

Anupama Mohan vs the Director

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Court : Kerala

Decided On : Feb-28-2022

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/976/2016

Appellant : Anupama Mohan

Respondent : The Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 28TH DAY OF FEBRUARY 2022 / 9TH PHALGUNA,
1943 WP(C) NO. 976 OF 2016 PETITIONER/S: ANUPAMA MOHAN,
AGED 59 YEARS WIFE OF M.MOHAN, SATHYAANJALI, HIG 24,
KASTURBA NAGAR, GCDA COLONY, COCHIN 682020 BY ADVS.
SRI.P.B.SAHASRANAMAN SRI.T.S.HARIKUMAR SRI.K.JAGADEESH
RESPONDENT/S: 1 THE DIRECTOR DEPARTMENT OF HIGHER
SECONDARY EDUCATION, HOUSING BOARD BUILDING, SANTHI
NAGAR, THIRUVANANTHAPURAM 695001 2 INSPECTOR GENERAL
OF POLICE CBCID, ECONOMIC OFFENCES WING,

THIRUVANANTHAPURAM 695001 BY ADV GOVERNMENT PLEADER
OTHER PRESENT: SMT.DEEPA NARAYANAN, SR.GP THIS WRIT
PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28.02.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

===== W.P.(C)
No. 976 of 2016
=====

Dated this the 28th day of February, 2022

JUDGMENT

The above writ petition is filed with following prayers:

- i. To issue a writ, direction or order in the nature of mandamus or such other appropriate writ, direction or order commanding the 1st respondent not to conduct the Kerala State Youth Festival hereafter unless proper steps have been taken to so as to protect first owner copy rights available to the petitioner and others as per Sec.17 of the Copyright Act, 1957.
 - ii. To issue a writ, direction or order in the nature of mandamus commanding the 2nd respondent to closely monitor performances made in the Kerala State School Youth Festival from this year onwards and initiate action under Sec.63 of the Copyright Act, 1957 against the violators in accordance with law.
 - iii. Such other reliefs which this Honble Court deems fit and necessary in the circumstances of the case and the costs of this case. (Sic)
2. When this writ petition came up for consideration on 19.01.2016 this Court passed the following order: -3-

The petitioner is an artist of the dance form "Kutchupudi". She has trained several students, who are taking part in State Level School Festivals. The petitioner submits that the Audio and Video taken in relation to the following students shall not be published:

1. Sonia Shaji-Ernakulam District 2.Akshya-Malappuram District
3. Meenu-Kollam District
4. Dhanush-Kollam District
5. Bhagyalakshmi-Kollam District
6. Amritha Varsha-Ernakulam District.

The petitioner alleges the copyright violation. In view of the facts and circumstances, the Audio and Video of the above mentioned students shall not be published without consent of the petitioner. Post after two weeks.

3. Today when the case came up for consideration, the learned counsel for the petitioner submitted that as per Ext.P1

judgment the petitioner approached the authority concerned

with a representation as evident by Ext.P2 and without considering the same, in the subsequent Kalotsavam the -4- violation is continuing. The counsel for the petitioner submitted that, if this Court directs to consider Ext.P2 untrammelled by the observations in the counter affidavit, he will be satisfied.

4. The learned Government Pleader submitted that if

the petitioner is aggrieved by the provisions of Copyright Act, she can approach the competent court with her grievance and the 2nd respondent is not the authority to consider the same. It is also submitted that there cannot be any general direction based on the representation submitted by the petitioner.

5. Whatever that may be, the petitioner submitted

Ext.P2 representation. There is already a judgment from this Court as evident by Ext.P1. There can be direction to the 1st respondent to consider the representation independently and after giving an opportunity of hearing to the petitioner. Therefore, this writ petition is disposed of in the following -5- manner:

1. The 1st respondent is directed to consider Ext.P2 representation, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.

2. Before passing final orders, the 1st respondent will give an opportunity of hearing to the petitioner. sd/- P.V.KUNHIKRISHNAN JUDGE
das -6- APPENDIX
OF WP(C) 976/2016 PETITIONER EXHIBITS

P1:TRUE PHOTOCOPY OF THE JUDGMENT IN WPC.NO.22790/2015 DATED 12.11.2015
P2:TRUE COPY OF THE REPRESENTATION MADE BY THIS PETITIONER TO THE 1ST RESPONDENT DATED 13.11.2015

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