

(2022) 05 KL CK 0162
In the High Court Of Kerala
Case No : Writ Petition (C) No. 5831 Of 2013

Anitha Puthussery

APPELLANT

Vs

Central Board Of Secondary Education Shiksha Kendra

RESPONDENT

Date of Decision : 27-05-2022

Acts Referred:

Citation : (2022) 05 KL CK 0162

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : Thomas Abraham, K.S.Haridas, Merciamma Mathew, V.Renjith Kumar, Latha Anand, Nirmal S., K.Anand, Joseph Sebastian Parackal, Latha Krishnan, B.Raghunandanan, Sreelal N.Warrier

Judgement

P.V.Kunhikrishnan, J

1. The above writ petition is filed with following prayers :

"a) Issue a Writ of Mandamus or any other appropriate writ order or direction directing the 1st respondent to take stringent action against the respondents 2 to 6 who have illegally protected the 7th respondent who indulged in criminal acts affecting the modesty of girl students studying in the Bhavans Vidya Mandir School, Girinagar, Ernakulam affiliated to CBSE.

b) Issue a Writ of Mandamus or any other appropriate Writ order or direction directing the 1st respondent to immediately conduct an enquiry on the basis of Exhibit P9 representation and also afford an opportunity of hearing to the petitioners either directly or through their counsel if so opted.

c) Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the 1st respondent to remove the 5th and 6th respondent Principals as well as the 3rd and 4th respondent Managements who took open steps to protect a teacher who misbehaved to girl students from all offices held by them connected with administration/Management of CBSE affiliated schools.

d) Issue a Writ of Mandamus or any other appropriate Writ order or direction directing the 1st respondent to consider and dispose off Exhibit P9 complaint at the earliest in the interest of Justice.

e) Issue such other orders, directions as if deemed fit and proper by this Honourable authority.”[SIC]

2. When this writ petition came up for consideration, the learned counsel appearing for respondent Nos. 2 and 3 takes me through para Nos. 3 and 4 of the counter affidavit filed by respondent Nos.2 and 3. It will be better to extract the same.

“2. The petitioners by the above Writ Petition seeks for a direction to the 1st respondent to take stringent action against respondents 2 to 6, who have illegally protected the 7th respondent who indulged in criminal acts affecting the modesty of the girls students studying in Bhavan's Vidya Mandir School, Giri Nagar, Ernakulam. It is further prayed for a direction to the 1st respondent to immediately conducted an enquiry on the basis of Ext.P9 representation after affording an opportunity of hearing to the petitioners and further to direct the 1st respondent to remove 5th and 6th respondents principals as well as 7th and 8th respondent managements who took open steps to protect a teacher who misbehaved to girl students.

3. At the outset it is respectfully submitted that the petitioners have not disclosed very crucial facts which are relevant to the issue involved in this case. The allegations contained in the writ petition particularly the allegations regarding the alleged protection of the 7th respondent from respondents 2 to 6 are absolutely incorrect and are hereby denied. The following facts will clearly prove otherwise. The 7th respondent was working as Physical Education Teacher in Bhavan's Giri Nagar School. A complaint was received from four parents of girl students alleging misbehavior on the part of the 7th respondent. The said complaint was dated 10.10.2012 addressed to the Chairman and a note thereof was received by this respondent on 11.10.2012. On receipt of the complaint and on going through the allegations, having due regards to its nature and seriousness the 7th respondent was suspended from service forthwith. He was served with a memo of charges. He submitted his explanation and since the explanation was not found satisfactory,, an enquiry was ordered. The enquiry officer conducted the enquiry and submitted the report which is dated 15.02.2013. In the said enquiry report, it was found that the 7th respondent is guilty of the charges alleged against him and that he had committed the misconduct. On receipt of the enquiry report, copy of the same was served on the 7th respondent. The report was placed before the School Management Committee which was chaired by the former Chairman himself on 26.02.2013. The committee authorized to proceed against 7th respondent. Accordingly, the show cause notice dated 12.3.2013 was issued to the 7th respondent to show cause why the enquiry report and the findings on the charges should not be accepted. The explanation dated 19.3.2013 was received from the 7th

respondent. After considering the explanation dated 19.3.2013, the 2nd respondent issued a second show cause notice dated 27.03.2013 to proposing the punishment of dismissal from service. For the said notice the 7th respondent vide letter dated 05.04.2013 submitted an explanation also highlighting his service records and requesting not to impose the capital punishment. All the above were placed before the School Management Committee of Bhavan's Vidya Mandir, GiriNagar and Eroor. The committee resolved to dismiss the 7th respondent. Accordingly an order dated 26.04.2013 was issued dismissing the 7th respondent from the service with immediate effect. The 7th respondent as such is no more in the service of the 2nd respondent."

In the light of the same, nothing survives in the writ petition. Therefore, this writ petition is closed.