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**(2012) 03 KL CK 0164**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) . No. 7267 of 2012 (G)**

Evans

APPELLANT

Vs

Department of General Education

RESPONDENT

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**Date of Decision : 28-03-2012**

**Acts Referred:**

**Citation : (2012) 03 KL CK 0164**

**Hon'ble Judges : T.R. Ramachandran Nair, J**

**Bench : Single Bench**

**Advocate : R.T. Pradeep and Sri. P. Bijimon, for the Appellant; M.A. Fayaz, Government Pleader, for the Respondent**

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## **Judgement**

Justice T.R. Ramachandran Nair

1. The petitioner herein is the father of Miss. Linda who is a participant along with her team-mate Greeshma S. Gilbert in the Kerala School Science, Mathematics, Social Science Fair and Vocational Expo 2010-2011. They had participated in the Science Fair 2010-2011 while they were studying for the first year of plus two course. They have participated in the Sub District level and Revenue District level. Exts.P1 and P2 are the certificates showing their participation. Ext.P3 is the copy of the merit certificate dated 8.1.2011 in respect of the petitioner's daughter and Ext.P4 is the copy of the merit certificate in respect of Greeshma S. Gilbert. According to the petitioner, the daughter of the petitioner along with her team-mate participated in the Science Fair 2011-2012 and got first price with A Grade at Sub District level. They were not selected at Revenue District level which resulted in filing an appeal and the appeal was allowed as per Ext.P5 order. Ext.P6 is the score sheet pertaining to their team after their participation in the State Meet of Science Fair held at Palakkad from 8.1.2012 to 12.1.2012. What remains is the issuance of certificate in terms of Ext.P6. It is submitted that clause (j) of Chapter II of Kerala School Science, mathematics, Social Science Fair and Vocational Manuel produced as Ext.P7, stands in the way of issuing the same.

2. The petitioner therefore contends for the position that it will be discriminatory if the said clause is implemented. Apart from that, herein the children have participated in the Fair after the appeal was allowed as evident from Ext.P5.

3. Heard learned Government Pleader appearing for the respondents.

4. Already this Court has considered similar matters and I had also occasion to consider a similar plea in the judgment in W.P.(C) No.4918/2012. This Court therein relied upon an earlier judgment of this Court in W.P.(C) No. 37274/2009. Therein, while examining a similar contention, in para 7 the learned Single Judge took the view as hereunder:

...the petitioners cannot be discriminated on the ground that they appeared on the basis of a court order. The performance of candidates need not necessarily be consistent all along. On a particular day, they may fair better or below par than others. But, cannot be denied the benefit of the results they obtained on the ground that since they participated on the basis of the court order, they have to fair better than the other regularly selected participants. If that be so, the petitioners are entitled to keep the results they had obtained in the competition....

Therefore, the view taken is that the benefit of the results cannot be denied on the plea that the concerned students have participated as per a court order and should obtain better results than other regularly selected participants. The same yardstick will apply as far as the participation of the students herein is concerned, since they have participated based on the appellate order. No discrimination can be shown on such grounds. In that view of the matter, the claim raised by the petitioner is reasonable and hence the writ petition is allowed. There will be a direction to the second respondent to consider the claim of the team of the students concerned for issuance of merit certificate in terms of the marks reflected in Ext.P6 ignoring clause (j) of Ext.P7 and if found otherwise eligible, the certificate will be issued within a period of two weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. The petitioner will furnish a copy of this judgment along with a copy of the writ petition before the second respondent for compliance. No costs