

Ajith P.S vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/24464/2021

Appellant : Ajith P.S

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 31ST DAY OF JANUARY 2023 / 11TH MAGHA, 1944
WP(C) NO. 17217 OF 2021 PETITIONER: SUKANYA M, AGED 38
YEARS WIFE OF REGHU, LPSA, ST. MARY'S LP SCHOOL,
ACHANAMGODE, PALAKKAD DISTRICT-678 506 BY
ADVS.V.A.MUHAMMED M.SAJJAD RESPONDENTS:

1 THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO
GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT ANNEXE II, THIRUVANANTHAPURAM-695 001 2 THE
DIRECTOR OF GENERAL EDUCATION, JAGATHY,

THIRUVANANTHAPURAM-695 001 3 THE DEPUTY DIRECTOR OF EDUCATION PALAKKAD-680 001 4 THE ASSISTANT EDUCATIONAL OFFICER KOLLENGODE, PALAKKAD DISTRICT-678 506 5 THE ASSISTANT EDUCATIONAL OFFICER CHITTUR, PALAKKAD DISTRICT-678 101 6 THE CORPORATE MANAGER, SANGEETHA SOCIETY MANAGEMENT CORPORATE AIDED SCHOOLS, SANGEETHA AGRI INDUSTRIAL SOCIAL, WELFARE AND EDUCATION SOCIETY, SANGEETHA PLANATATIONS PALAMATTOM THATTEKADU, KOTHAMANGALA, ERNAKULAM DISTRICT-686 681 7 THE HEADMASTER, ST. MARY'S LP SCHOOL, ACHANAMGODE, PALAKKAD DISTRICT-678 506 BY ADVS.SMT.SURYA BINOY, SR GP M.A.ABDUL HAKHIM JOSEPH GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2023, ALONG WITH WP(C).24464/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 31ST DAY OF JANUARY 2023 / 11TH MAGHA, 1944 WP(C) NO. 24464 OF 2021 PETITIONER: AJITH P.S AGED 32 YEARS S/O. SETHUMADHAVAN, PALAMKEEZHIL HOUSE, GOVINDAPURAM, PALAKKAD DISTRICT, PIN-678 507. BY ADVS.JAGAN ABRAHAM M.GEORGE JAISON ANTONY RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, ANNEXE-II, THIRUVANANTHAPURAM, PIN-695 001. 2 THE DIRECTOR OF GENERAL EDUCATION JAGATHY, THIRUVANANTHAPURAM-695 014. 3 THE DEPUTY DIRECTOR OF EDUCATION PALAKKAD, PIN-680 001. 4 THE DISTRICT EDUCATIONAL OFFICER PALAKKAD, PIN-680 001. 5 THE ASSISTANT EDUCATIONAL OFFICER KOLLENGODE, PALAKKAD,

PIN-678 506. 6 THE CORPORATE MANAGER SANGEETHA SOCIETY MANAGEMENT CORPORATE AIDED SCHOOLS, SANGEETHA AGRI INDUSTRIAL SOCIAL WELFARE AND EDUCATIONA SOCIETY, SANGEETHA PLANTATIONS PALAMATTOM THATTEKADU, KOTHAMANGALAM, ERNAKULAM DISTRICT-686 681. 7 THE HEAMASTER ST.MARY'S L.P. SCHOOL, ACHANAMGODE, PALAKKAD, PIN-678 506.

BY ADVS.M.A.ABDUL HAKHIM JOSEPH GEORGE M.A.AZEEZ MUSHTAQUE, SURYA BINOY, SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2023, ALONG WITH WP(C).17217/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).Nos.17217 & 24464 of 2021
----- Dated this the 31st day of January,
2023

JUDGMENT

These writ petitions are connected and therefore, I am disposing these writ petitions by a common judgment.

2. When these writ petitions came up for consideration on 01.08.2022, this Court passed the following

order:

In both these writ petitions, the petitioners challenge the proceedings dated 16.9.2019 issued by the Corporate Manager.

2. I have heard Sri.M.Sajjad, the learned

counsel appearing for the petitioner in W.P.(C) No.17217 of 2021, Sri.Jagan Abraham M. George, the learned counsel appearing for the petitioner in W.P.(C) No.24464 of 2021, the learned Government Pleader and the learned counsel appearing for the Corporate Manager.

3. It appears that the Sangeetha Society Management Corporate Aided Schools acquire ALPS, Ramassery, and the same was approved by the Government by Ext.P3 order produced in W.P.(C)

No.17217 of 2021. In terms of the provisions of Rule 36 Chapter XIV of the KER, the teachers of the existing school and the teachers in the newly transferred school are required to be integrated according to the length of their continuous service. The Manager in terms of the advice obtained by him had issued proceedings dated 16.9.2019 as per which, the petitioners in both these cases, along with another teacher, were ordered to be retrenched to accommodate certain teachers who were retrenched before the transfer of the school to the new management. The petitioner in both these cases contends that the order passed by the Manager cannot be sustained under law.

4. The counsel appearing for the Corporate

Manager refers to Rule 36A, and it is argued that when schools under one educational agency are transferred to another educational agency with the approval of the competent authority, the various categories of teachers who are so transferred are required to be integrated with the respondent categories of teachers who are already working from the date of transfer in the schools under the educational agency to which the transfer is made. The common seniority of all teachers of the school so transferred and the schools existing under the educational agency to which the transfer is made on the date of transfer is required to be decided on the length of continuous service of all such teachers

transferred to the educational agency and existing under it on the date of transfer subject to Rule 36 and Sub-rule 2 of Rule 37. According to the learned counsel appearing for the Corporate Manager, some clarity is required to resolve the issue. However, since the writ petition was filed, the proceedings have not been forwarded to the DGE.

5. The learned Government Pleader on

instructions submits that the proceedings of the Manager dated 28.9.2019 is to be forwarded to the DGE concerned, and a decision has to be taken. Having regard to the submissions advanced, there will be a direction to the Corporate Manager to forward Ext.P5 proceedings in W.P.(C) No.17217 of 2021 and Ext.P9 proceedings in W.P.(C) No.24464 of 2021 to the 2nd respondent within a period of one week from today. The 2nd respondent shall consider the action taken by the Manager and take appropriate decision thereon within a further period of one month.

3. Based on the above order, the Corporate Manager

forwarded Exts.P5 and P9 proceedings in these cases to the Director of General Education and based on the same, the Director of General Education passed an order bearing No.G1/12174/2022/D.G.E dated 13.01.2023. In the light of the same, nothing survives in these cases, except to take consequential steps based on the above order. Therefore, these writ petitions are disposed of in the following manner:

1. The competent authority among the respondents

will take consequential steps based on order

bearing No.G1/12174/2022/D.G.E dated 13.01.2023, as expeditiously as possible, at any rate, within six weeks from the date of receipt of a copy of this judgment.

2. If any of the parties are aggrieved by the above

order, they are free to challenge the same in accordance to law. sd/-
P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF WP(C) 17217/2021
PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE APPOINTMENT
ORDER OF THE PETITIONER DATED 22.09.2016. Exhibit P2 TRUE COPY OF
THE ORDER NO. F/4305/2005/K.DIS DATED 31.03.2009 OF THE AEO,
KOLLENGODE. Exhibit P3 TRUE COPY OF THE G.O(RT) NO. Exhibit P4 TRUE
COPY OF THE ORDER NO. D/209/2018 DATED 21.02.2019 OF THE AEO,
CHITTUR. Exhibit P5 TRUE COPY OF THE PROCEEDINGS OF THE MANAGER
DATED 16.09.2019. Exhibit P6 TRUE COPY OF THE PROCEEDINGS OF THE
MANAGER VIDE NO. OR-33/19 DATED 28.09.2019. Exhibit P7 TRUE COPY OF
THE ORDER NO. OR/74/2019- 20 DATED 27.05.2020 OF THE MANAGER.
Exhibit P8 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE MANAGER DATED 10.03.2021.

Exhibit P9 TRUE COPY OF THE JUDGMENT IN W.P.C NO. Exhibit P
DATED 21/7/2020 OF THE AEO, KOLLANKODE APPENDIX OF WP(C)
24464/2021 PETITIONER EXHIBITS Exhibit P1 A PHOTOSTAT COPY OF THE
APPOINTMENT

ORDER OF THE PETITIONER DATED

18.12.2018. Exhibit P2 A PHOTOSTAT COPY OF THE STAFF FIXATION

ORDER ISSUED BY THE 4TH RESPONDENT FOR

THE ACADEMIC YEAR 2018-2019 DATED 29.6.2018. Exhibit P3 A PHOTOSTAT
COPY OF THE STAFF FIXATION ALP SCHOOL (NOW ST.MARY'S LPS)
ACHANAMCODE PREPARED BY THE 6TH AND 7TH RESPONDENTS DATED
18.12.2018. Exhibit P4 A PHOTOSTAT COPY OF THE ORDER DATED
11.3.2019 OF THE 5TH RESPONDENT. Exhibit P5 A PHOTOSTAT COPY OF
THE ORDER DATED 9.3.2020 OF THE 4TH RESPONDENT. Exhibit P6 A
PHOTOSTAT COPY OF THE ORDER DATED 27.5.2019 OF THE 1ST
RESPONDENT.

Exhibit P7 A PHOTOSTAT COPY OF THE SAID ORDER

DATED 31.3.2009 OF THE 5TH RESPONDENT. Exhibit P8 A PHOTOSTAT COPY OF THE ORDER DATED 21.2.2019 OF THE ASSISTANT EDUCATIONAL OFFICER, CHITTUR. Exhibit P9 A PHOTOSTAT COPY OF THE ORDER NO.31/19 DATED 16.9.2019 ISSUED BY THE 6TH RESPONDENT.

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