

The Manager vs the State of Kerala

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Court : Kerala

Decided On : Jun-16-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/19697/2023

Appellant : The Manager

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 16TH DAY OF JUNE 2023 / 26TH JYAISHTA, 1945
WP(C) NO. 19697 OF 2023 PETITIONER: THE MANAGER PMSAPTM
LOWER PRIMARY SCHOOL, KADUVAMOOZHAY, NADAKKAL PO,
ERATTUPETTA, PIN - 686121. (M.S.PAREETH, S/O M.M. SEETHI,
MADATHIL, NADAKKAL PO, ERATTUPETTA,, PIN - 686121 BY ADV
S.SUBHASH CHAND RESPONDENTS:

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

695001 2 THE DIRECTOR OF GENERAL EDUCATION, (FORMERLY THE DIRECTOR OF PUBLIC INSTRUCTION) OFFICE OF THE DIRECTOR OF GENERAL EDUCATION, JAGATHY, THIRUVANANTHAPURAM-, PIN - 695014 3 THE DISTRICT EDUCATIONAL OFFICER OFFICE OF THE DISTRICT EDUCATIONAL OFFICER, KANJIRAPPALLY -, PIN - 686507 4 THE ASSISTANT EDUCATIONAL OFFICER, OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER, ERATTUPETTA,, PIN - 686121 BY ADV.NISHA BOSE, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).No.19697 of 2023
----- Dated this the 16th day of June, 2023

JUDGMENT

This writ petition is filed with following prayers:

- i. To issue a writ in the nature of mandamus or any other appropriate writ or order directing respondent No 1 to permit the petitioner to upgrade PMSAPTM Lower Primary School, Kaduvamoozhy with standards to 5 in terms of Section 19 and 25 of the Right of Children to Free and Compulsory Education Act. 2009 read with its schedule in the light of Ext.P5 ruling forthwith or within such time as this Hon'ble Court may deem fit and proper in the interest of justice.
- ii. To issue a writ in the nature of mandamus or any other appropriate writ or order directing respondent No.1 to consider and pass final orders on Ext P6 petition taking into account the law laid down in Ext P5 ruling with notice and opportunity of hearing to the petitioner and respondent Nos.2 to 4

forthwith or within such time as this Hon'ble Court may deem fit and proper in the interest of justice; iii. To issue a declaration that the petitioner is

entitled in law to upgrade PMSAPTM Lower Primary School, Kaduvamoozhy with standards 1 to 5 in terms of Section 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009 read with its schedule in the light of Ext P5 ruling and denial of the same is absolutely arbitrary and unconstitutional rendering the same to be interfered with by this Hon'ble Court being violative of Articles 14, 19(1)(g) and 21A of the Constitution of India. iv. To mould and grant such other reliefs, as this Hon'ble Court shall deem just and proper in the interest of justice, including costs. v. To dispense with the translation of Malayalam documents. (SIC)

2. Petitioner submitted Ext.P6 before the 1 st

respondent in connection with the upgradation of PMSAPTM Lower Primary School. The grievance of the petitioner is that the same is not considered by the 1st respondent.

3. Heard the learned Government Pleader also.

4. After hearing both sides, I think this writ petition

itself can be disposed of directing the 1st respondent to consider Ext.P6 within a time frame, after affording an opportunity of hearing to the petitioner. Therefore, this writ petition is disposed of in the following manner:

1. The 1st respondent is directed to consider and

pass appropriate orders in Ext.P6, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within four months from the date of receipt of a stamped certified copy of this judgment.

2. The petitioner will produce a stamped certified

copy of this judgment along with a copy of this writ petition before the 1st respondent for compliance. sd/- P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF WP(C) 19697/2023 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE APPLICATION DATED 01.11.2019 SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.3. Exhibit P2 A TRUE COPY OF THE ORDER BEARING NO.B1/312/2020 DATED 31.01.2020 ISSUED BY RESPONDENT NO.3. Exhibit P3 A TRUE COPY OF THE APPLICATION WHICH WAS FORWARDED BY RESPONDENT NO.4 TO RESPONDENT NO.2 BY WAY OF COVERING LETTER DATED 25.09.2019. Exhibit P4 A TRUE COPY OF THE ENDORSEMENT MADE ON BACKSIDE OF EXT.P3. Exhibit P5 A TRUE COPY OF THE RULING OF THIS

HON'BLE COURT IN MANAGER, AYSHA L.P.SCHOOL, CHEDIKKULAM AND ANOTHER V. STATE OF KERALA AND OTHERS (2019 (3) KHC 871) . Exhibit P6 A TRUE COPY OF THE APPLICATION DATED 06.05.2023 IN THE FORM OF REVISION PETITION SUBMITTED BY PETITIONER BEFORE RESPONDENT NO.1. (WITHOUT ENCLOSURES)

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