

(1999) 11 KL CK 0019
In the High Court Of Kerala
Case No : W.A. No. 1939 of 1999

Gopalakrishna Kurup

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 09-11-1999

Acts Referred:

Citation : (1999) 2 KLJ 1077

Hon'ble Judges : K.S. Radhakrishnan, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : T.M. Abdul Latheef, for the Appellant; Preethy Ramakrishnan (Govt. Pleader), V.P. Seemandini and M.R. Anison, for the Respondent

Final Decision : Dismissed

Judgement

Arijit Pasayat, C.J.—Heard. Against the judgment of learned single Judge holding that the removal from managership as done was in order, this Writ Appeal has been filed. The dispute relates to the Karavaram High School. The point that was raised for consideration was whether in view of term approval, the manager could be removed prior to the expiry of the term. The stand of the Manager appellant in the Writ Appeal is to the effect that once approval was given for a term, there is no scope for varying the term and removing him from managership. This plea did not find favour with learned single Judge. The stand taken before the learned single Judge was reiterated at the time of hearing of the Writ Appeal.

2. Learned counsel for the new Manager submitted that by now charge has been assumed and, therefore, there is no merit in this Writ Appeal.

3. Rules 4(1) and 5(1) in Chapter III of the Kerala Education Rules, 1959(in short "the Rules") are necessary to be noted, which read as follows:

4. Approval of appointment of Managers.--(1) The Educational officers shall be competent to approve the appointment of Managers by Educational Agencies and to approve changes in the personnel of the Managers.

5. Change of management.--(1) All changes in the personnel of the Managers of aided institutions shall be immediately reported to the Educational Officer and approval obtained.

4. Rule 4 of the Rules deals with approval of appointment of Managers and Rule 5 deals with change of management. According to the learned counsel for the appellant, the approval relating to change, as appearing in sub-rule (1) of the Rule (4) is clearly linked with Rule 7. We do not find any substance in the plea that Rule 7 is the only provision which is relatable to approval of change, as contemplated under Rule 4(1) of the Rules. The very fact that there is a specific provision for approval of change shows that power lies with the Educational Agencies for effecting a change. But the same becomes operative after the Educational Officer competent to approve it does so. Rule 5 mandates that all changes in the personnel of the Managers of aided institutions shall be immediately reported to the Educational Officer concerned for approval thereof. This clearly reinforces the conclusion that change can be made and it becomes operative only when an approval is given by the concerned Educational Officer. Rule 7 contemplates a change in the event of mismanagement, malpractice, corruption or maladministration, gross negligence of duty or disobedience of departmental instruction. It cannot be said that those are the only conditions when a change can be effected. There can also be circumstances when in the interest of the institution and students, change can be effected.

We do not find any merit in this Writ Appeal and it is dismissed.