GENERAL EDUCATION, JAGATHY, THIRUVANANTHAPURAM, PIN - 695014 :-8:-

3 CENTRAL BOARD OF SECONDARY EDUCATION VIKASMARG, C.BLOCK, PREETH VIHAR, NEW DELHI, PIN - 4 JOINT SECRETARY AND REGIONAL OFFICER CENTRAL BOARD OF SECONDARY EDUCATION (CBSE) II FLOOR, BLOCK B, LIC DIVISIONAL OFFICE CAMPUS, PATTOM, THIRUVANANTHAPURAM, PIN - 695003 5 KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHT, REPRESENTED BY ITS REGISTRAR T.C.14/2036, VANROOSS JUNCTION P.O., KERALA UNIVERSITY, THIRUVANANTHAPURAM, PIN - 695034 BY ADVS. ADVOCATE GENERAL OFFICE KERALA Nirmal S SHRI.T.B.HOOD, SPL.G.P. TO A.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.04.2024, ALONG WITH WP(C).15455/2023 AND CONNECTED CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: - :9:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAAMED MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA, 1946 WP(C) NO. 15746 OF 2023 PETITIONER : DR. A. M. ANTONY PRINCIPAL, PEEVEES MODEL SCHOOL, NILAMBUR, MALAPPURAM DISTRICT, PIN - 679329 BY ADV K.VIDYASAGAR RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 2 SECRETARY TO GOVERNMENT GENERAL EDUCATION DEPARTMENT, GOVERNMENT

SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 3 THE DIRECTOR OF GENERAL EDUCATION STATE OF KERALA, OFFICE OF THE DIRECTOR OF GENERAL EDUCATION, JAGATHI, THYCAUD, THIRUVANANTHAPURAM, PIN - 695014 -:10:-

4 KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS, SREE GANESH, VANROSS JUNCTION, NEAR BAKERY JUCTION, THIRUVANANTHAPURAM, REPRESENTED BY ITS REGISTRAR, PIN - 695034 5 THE REGIONAL OFFICER CENTRAL BOARD OF SECONDARY EDUCATION, BLOCK - B, 2 ND FLOOR, LIC DIVISIONAL OFFICE CAMPUS, PATTOM, THIRUVANANTHAPURAM., PIN - 695004 6 THE REGIONAL DIRECTOR CENTRAL BOARD OF SECONDARY EDUCATION, BSNL RTTC CAMPUS, KAMMANAM, THIRUVANANTHAPURAM., PIN - 695040 BY ADVS. ADVOCATE GENERAL OFFICE KERALA Nirmal S SHRI.T.B.HOOD, SPL.G.P. TO A.G.

THIS WRIT PETITION (CIVIL)HAVING BEEN FINALLY HEARD ON 04.04.2024,, ALONG WITH WP(C).15455/2023 AND CONNECTED CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: - :11:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA, 1946 WP(C) NO. 16068 OF 2023 PETITIONER: THE MANAGER, EBENEZER HIGHER SECONDARY SCHOOL NELLAD PO, VEETTOOR, MUVATTUPUZHA, ERNAKULAM DISTRICT BY ADVS. K.MOHANAKANNAN D.S.THUSHARA RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,

THIRUVANANTHAPURAM, PIN - 2 THE DIRECTOR OF GENERAL
EDUCATION, JAGATHY, THIRUVANANTHAPURAM, PIN - 695014 3
THE DEPUTY DIRECTOR OF EDUCATION, ERNAKULAM. 4
DISTRICT EDUCATIONAL OFFICER, SATHRAKUNNU,
MUVATTUPUZHA, ERNAKULAM, PIN - 686673 5 ADDL.R5 PARENT
TEACHERS ASSOCIATION EBENEZER HIGHER SECONDARY
SCHOOL, NELLAD PO,

-:12:- VEETTOOR, MUVATTUPUZHA, ERNAKULAM DISTRICT-686669
(REPRESENTED BY ITS PRESIDENT) ADDITIONAL R5 IMPEADED
VIDE ORDER ON 1/2023 DATED BY ADVS. ADVOCATE GENERAL
OFFICE KERALA K.MOHANAKANNAN SHRI.T.B.HOOD, SPL.G.P. TO
A.G. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04.04.2024, ALONG WITH WP(C).15455/2023 AND CONNECTED
CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING: -
:13:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED
MUSTAQUE & THE HONOURABLE MR. JUSTICE M.A.ABDUL
HAKHIM FRIDAY, THE 5TH DAY OF APRIL 2024 / 16TH CHAITHRA,
1946 WP(C) NO. 12242 OF 2024 PETITIONERS:

1 PRAGATI ACADEMY REPRESENTED BY ITS MANAGER P.B. NO.
38, FERN HILLS, POOPANI ROAD, KARATTUPALLIKKARA,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN - 683542 2 THE
COUNCIL OF CBSE SCHOOLS KERALA (REGISTER NO.
EKM/TC/376/2019), REPRESENTED BY ITS PATRON, DR. INDIRA
RAJAN, VIKRAM SARABHAI SPACE PARK, THENGODE POST,
KAKKANAD, ERNAKULAM DISTRICT, PIN - 682030 BY ADVS.
M.R.VENUGOPAL DHANYA P.ASHOKAN (SR.) S. MUHAMMAD
ALIKHAN

RESPONDENT/S: 1 THE STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE REGIONAL OFFICER CENTRAL BOARD OF SECONDARY EDUCATION, BLOCK - 8, 2ND - :14:-

FLOOR, LIC DIVISIONAL OFFICE CAMPUS, PATTOM, THIRUVANANTHAPURAM, PIN - 695004 3 KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS SREE GANESH, VANROSS JUNCTION, NEAR BAKERY JUNCTION, THIRUVANANTHAPURAM, REPRESENTED BY ITS REGISTRAR, PIN - 695034 4 THE DIRECTOR OF GENERAL EDUCATION OFFICE OF THE DIRECTOR OF GENERAL EDUCATION, JAGATHI, THIRUVANANTHAPURAM, KERALA, PIN - 695014 BY ADVS. ADVOCATE GENERAL OFFICE KERALA SHRI.T.B.HOOD, SPL.G.P. TO A.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.04.2024,, ALONG WITH WP(C).15455/2023 AND CONNECTED CASES, THE COURT ON 05.04.2024 DELIVERED THE FOLLOWING:

-:15:- C.R. A.MUHAMED MUSTAQUE & M.A.ABDUL HAKHIM, JJ.
----- W.P.(C).Nos. 15455/ 2023, 15707/ 2023,
15723/ 2023, 15746/ 2023, 16068/ 2023, & 1931/ 2024, 12242/ 2024
----- Dated this the 5th day of April, 2024

J U D G M E N T

A.Muhamed Mustaque, J.

These matters are placed before us based on a reference

order of the learned Single Judge. The matter is related to

conducting vacation classes during summer vacation of the schools

in the State. The learned Single Judge in the reference order

doubted the law propounded in I.S.S (English Medium) Senior Secondary School, Perinthalmanna v. State of Kerala [2018 (2) KHC 849], wherein the learned Single Judge of this Court opined that if there is no objection from the parents, teachers and students, the special classes can be conducted during the summer vacation on a condition that the school authorities will provide basic facilities. In the reference order, the learned Single -:16:- Judge disagreed with the views in the judgment in I.S.S. (English Medium) (supra) as the children require time for leisure and recreation during summer holidays.

2. Heard the learned Senior Counsel Dr.K.P.Satheesan,

Senior Counsel Smt.Dhanya P.Ashokan and Shri Isaac Kuruvilla Illikal for the petitioners, learned Standing Counsel Shri S.Nirmal and learned Special Government Pleader Shri T.B.Hood.

3. There are two sets of cases before us - one, the

schools which are having affiliation with Boards other than State Board such as affiliation with CBSE, ICSE Boards and the other is schools having recognition under the Kerala Education Rules (KER).

4. Apparently, the question in this context arises as

the State attempted to justify their action with reference to Rule 1 of Chapter VII of KER. Rule 1 Chapter VII states that all schools shall be closed for the summer vacation every year on the last working day of March and reopen on the first working day of June unless otherwise notified by the Director. We are of the view that as far as the schools are not the schools recognised under KER, they are not bound by the calendar provided -:17:- under KER. The calendar of the schools under KER would be applicable only to schools that have obtained recognition from the Government under the KER. See the definition of recognised schools under Section 2(8) of the Kerala Education Act vis-a- vis a private school

recognised by the Government under this Act. In respect of the schools not covered under the Kerala Education Rules or Act, cannot be dealt under the same. It is up to the affiliated body to decide on the calendars, school working time etc. Therefore, the school calendar prescribed under KER cannot be extended to CBSE, ICSE schools, etc. Merely for the reason that for the purpose of affiliation, CBSE insisted recognition or NOC from the State Government, that alone will not bring such schools as a recognised school under KER. Such schools will not be considered recognized under the KER unless established or recognized in accordance with the Kerala Education Act or Rules. Therefore, they are not obliged to follow the calendar framed under KER.

5. However, we find that the Government has executive

power to protect the best interest of children. The *parens patriae* is the jurisdiction of the State cannot be overlooked -:18:- here. The Apex Court in *Charan Lal Sahu v. Union of India*, [(1990) 1 SCC 613]; para.35 therein reads as follows:

35. There is the concept known both in this country and abroad,

called *parens patriae*. Dr B.K. Mukherjea in his *Hindu Law of Religious and Charitable Trust*, Tagore Law Lectures, Fifth Edition, at page 404, referring to the concept of *parens patriae*, has noted that in English law, the Crown as *parens patriae* is the constitutional protector of all property subject to charitable trusts, such trusts being essentially matters of public concern. Thus the position is that according to Indian concept *parens patriae* doctrine recognized King as the protector of all citizens and as parent. In *Budhkaran Chaukhani v. Thakur Prosad Shah* [AIR 1942 Cal 331 : 46 CWN 425] the position was explained by the Calcutta High Court at page 318 of the report. The same position was reiterated by the said High Court in *Banku Behary Mondal v. Banku Behary Hazra* [AIR 1943 Cal 203 : 47 CWN 89] at page 205 of the report. The position was further elaborated and explained by the Madras High Court in *Medai Dalavoi T. Kumaraswami Mudaliar v. Medai Dalavoi Rajammal* [AIR 1957 Mad 563 : (1957) 2 MLJ 211] at page 567 of the report. This Court also

recognized the concept of *parens patriae* relying on the observations of Dr Mukherjea aforesaid in *Ram Saroop v. S.P. Sahi* [1959 Supp 2 SCR 583 : AIR 1959 SC 951] at pages 598 and 599. In the Words and Phrases Permanent Edition, Vol. 33 at page 99, it is stated that *parens patriae* is the inherent power and authority of a legislature to provide protection to the person and property of persons non sui juris, such as minor, insane, and incompetent persons, but the words *parens patriae* meaning thereby the father of the country, were applied originally to the King and are used to designate the State referring to its sovereign power of guardianship over persons under disability. (emphasis supplied) *Parens patriae* jurisdiction, it has been explained, is the right of the sovereign and imposes a duty on sovereign, in public

-:19:-

interest, to protect persons under disability who have no rightful protector. The connotation of the term *parens patriae* differs from country to country, for instance, in England it is the King, in America it is the people, etc. The Government is within its duty to protect and to control persons under disability. Conceptually, the *parens patriae* theory is the obligation of the State to protect and takes into custody the rights and the privileges of its citizens for discharging its obligations. Our Constitution makes it imperative for the State to secure to all its citizens the rights guaranteed by the Constitution and where the citizens are not in a position to assert and secure their rights, the State must come into picture and protect and fight for the rights of the citizens. The Preamble to the Constitution, read with the Directive Principles, Articles 38, 39 and 39-A enjoin the State to take up these responsibilities. It is the protective measure to which the social welfare state is committed. It is necessary for the State to ensure the fundamental rights in conjunction with the Directive Principles of State Policy to effectively discharge its obligation and for this purpose, if necessary, to deprive some rights and privileges of the individual victims or their heirs to protect their rights better and

secure these further.

6. The petitioners are the management association and

certain schools who want to conduct classes during vacation to make up syllabus, especially, for the students who are attending board exams during the next academic year. They experienced a shortage of time to complete syllabus and prepare the students for the next academic year. We find there is a legitimate concern for school authorities. But at the same time, it should -:20:- not be at the cost of the best interest of the child. The best interest of the child includes right of the child for rest and leisure. It is appropriate to refer to Article 31 in Part 1 of the United Nations Convention of Rights of the Child. Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child

to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

7. The parents cannot barter away their child's right to

rest and leisure in exchange to focus exclusively on studies. There is a prevailing belief that prioritising academic studies would protect the best interest of the child. However, growth of child is ensured not solely based on knowledge but also through recreational activities. The child is also having equal right to engage in cultural, artistic, leisure activities. This cannot be compromised. The State also cannot ignore the fact that the child cannot forgo their -:21:- academic pursuits. However, how to balance children's academic pursuits and their right to recreational activities is a matter to be considered by the State. We also cannot overlook the exposure of the children to summer heat during vacation. The State also need to address this concern as well. The present regulation apparently is invoking power under the Kerala Education Act and Rules. That power cannot be

utilised to govern a competing interest and rights of the child and their welfare. The executive Government alone can address the issue. The statutory authorities under KER are incompetent to decide such issues. In this matter, admittedly, they invoked statutory power under KER which according to us cannot be extended to schools other than those recognised under the Kerala Education Act and Rules.

8. We find that the judgment of the learned Single Judge

ISS English Medium (supra) is not correct enunciation of law. As rightly noted by the learned Single Judge in reference order, recreational rights cannot be overlooked by parental authority to decide on academical pursuits. Therefore, State can devise its own mechanisms. -:22:-

9. In the light of the discussions as above, we hold as

follows: i. The State holds executive power to regulate summer vacation. However, this cannot be done based on the calendar prescribed in KER for non-KER schools. The State will have to balance academic interest of the child and their right to recreational activities in a delicate equilibrium. ii. Taking note of the ensuing vacation, we permit all the schools other than the schools governed by KER calendar to hold vacation classes between 7.30 AM till 10.30 AM. Provided, this arrangement will be subject to future executive orders governing vacation classes. iii. We also find that law laid down in I.S.S. (English Medium) case (supra) is not a good law to be followed. iv. In regard to W.P.(C).No.16068/2023, we find this school is a recognised school under KER. This school will have to follow calendar under KER. Regarding the schools governed by the Kerala Education Rules and Act which does not follow the KER calendar, action can be initiated against the Manager. In the -:23:- absence of any challenge to the Rule in KER, no relief can be granted. Therefore, W.P.(C).No.16068/2023 is dismissed. v. W.P.(C).Nos. 1931/2024, 15455/2023, 15707/2023, Sd/- A.MUHAMED MUSTAQUE, JUDGE Sd/- M.A.ABDUL HAKHIM, JUDGE ms -:24:- APPENDIX OF WP(C) 1931/2024 PETITIONER EXHIBITS Exhibit P1 A PHOTOCOPY OF THE COUNCIL FOR INDIAN SCHOOL CERTIFICATE EXAMINATION RULES FOR AFFILIATION Exhibit P2 A PHOTOCOPY OF THE ORDER OF THE 3RD RESPONDENT DATED 03.05.2023 Exhibit P3 A PHOTOCOPY OF THE

CIRCULAR NO.H4/26488/2017/DPI DATED 28.04.2017 Exhibit P4 A PHOTOCOPY OF THE INTERIM ORDER PASSED BY

THIS HON'BLE COURT IN PRINCIPAL, PLACID VIDHYA VIHAR SENIOR SECONDARY SCHOOL .V. STATE OF KERALA IN W.P (C) NO.10076/2018 DATED 16.04.2018 Exhibit P5 A PHOTOCOPY OF THE JUDGMENT OF THIS HON'BLE COURT IN PRINCIPAL, PLACID VIDHYA VIHAR SENIOR SECONDARY SCHOOL .V. STATE OF KERALA IN W.P (C) NO. 10076/2018 DATED 17.07.2018 Exhibit P6 A PHOTOCOPY OF THE JUDGMENT DATED

04.05.2018 IN W.P (C) NOS.14822 OF 2018 & CONNECTED CASES (REPORTED AS I.S.S (ENGLISH MEDIUM) SENIOR SECONDARY SCHOOL, PERINTHALMANNA .V. STATE OF KERALA & ORS 2018 (2) KHC 849)

Exhibit P7 A PHOTOCOPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) NO.7177/2017 DATED 17.03.2017 Exhibit P8 A PHOTOCOPY OF THE JUDGMENT IN W.P.(C) NO.4773/2018 DT.12.02.2018 -:25:- APPENDIX OF WP(C) 15707/2023 PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF THE AFFILIATION ISSUED BY THE CENTRAL BOARD OF SECONDARY EDUCATION TO THE ABOVE SAID SCHOOL. Exhibit-P2 A TRUE COPY OF THE ORDER DATED 22.04.2017 PASSED BY THE 4TH RESPONDENT IN CRMP NO.2922/11/LA2/2017/Ke SCPCR. Exhibit-P3 A TRUE COPY OF THE JUDGMENT DATED 17.03.2017 IN W.P(C) NO.7177/017. Exhibit-P4 A TRUE COPY OF THE JUDGMENT DATED 08.02.2018 IN W.P.(C) NO.3689/2018. Exhibit-P5 A TRUE COPY OF THE COMMUNICATION NO.H4/7002/2023/D.G.E DATED 03.05.2023 ISSUED BY THE 2 ND RESPONDENT. Exhibit-P6 A TRUE COPY OF THE CIRCULAR NO.H(4)/26488/2017/DPI DATED 28.04.2017 ISSUED BY THE 2 ND RESPONDENT. Exhibit-P7 TRUE COPY OF THE ORDER DATED 16.4.2018 IN W.P(C).13089/2018 AND CONNECTED CASES ON THE FILE OF THIS HON'BLE COURT. Exhibit-P8 TRUE COPY OF THE EXTRACT OF THE MINUTES OF THE PTA MEETING HELD ON 03.05.2023 AT THE PETITIONER'S SCHOOL. Exhibit-P9 TRUE COPY OF THE RESOLUTION OF THE

MANAGEMENT COMMITTEE OF THE SCHOOL AUTHORIZING THE PETITIONER TO FILE A CASE BEFORE THIS HON'BLE COURT.

Exhibit-P10 TRUE COPY OF THE REQUEST DATED 28.4.2023 SENT BY THE PETITIONER TO THE 5TH RESPONDENT Exhibit-P11 TRUE COPY OF THE INTERIM ORDER DATED 09.05.2023 IN W.P(C) NO.15455/2023 ON THE FILE OF THIS HON'BLE COURT. -:26:- APPENDIX OF WP(C) 15723/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE CERTIFICATE OF AFFILIATION DATED 11.11.2014 ISSUED TO THE SCHOOL Exhibit P2 TRUE COPY OF THE CIRCULAR NO. H(4)26488/2017/D.P.I. DATED 28-04-2017 ISSUED BY THE 3RD RESPONDENT Exhibit P3 TRUE COPY OF THE CIRCULAR NO.G3/138/2019/G.EDN. ISSUED BY THE 1ST RESPONDENT DATED 29.3.2019 Exhibit P4 TRUE COPY OF THE JUDGEMENT DATED 07.05.2019 IN W.P.(C) NO.13074/2019 OF THIS HON'BLE COURT Exhibit P5 TRUE COPY OF THE COMMUNICATION NO. H4/7002/2023/D.G.E DATED 03-05-2023 ISSUED BY THE 2ND RESPONDENT Exhibit P6 TRUE COPY OF THE APPLICATION MADE BY THE PETITIONER TO THE 4TH RESPONDENT DATED 10.05.2023 Exhibit P7 TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN W.P(C)NO. 15455/2023 -:27:- APPENDIX OF WP(C) 15746/2023 PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF THE AFFILIATION ISSUED BY THE CENTRAL BOARD OF SECONDARY EDUCATION TO THE SCHOOL. Exhibit-P2 A TRUE COPY OF THE ORDER DATED 22.04.2017 PASSED BY THE 4TH RESPONDENT IN CRMP NO.2922/11/LA2/2017/Ke SCPCR. Exhibit-P3 A TRUE COPY OF THE JUDGMENT DATED 17.03.2017 IN W.P(C) NO.7177/017. Exhibit-P4 A TRUE COPY OF THE JUDGMENT DATED 08.02.2018 IN W.P.(C) NO.3689/2018. Exhibi-P5 A TRUE COPY OF THE COMMUNICATION NO.H4/7002/2023/D.G.E DATED 03.05.2023 ISSUED BY THE 2ND RESPONDENT. Exhibit-P6 A TRUE COPY OF THE CIRCULAR NO.H(4)/26488/2017/DPI DATED 28.04.2017 ISSUED BY THE 2ND RESPONDENT. Exhibit-P7 TRUE COPY OF THE ORDER DATED 16.4.2018 IN W.P(C).13089/2018 AND CONNECTED CASES ON THE FILE OF THIS HON'BLE COURT. Exhibit-P8 TRUE COPY OF THE DECLARATION ISSUED BY THE

PETITIONER DECLARING THAT THE PETITIONER'S INSTITUTION IS HAVING SUFFICIENT FACILITIES AS PER THE CBSE NORMS FOR THE SMOOTH CONDUCT OF VACATION CLASSES DURING MAY, 2023.

Exhibi-P9 TRUE COPY OF THE RESOLUTION NO.34 PASSED BY THE PTA MEETING HELD AT PEEVEES MODEL SCHOOL, NILAMBUR ON 15.03.2023 AND 31.03.2023. Exhibit-P10 TRUE COPY OF THE REQUEST DATED 27.4.2023 SENT BY THE PETITIONER TO THE 5TH RESPONDENT. Exhibit-P11 TRUE COPY OF THE INTERIM ORDER DATED 09.05.2023 IN W.P(C) NO.15455/2023 ON THE FILE OF THIS HON'BLE COURT. -:28:- APPENDIX OF WP(C) 16068/2023 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE DETAILS OF THE STUDENTS OF THE SCHOOL Exhibit P2 TRUE COPY OF THE CIRCULAR NO.H(4)- Exhibit P3 TRUE COPY OF THE COMMUNICATION

NO.H4/7002/2023/DGE DATED 3-5-2023 ISSUED BY THE 2ND RESPONDENT TO THE HEAD OF THE INSTITUTION OF THE STATE Exhibit P4 TRUE COPY OF THE COMMUNICATION NO.A5/594/2023 DATED 15-5-2023 SENT BY THE 4TH RESPONDENT TO THE HEAD MASTER Exhibit P5 TRUE COPY OF INTERIM ORDER DATED 9-5-2023 IN WRIT PETITION NO.15455/2023 -:29:- APPENDIX OF WP(C) 12242/2024 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF EXTENSION OF GENERAL AFFILIATION NO: CBSE/930149/EX-00649 Exhibit P2 TRUE COPY OF THE ORDER DATED 22/04/2017 PASSED BY THE 4TH RESPONDENT IN CRMP NO.2922/11/LA2/2017KESCPCR ALONG WITH LEGIBLE COPY

Exhibit P3 TRUE COPY OF THE COMMUNICATION NO.H4/7002/2023/D.G.E DATED 03/05/2023 ISSUED BY THE 4TH RESPONDENT Exhibit P4 TRUE COPY OF THE CIRCULAR NO. H(4)26488/2017/DPI DATED 28/04/2017 ISSUED BY THE 4TH RESPONDENT Exhibit P5 TRUE COPY OF THE INTERIM ORDER DATED -:30:- APPENDIX OF WP(C) 15455/2023 PETITIONER EXHIBITS Exhibit-P1 TRUE COPY OF THE CIRCULAR NO. H(4)/26488/2017/D.P.I. DATED 28-04-2017 ISSUED BY THE 3RD RESPONDENT Exhibit-P2 TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT DATED 16-04-2018 IN W.P.(C)NO. 12948/2018 Exhibit-P3

TRUE COPY OF THE JUDGMENT DATED 8-2-2018 IN W.P.(C)NO.3689/2018
Exhibit-P4 TRUE COPY OF THE COMMUNICATION NO. H4/7002/2023/D.G.E
DATED 3-5-2023 ISSUED BY THE 3RD RESPONDENT RESPONDENT
ANNEXURES Annexure R3 True Copy of the Circular No. 22475/J1/14/GE_{dn}.
dated 05.05.2015 issued by the first respondent

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