

**Devika.K.V vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1440431](http://sooperkanoon.com/1440431)

**Court :** Kerala

**Decided On :** Jan-31-2022

**Judge :** Honourable Mr.Justice Murali Purushothaman

**Appeal No. :** WP(C)/338/2022

**Appellant :** Devika.K.V

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943 WP(C) NO. 338 OF 2022 PETITIONER: DEVIKA.K.V, AGED 12 YEARS D/O. VENU K. V., KALAKKODATH HOUSE, EDATHIRUTHY P. O., THRISSUR DISTRICT, MINOR, REPRESENTED BY FATHER AND GUARDIAN, VENU K. V., KALAKKODATH HOUSE, EDATHIRUTHY P. O., THRISSUR DISTRICT. BY ADVS. M.SHAJU PURUSHOTHAMAN K.S.RAJESH RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 2 THE TAHSILDAR KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680664. 3 THE VILLAGE OFFICER CHENTHRAPINNI VILLAGE, THRISSUR DISTRICT, PIN - 680687. 4 THE PRINCIPAL JAWAHAR NAVODAYA VIDYALA, MAYANNUR P. O., THRISSUR DISTRICT, PIN - 679 105. BY ADV SHRI.M.K.PADMANABHAN NAIR, SC, NVS BY GP SRI.JIMMY GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 338 OF 2022 ..2..

## **JUDGMENT**

The petitioner, a minor student who aspires to get admission in the VI standard class at the Jawahar Navodaya Vidyalaya, Thrissur has approached this Court aggrieved by the refusal on the part of the 2 nd respondent in issuing the Rural certificate to enable her to get admission to the VI standard in the 4 th respondent school.

2. According to the petitioner her place of

residence as well as the location of the school in which she pursued her V standard education is in a rural area. She studied in Siva Rama Vilasam Upper Primary School situated in Chentrapinni revenue village in Edathiruthy Grama Panchayath.

3. As per the admission policy of 'Jawahar Novodaya Vidyalaya', only a student who had earlier studied in a school in a 'rural area' can obtain WP(C) NO. 338 OF 2022 ..3.. admission therein. The petitioner states that a written test was conducted and the petitioner came out successful as is evident from Ext.P3 rank list. Pursuant thereto, the petitioner was granted provisional admission in the 4th respondent school by Ext.P4 communication.

4. For obtaining the Rural area certificate, the petitioner submitted an application before the 2 nd respondent. Instead of issuing a Rural certificate, the Tahsildar issued Ext.P5 Urban certificate. The Tahsildar issued the urban certificate relying on 2011 Census report, where in Edathiruthy Grama Panchayath where the school is situated is recorded as urban area.

5. According to the petitioner, the stand taken by the 2nd respondent cannot be sustained in view of the law laid down by this Court in James N.X. and WP(C) NO. 338 OF 2022 ..4.. Another v. District Collector, Ernakulam and Others [2012(4) KHC 179] and Niranjana Prakash (minor) v. Ministry of Education and Others [2021

(4) KHC 395]. In James (supra), 'Rural Certificate'

was denied on the ground that as per the 2001 Census, the area where the school in which the student had studied was situated was an Urban Area. This Court taking note of the provisions of the Constitution of India, the Kerala Panchayat Raj Act, 1994 and Census Act 1948 and Rules held that the Census Act and the

Rules framed thereunder cannot override the provisions of the Constitution and the Panchayat Raj Act with regard to the composition of Panchayats. It was also held that areas in a Panchayat notified under Section 10(3A) of the Kerala Panchayat Raj Act, 1994 will have to be construed as situated within a rural area. Once the final delimitation order is published and

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an area is included within the limits of a Panchayat, all the areas comprising different wards can only be considered as a rural area. Accordingly the petitioner contends that Edathiruthy Grama Panchayath where the Siva Rama Vilasam Upper Primary School is situated is a rural area and has approached this Court seeking a direction to quash Ext.P5 and to direct the 2 nd respondent to issue Rural certificate to the petitioner certifying that the school in which the petitioner studied is located in a Rural area for admission to standard VI in the 4th respondent school.

6. A Statement has been filed on behalf of the 2 nd

respondent Tahsildar stating that as per the 2011 Census records, all the wards of Edathiruthy Grama Panchayath wherein the school is situated are Urban and accordingly Ext. P5 certificate was issued. WP(C) NO. 338 OF 2022 ..6.. 7.Heard Sri. M.Shaju Purushothaman, the learned counsel for the petitioner, Sri.Sreehari Rao, the learned standing counsel and Sri. Jimmy George the learned senior Government Pleader.

8. Ext.P1 certificate reveals that the petitioner is a

student of S.R.V.U.P School, Perumpadappa. Ext.P2 is the endorsement made by the Secretary of the Edathiruthy Grama Panchayath wherein it is stated that the S.R.V.U.P School, Perumpadappa is situated within the limits of Edathiruthy Panchayat. Therefore, going by the decision in James (supra), as long as the area where the petitioner's earlier school is situated is within a panchayath as notified under Section 10 (3A) of the Kerala Panchayat Raj Act, 1994 the said area can be construed only as a 'Rural Area'. The respondents have no case that the territorial area where the earlier school of the petitioner is situated is urban area as per

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orders passed and published under Section 10 (3A) of the Kerala Panchayat Raj Act, 1994. The provisions of the Census Act, 1948 and the Census Rules, 1990 cannot override the provisions of the Constitution or the provisions of the Panchayat Raj Act and the area cannot be classified as 'Urban' on the basis of Censes Data for the purpose of issuance of rural certificate for admission to Jawahar Navodaya Vidyalaya. As held in James (supra), issuance of certificate in terms of orders passed and published under Section 10 (3A) of the Kerala Panchayat Raj Act, 1994 will not violate the provisions of the prospects.

9. In view of the law laid down in James (supra)

and reiterated in Niranjana Prakash and Ext.P6 judgment, the petitioner is entitled to be issued with a Rural Certificate. Ext.P5 is quashed. There will be a direction to the 2nd respondent to issue Rural WP(C) NO. 338 OF 2022 ..8..

certificate to the petitioner certifying that the petitioner had pursued her class V in a school located in the rural area. The certificate shall be issued within a period of two weeks from the date of production of a copy of this judgment. The provisional admission granted to the petitioner to VI Standard shall be regularised, if she is otherwise eligible, on production of the Rural Certificate.

**The writ petition is allowed. There will be no order**

as to costs. Sd/- MURALI PURUSHOTHAMAN JUDGE SB/31/01/2022 WP(C) NO. 338 OF 2022 ..9.. APPENDIX OF WP(C) 338/2022 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE DECLARATION DATED 29.12.2021 ISSUED BY THE HEADMISTRESS OF S.R.V.U.P. SCHOOL TO THE PETITIONER. Exhibit P2 THE TRUE COPY OF THE CERTIFICATE DATED 29.12.2021 ISSUED BY THE SECRETARY, EDATHIRUTHY GRAMA PANCHAYAT. Exhibit P3 THE TRUE COPY OF THE RELEVANT PAGE OF THE SELECT LIST FOR ADMISSION IN CLASS VI DATED 24.09.2021. Exhibit P4 THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE 4TH RESPONDENT DATED 30.09.2021. Exhibit P5 THE TRUE COPY OF THE URBAN CERTIFICATE DATED 31.12.2021 ISSUED BY THE 2ND RESPONDENT. Exhibit P6 THE TRUE COPY OF THE JUDGMENT IN WP(C) NO.27857/2021 DATED 03.12.2021.

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