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**(2021) 07 KL CK 0342**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) No. 8946 Of 2021**

Corporate Manager Bethany Corporate Educational Agency

APPELLANT

Vs

State Of Kerala

RESPONDENT

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**Date of Decision : 28-07-2021**

**Acts Referred:**

**Citation : (2021) 07 KL CK 0342**

**Hon'ble Judges : Devan Ramachandran, J**

**Bench : Single Bench**

**Advocate : George Poonthottam, Nisha George, P.M.Manoj**

**Final Decision : Disposed Of**

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## **Judgement**

Devan Ramachandran, J

1. The first petitioner, who is the Corporate Manager of the â??Bethany Corporate Educational Agencyâ?, along with the Principal of

â??St.Michael's Girls Higher Secondary Schoolâ?, Kozhikode, have approached this Court with a plea that the respondents be directed to include the

said school in the list of schools for the creation and sanction of posts, based on students strength, namely Ext.P1.

2. The petitioners allege that the only reason why the School in question appears to have been excluded from Ext.P1 is because by the time the

students admitted in the academic year 2015-16 had been registered for examination, one among the 50 had obtained a Transfer Certificate and left

the Institution. They say that the rigor of Ext.P3 order is to the effect that unless there are 50 students in an Institution for the academic year 2015 â?

16, they will not be entitled to be included for creation and sanction of posts for the subsequent years.

3. The petitioners assert that the fact that they had registered only 49 students for the examination cannot be used against them because, as said above, 50 students had taken admission at the relevant time, but one among them thereafter left the school, after such process was completed, after obtaining a Transfer Certificate. They say that they had, therefore, preferred Ext.P2 representation before the Hon'ble Minister for General Education but that no action has been taken on the same until now by any Authority. They, therefore, prayed that either Ext.P2 be directed to be taken up and disposed of by the competent Authority of the Government within a time frame to be fixed by this Court or that this Court direct the Authorities to include them in Ext.P1 forthwith.

4. I have heard Sri.George Poonthottam, learned Senior Counsel, instructed by Sri.Arun Chandran, appearing for the petitioners and Sri.P.M.Manoj, learned Senior Government Pleader.

5. Sri.P.M.Manoj initially sought time to file counter pleadings, but then pointed out that, as is evident from Ext.P2 representation made by the petitioners, the sole reason why they have been excluded from Ext.P1 is because they did not achieve the student strength of 50 in the academic year 2015- 16. He contended that the petitioners themselves have conceded in Ext.P2 that they did not obtain the minimum threshold limit of 50 students and that it is, therefore, that they have requested that they be still included in Ext.P1 de hors the stipulations in Ext.P3. He thus argued that the petitioners' request cannot be granted by this Court and prayed that this writ petition be dismissed.

6. I have evaluated the afore submissions and have also gone through the averments and materials on record.

7. There can be no doubt, as is also admitted by Sri.George Poonthottam, learned senior counsel, that Ext.P3 specifically stipulates that the benefit of future sanction and creation of posts will be available to schools only if they are able to obtain 50 students from the academic year 2015-16. However, the specific contention of Sri.George Poonthottam is that 50 students had been admitted to the school after the process of admission and till the time frame to fill up all casual vacancies had expired; but that one student, thereafter, who was allotted under the single window system, left the school after collecting TC, thus reducing the students strength to 49 at the time of registering

details for the purpose of examination.

8. If the afore contention of the petitioners are true, then obviously, it is a matter that requires to engage the attention of the competent Authority

immediately, because one cannot then find the non-accomplishment of the student strength of 50 at the time of registration of examination to be for

any fault that can be attributed to the school or to the petitioners.

9. I am, therefore, of the firm view that the petitioners' request, namely Ext.P2, though made before the Hon'ble Minister, should be taken up by the

competent Secretary of the Government and the petitioners heard on it, leading to an appropriate decision as regards their request for inclusion in

Ext.P1, as expeditiously as is possible and without any avoidable delay.

10. I, therefore, asked the learned Senior Government Pleader whether the Secretary of the General Education Department, Government of Kerala,

can hear the petitioners within the next two weeks, taking Ext.P2 from the files of this case and deeming that it has been made before the said

Authority; to which he replied that if the petitioners appear at 11 a.m. on 06.08.2021 before the said Authority, they can be heard and consequent

orders issued, provided they produce all the relevant documents in substantiation of their contentions.

11. In the afore circumstances, I order this writ petition and direct the petitioners to mark appearance before the Secretary, General Education

Department, State of Kerala, at 11 a.m. on 06.05.2021, along with all documents and materials that they intend to rely upon to establish that they had

50 students at the time when the admission process was completed; in which event, the said Authority will hear them and take an appropriate decision

on the request as made in Ext.P2, leading to an apposite order thereon, which shall be communicated to the petitioners within a period of two weeks

thereafter.

Needless to say, if the Secretary is to find in favour of the petitioners, resultant to the exercise as afore directed, then necessary orders for the

inclusion of the school in Ext.P1 will also be made forthwith.