

(2014) 10 KL CK 0358

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 28224 of 2014 (C)

Easwar Vivek Anand

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 29-10-2014

Acts Referred:

Constitution of India, 1950 — Article 21A

Citation : (2014) 10 KL CK 0358

Hon'ble Judges : Dama Seshadri Naidu, J

Bench : Single Bench

Advocate : C. Rajendran, K.R. Ranjith and R.S. Sreevidya, Advocate for the Appellant; V. Vijulal, Govt. Pleader, Advocate for the Respondent

Judgement

Dama Seshadri Naidu, J.—This writ petition, strange as it seems, is filed by a batch of pupils, all minors represented by their natural guardians, agitating the issue of transfer of two teachers in the subjects of English and Mathematics, in the middle of the academic year without providing any substitutes. This Court cannot help doubting whether it is a proxy litigation on behalf of the teachers themselves. Had it been a case of transfer in the ordinary course based on administrative convenience, this Court, definitely, would not have interfered with what is otherwise well established discretion of the authorities in the matter of schools, especially Government schools. 2. The fact, however, remains that all the pupils are studying in the tenth standard and are due to face public examination in a couple of months. Though there is no illegality in transferring the teachers in question, it is necessary in the interest of education that there ought to be some substitute to take care of the very crucial subjects of English and Mathematics. It is the contention of the learned counsel for the petitioner that so far no substitutes have been posted in the fifth respondent school.

3. The learned Government Pleader has initially raised an objection with regard to the maintainability of the writ petition. He has contended that since the issue involves the service of teachers in a Government School, the petitioners ought to

have ventilated their grievance before the Kerala Administrative Tribunal. The learned Government Pleader, nevertheless, has submitted that respondents 6 and 7 have not so far been relieved and that the authorities would ensure that substitute teachers are posted, if no other teacher is available in the school to teach the subjects in question. In that regard, he has also pointed out that the Parent Teacher Association of the fifth respondent school has already submitted Exhibit P2 representation and a direction may be given to consider the said representation in accordance with law.

4. Indeed, Section 15 of the Kerala Administrative Tribunal's Act is quite expansive to take care of in service disputes of whatever hue. At the same time, it cannot be denied that the issue raised in the present writ petition concerns the fundamental right of the pupils to education, which now stands constitutionally recognised under Article 21A of the Constitution of India. Given the need of the quality education to be imparted to the pupils, especially those who face public examinations, this Court, without precedentially determining the issue of jurisdiction, decides to dispose of the writ petition with a direction to the third respondent to consider Exhibit P2 representation of the Parent Teacher Association and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment. Thus, pending consideration of Exhibit P2, the authorities shall ensure that either respondents 6 and 7 or their substitutes, if they are to be posted in the meanwhile, shall continue to teach the subjects of English and Mathematics without any interruption.

5. It is amply made clear that this direction does not in any manner come in the way of the authorities in transferring respondents 6 and 7, provided some teacher is made available to teach the subjects in question.

With the above direction, the writ petition is disposed of. No order as to costs.