

**Mini.R. vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1298864](http://sooperkanoon.com/1298864)

**Court :** Kerala

**Decided On :** May-27-2024

**Judge :** Honourable Mr. Justice Sathish Ninan

**Appeal No. :** WP(C)/13173/2014

**Appellant :** MINI.R.

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN  
MONDAY, THE 27TH DAY OF MAY 2024 / 6TH JYAISHTA, 1946  
WP(C) NO. 13173 OF 2014 PETITIONER: MINI.R. H.S.S.T.(BOTANY),  
M.V.HIGHER SECONDARY SCHOOL, ARUMANOOR, POOVAR P.O.,  
THIRUVANANTHAPURAM-695525. RESIDING AT: KULIRMA HOUSE,  
ALUMMOOD, NEYATTINKARA P.O., THIRUVANANTHAPURAM. BY  
ADVS. SRI. K.S. PRENJITH KUMAR SRI. LEENA MURALI SRI.DEEPULAL MOHAN RESPONDENTS:

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

GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE DIRECTOR OF HIGHER SECONDARY EDUCATION HOUSING BOARD BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM-695001. 3 THE REGIONAL DEPUTY DIRECTOR OF HIGHER SECONDARY EDUCATION CORPORATION BUILDING, 4TH FLOOR, PALAYAM, THIRUVANANTHAPURAM-695033. 4 M.V.HIGHER SECONDARY SCHOOL ARUMANOOR, POOVAR P.O., THIRUVANANTHAPURAM-695525, REPRESENTED BY ITS MANAGER.

HEADNOTE-WP(C) NO. 13173 OF 2014 :- 2 :- 5 THE MANAGER M.V.HIGHER SECONDARY SCHOOL, ARUMANOOR, POOVAR P.O., THIRUVANANTHAPURAM-695525. 6 THE DIRECTOR OF PUBLIC INSTRUCTIONS THIRUVANANTHAPURAM-695033. 7 THE DISTRICT EDUCATIONAL OFFICER NEYYATTINKARA-695121. BY ADVS. SRI.P.RAVINDRAN (SR.) SRI.P.RAVINDRAN SR. SRI.SREEDHAR RAVINDRAN OTHER PRESENT: SRI. BIJOY CHANDRAN, SR. GP. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**SATHISH NINAN, J.**

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Dated this the 27th day of May, 2024

## **J U D G M E N T**

The petitioner has approached this Court aggrieved by the refusal on the part of the 5 th respondent-Manager to comply with the directions of the first respondent with regard to payment of arrears of salary as ordered in Exts.P29 and P35 Government Orders.

2. On 25.08.1998, the petitioner was appointed as

Higher Secondary School Teacher - Part-time, in Botany, in the 4th respondent aided school. Her appointment was duly approved. Subsequently she was appointed as full-time and the appointment was approved as per Ext.P2.

3. On 31.03.2011, the then Principal retired on superannuation. The petitioner being the senior most teacher in the school was eligible to be appointed as the Principal. -: 2 :-

4. While so, the 5th respondent-Manager of the

School approached this Court in W.P.(c) No.8595/2011 challenging the amendment to Rule 4 of Chapter XXXII of KER which provided for seniority as the criteria among the teachers of the school for appointment to the post of Principal. The petitioner herein was a respondent in the said writ petition. Therein, the Manager sought permission to appoint one Sri.N.V.Suresh who was junior to the petitioner herein and who was the 4th respondent in the said writ petition as Principal from 01.04.2011 provisionally. This Court did not grant any interim

### **order in the writ petition.**

5. On 01.04.2011 as per Ext.P4, the petitioner was promoted as the Principal, subject to the result of the W.P(c).8595/2011. The appointment was approved by the third respondent-Regional Deputy Director, provisionally. -: 3 :-

6. Realising the inability to move along with the management, the petitioner on 04.04.2011 as per Ext.P6, submitted his resignation from the post of principal-in-charge. As per Ext.P7 dated 12.05.2011 the Manager accepted the resignation with immediate effect. Since the petitioner was not permitted to work in the school

thereafter, the petitioner submitted Ext.P8 request dated 12.05.2011 before the Manager affirming that his resignation is only from the office of the principal-in-charge, and that she continues as a teacher of the school. A copy of the said letter was forwarded by the petitioner to the Regional Deputy Director. As per Ext.P10 communication dated 17.05.2011 the Regional Deputy Director required the 5th respondent Manager to treat the petitioner's representation in a positive sense understanding the resignation to be only from the post of principal-in-charge and

not as teacher of the school. The 5th respondent Manager responded to the :- 4 :- Regional Deputy Director as per Ext.P11 letter dated 24.05.2011 that, resignation is to be treated not only from that particular post alone but also from the service. He sought for approval of the acceptance of the resignation.

7. Pursuant to the above, the Regional Deputy

Director called for a hearing of the petitioner and the Manager. Such hearing was held on 15.09.2011. In the reconciliation, the petitioner agreed to withdraw the term harassment used by her in Ext.P6 resignation letter. She submitted Ext.P14 letter dated 15.09.2011 in the said regard before the Regional Deputy Director. As per Ext.P15 order dated 19.10.2011 the Regional deputy Director required the Manager to permit the petitioner to continue in service as HSST (Botany).

8. Instead of complying with the directions in

Ext.P15, the 5th respondent Manager filed appeal before the Director. The petitioner herein filed WP(c) :- 5 :- No.30207/2011 for a direction to the Manager to comply with the directions in Ext.P15 by permitting the petitioner to join duty and to continue in service. The Manager filed W.P.(c) No.30868/2011 challenging Ext.P15. The writ petitions were disposed of directing the appeal to be considered.

9. Pursuant to the above, the appeal was dismissed as per Ext.P17 order dated 17.12.2011. Even after the dismissal of the appeal, the Manager did not comply with

the direction in Ext.P15. Thereupon the petitioner approached this Court in W.P.(c) No.1423/12. The Manager challenged Ext.P17 order before this Court in W.P.(c)

### **No.2060 of 2012. This Court as per Ext.P20 judgment**

disposed of W.P.(C) No.2060 of 2012 relegating the Manager to the revisional remedy before the Government.

10. Accordingly the Manager preferred revision petition before the Government. As per Ext.P21 order the revision petition was dismissed. The Manager challenged :-

6 :-

the order before this Court in W.P.(c) No.8047 of 2012. Though an interim order for stay was sought, the same was rejected as per Ext.P23 and the petitioner herein was permitted to rejoin duty. Thereafter, the Manager as per Ext.P24 communication dated 04.04.2012 permitted the petitioner to rejoin duty. The petitioner rejoined on 07.04.2012. In the light of the above, this Court as per

common judgment dated 11.04.2012 in W.P.(c) Nos.1423/2012 and 8047/2012 closed the writ petitions leaving open the issue of regularisation of the period during which the petitioner was out of service.

11. However, the matter did not end there.

Thereafter the petitioner was issued with Ext.P26 memo of charges dated 30.05.2012 referring to the allegations made by the petitioner in Ext.P6 resignation letter. In the meanwhile, challenging Ext.P25 judgment in W.P.(c) No.8047/2012 the Manager filed W.A. No.1374/2012. As per Ext.P28 judgment dated 05.09.2012 the writ appeal was

-: 7 :- dismissed by the Division Bench. The Division Bench while dismissing the writ appeal held that no disciplinary proceedings can be initiated against the petitioner herein for the imputations made by her against the management at the time of resignation.

12. On 15.12.2012 the Government issued Ext.P29

### **order regularising the services of the petitioner. It**

was ordered that the period of absence (19.10.2011 to 03.04.2012) shall be treated as duty for all purposes. Personal liability was fixed on the Manager for the pay and allowances due to the petitioner for the said period. It was also directed that, if the Manager fails to effect such payments, it will be deducted from the maintenance grant due to the school and disbursed to the petitioner.

13. Challenging Ext.P29 order the Manager approached this Court in W.P.(C) No.5902/2013. This Court as per Ext.P32 judgment dated 04.03.2013 dismissed :- 8 :- the writ petition.

14. The period during which the petitioner was out of service was from 12.05.2011 till 07.04.2012. However, in Ext.P29 Government Order, the dates were wrongly mentioned as 19.10.2011 to 03.04.2012. Seeking correction of the dates, the petitioner submitted Ext.P33 representation before the Government. As per Ext.P35 order, the mistakes were corrected. It was ordered that the period from 12.05.2011 till 07.4.2012 shall be treated as duty.

15. In spite of the above directions the Manager did not pay the salary. The Manager failed to comply with the directions in Ext.P29 Government Order with regard to payment of salary and allowances. Though Ext.P29 provided that in case of default on the part of the Manager to pay the amount, which was fixed as his personal liability, the said amount shall be deducted from the maintenance grant and paid to the petitioner. -: 9 :- However, the petitioner was not paid the amount. It is on the above facts that the petitioner has approached this Court.

16. The learned senior Government Pleader was asked

to get instructions regarding the deductions from grant, if any made. On instructions it is informed that the authorities released the grant without deducting the dues payable to the petitioner. The Manager, who was fully conscious of the direction, happily received the amount. The petitioner retired from the services in the year 2020.

17. The stand adopted by the Manager from the very

instance by treating the resignation letter of the petitioner as a resignation from the very service and not merely from the post of principal in charge, was dubious. Here it would be appropriate to refer to the contents of Ext.P6 letter of resignation. The same reads thus :- -: 10 :- From MINI R Principal in charge MV HSS Arumanoor.

Respected Sir, As my consciousness is against the irregularities in this office and the mental harassment from the management, I could not continue my work properly which I wished to be done with utmost dedication and sincerity. So I wish to resign my post as principal in charge of this Institution. Yours faithfully, Arumanoor 04.04.2011.

The petitioner had specifically stated that the resignation is from the post as principal in charge. In spite of the same, the Manager construed it as a resignation from service. The statutory authorities and this Court had to intervene repeatedly to ensure that the petitioner is reinstated in service. The petitioner -: 11 :- was reinstated on 07.04.2012. The writ petition which was then pending was disposed of taking note of the reinstatement on 11.04.2012. Immediately thereafter on 30.05.2012 disciplinary proceedings have been initiated against the petitioner that too falling upon the contents of Ext.P6 resignation. A Division Bench of this Court in W.A. 1374/2012 held that such disciplinary proceedings based on Ext.P6 resignation letter cannot

continue. It is after such proceedings that the Government issued Ext.P29 order directing to treat the period during which the petitioner was out of service as duty and fixing personal liability on the Manager to pay the pay and allowances. In spite of the same, it is not complied with. Such conduct of the fifth respondent is unacceptable.

18. The attempt on the part of the 5 th respondent Manager was obviously to victimise the petitioner in having claimed the post of Principal against his scheme - : 12 :-

to appoint another person of his choice, in having not moved along with the Manager while he was the principal- in-charge and having resigned from the post. He left no stone unturned to deny rights of the petitioner. Even

**though the directions given in Ext.P29 Government order**

became final, he refuses to comply with the same. The authorities disbursed the grant to the Manager when they

were required to deduct the entitlements of the petitioner. In the circumstances, the 1st respondent is to pay the amount to the petitioner and have the same recovered from the 5th respondent-manager. So also, on the facts it is deemed appropriate that steps be taken against the Manager in terms of KER for disobeying the directions of the authorities. I find no reason, not to

impose costs on the 5th respondent. I deem it appropriate to fix the costs at Rs.50,000/- though considering the events that transpired it may be on the lower side. -: 13 :- Resultantly, the writ petition is ordered as hereunder:-

(i) The 1st respondent shall, within two months from today, pay the salary due to the petitioner for the period from 12.05.2011 till 06.04.2012.

(ii) The 1st respondent shall be entitled to have the amount disbursed in terms of direction (i) above and an amount of Rs.50,000/- ordered as costs, through Revenue Recovery proceedings from the 5th respondent.

(iii) The costs of Rs.50,000/- need be paid to the petitioner only on its recovery from the 5th respondent in the Revenue Recovery proceedings ordered above.

(iv) Respondents 1 to 3 shall initiate action against the 5th respondent in terms of Chapter III, Rule 7 KER for disobeying the directions of the Educational Authorities. Sd/- SATHISH NINAN JUDGE kns/- //True Copy// P.S. to Judge  
APPENDIX OF WP(C) 13173/2014 PETITIONER EXHIBITS EXHIBIT-P1: THE TRUE COPY OF THE ORDER NO.C6/2847/HSE/99 DATED 02.07.1999 ISSUED BY THE 2ND RESPONDENT. EXHIBIT-P2: THE TRUE COPY OF THE PROCEEDINGS NO.ACD/B5/19866/HSE/2001 DATED 10.06.2002 OF THE 2ND RESPONDENT.

EXHIBIT-P3: THE PHOTOCOPY OF THE PROCEEDINGS NO.H 117/2010-11 DATED 31.03.2011 OF THE 5TH RESPONDENT. EXHIBIT-P4: THE PHOTOCOPY OF THE APPOINTMENT ORDER DATED 01.04.2011 ISSUED BY THE 5TH RESPONDENT APPOINTING THE PETITIONER AS THE PRINCIPAL (PROBATIONARY) OF THE SCHOOL. EXHIBIT-P5: THE PHOTOCOPY OF THE LETTER NO.TRO/4/3426/11/HSE DATED 11.04.2011 ISSUED BY THE 3RD

RESPONDENT TO THE 5TH RESPONDENT. EXHIBIT-P6: THE PHOTOCOPY OF THE LETTER DATED 04.04.2011 (SIC.:- 04.05.2011) SUBMITTED BY THE PETITIONER TO THE 5TH RESPONDENT.

EXHIBIT-P7: THE PHOTOCOPY OF THE ORDER NO.H-117/2010-11 DATED 12.05.2011 OF THE 5TH RESPONDENT. EXHIBIT-P8: THE PHOTOCOPY OF THE LETTER DATED 12.05.2011 SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT. EXHIBIT-P9: THE PHOTOCOPY OF THE LETTER NO.H-117/2010-11 DATED 12.05.2011 OF THE 5TH RESPONDENT TO THE 3RD RESPONDENT. EXHIBIT-P10: THE PHOTOCOPY OF THE LETTER NO.TRO/4/4466/11/HSE DATED 17.05.2011 OF THE 3RD RESPONDENT TO THE 5TH RESPONDENT. EXHIBIT-P11: THE PHOTOCOPY OF THE LETTER NO.H-117/2010-11 DATED 24.05.2011 OF THE 5TH RESPONDENT ISSUED TO THE 3RD RESPONDENT.

EXHIBIT-P12: THE PHOTOCOPY OF THE LETTER DATED 28.05.2011 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT. EXHIBIT-P13: THE PHOTOCOPY OF THE REPRESENTATION DATED 31.05.2011 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT. EXHIBIT-P14: THE PHOTOCOPY OF THE LETTER DATED 15.09.2011 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT. APPENDIX-WP(C) 13173/2014 -2-

EXHIBIT-P15: THE PHOTOCOPY OF THE LETTER NO.TRO/04/14450/HSE DATED 19.10.2011 OF THE 3RD RESPONDENT ISSUED TO THE 5TH RESPONDENT. EXHIBIT-P16: THE PHOTOCOPY OF THE JUDGMENT DATED 22.11.2011 OF THIS HON'BLE COURT IN W.P.(C) NO.30868 OF 2011. EXHIBIT-P17: THE PHOTOCOPY OF THE ORDER NO.ACD B3/36179/2011/HSE DATED 17.12.2011 OF THE 2ND RESPONDENT.

EXHIBIT-P18: THE PHOTOCOPY OF THE LETTER DATED 30.12.2011 ADDRESSED BY THE PETITIONER TO THE 5TH RESPONDENT. EXHIBIT-P19: THE PHOTOCOPY OF REPRESENTATION DATED 02.01.2012 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. EXHIBIT-P20: THE PHOTOCOPY OF THE JUDGMENT DATED 08.02.2012 OF THIS HON'BLE

COURT IN W.P.(C) NO.2060/2012. EXHIBIT-P21: THE PHOTOCOPY OF G.O.(RT) NO.1287/2012/G.EDN DATED 16.03.2012. EXHIBIT-P22: THE PHOTOCOPY OF THE LETTER DATED 23.03.2012 ADDRESSED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXHIBIT-P23: THE PHOTOCOPY OF ORDER DATED 30.03.2012 OF THIS HON'BLE COURT IN W.P.(C) NO.8047/2012. EXHIBIT-P24: THE PHOTOCOPY OF PROCEEDINGS DATED 04.04.2012 OF THE 5TH RESPONDENT. EXHIBIT-P25: THE PHOTOCOPY OF THE JUDGMENT DATED 11.04.2012 OF THIS HON'BLE COURT IN W.P.(C) NO.1423/2012. EXHIBIT-P26: THE PHOTOCOPY OF MEMO NO.H.117/2011 DATED 30.05.2012 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER. EXHIBIT-P27: THE PHOTOCOPY OF LETTER DATED 21.07.2012 ISSUED TO THE PETITIONER BY THE 5TH RESPONDENT. EXHIBIT-P28: THE PHOTOCOPY OF JUDGMENT DATED 05.09.2012 OF THIS HON'BLE COURT IN W.A.NO.1374/2012.

EXHIBIT-P29: THE PHOTOCOPY OF G.O.(RT) NO.6007/2012/GEDN DATED APPENDIX-WP(C) 13173/2014 -3- 15.12.2012. EXHIBIT-P30: THE PHOTOCOPY OF THE COVERING LETTER DATED 18.01.2013 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT-P31: THE PHOTOCOPY OF REPRESENTATION DATED 15.05.2013 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. EXHIBIT-P32: THE PHOTOCOPY OF THE JUDGMENT DATED 04.03.2013 OF THIS HON'BLE COURT IN W.P.(C) NO.5902/2013. EXHIBIT-P33: THE PHOTOCOPY OF REPRESENTATION DATED 21.06.2013 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, GENERAL EDUCATION DEPARTMENT. EXHIBIT-P34: THE PHOTOCOPY OF ORDER NO.ACD.B3/36179/HSE/2012 DATED 31.05.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P35: THE PHOTOCOPY OF G.O.(RT) NO.96/2014/G.EDN DATED 06.01.2014. EXHIBIT-P36: THE PHOTOCOPY OF LETTER NO.ACD.B3/36179/HSE/2011 DATED 15.01.2014 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT. -----

