

(2010) 09 KL CK 0094

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25733 of 2010 (N)

Ibrahim Mussaliar, Rahiyanath M. and Fousiya M.

APPELLANT

Vs

The Head Master, Khadeeja, District Educational Officer and
The Head Master

RESPONDENT

Date of Decision : 02-09-2010

Acts Referred:

Kerala Education Rules, 1959 — Rule 20

Citation : (2010) 09 KL CK 0094

Hon'ble Judges : K.T. Sankaran, J

Bench : Single Bench

Advocate : Jijo Paul, for the Appellant; No Appearance, for the Respondent

Judgement

K.T. Sankaran, J.—The first petitioner is the husband of the second respondent. Petitioners 2 and 3 are the children of the first petitioner, born in second respondent. They have another daughter, namely, Fasalul Farisa who was studying in 8th standard in Government High School, Ganeshgiri, Shornur. The house of the second respondent is also at Shornur. It is stated that the first petitioner and the second respondent are residing separately. It is also stated that petitioners 2 and 3 are married and they are residing in their matrimonial homes.

2. The allegation of the petitioners is that the second respondent was not sending Fasalul Farisa to school and therefore, it had affected her studies. At the intervention of well wishers and the authorities of mosque committee, Fasalul Farisa was shifted to Darul Anwar Orphanage, Pallippuram, Pattambi. The minor Fasalul Farisa is at present staying in the orphanage.

3. It is stated that the inmates of Darul Anwar Orphanage attend the nearby school, namely, Paruthur Government High School, Pallippuram. The Government High School, Ganeshgiri is far away and it is stated that the girl cannot be sent to that school.

4. The second petitioner submitted Ext.P1 application before the Headmaster of Government High School, Ganeshgiri to issue transfer certificate to enable the minor to get admission in the Government High School, Pallippuram. It is stated that since the second respondent objected to the issue of transfer certificate, the headmaster did not issue the same. The first petitioner submitted Ext.P2 representation to the headmaster making a similar prayer, however, without any result. It is stated that the second petitioner submitted Ext.P3 representation dated 23.6.2010 before the District Educational Officer, Ottappalam complaining about the failure to issue transfer certificate by the first respondent to Fasalul Farisa.

5. The prayer in the Writ Petition is to issue a writ of mandamus to the first respondent to issue transfer certificate of Fasalul Farisa and to handover the same to the petitioners.

6. Notice was issued in the Writ Petition. It was served on respondents 1 to 3. Notice to the fourth respondent is returned unserved. For the purpose of disposal of this Writ Petition, it is not necessary to serve notice on the fourth respondent. There is no appearance for the second respondent.

7. The learned Government Pleader submitted that under Rule 20 of Chapter VI of KER, an appeal lies to the Educational Officer against non issue of transfer certificate. It is also submitted that the District Educational Officer has not received Ext.P3 representation submitted by the first petitioner.

8. In the facts and circumstances of the case, I think it is only proper to direct the District Educational Officer, Ottapalam to consider the matter and take appropriate action. The petitioners shall produce a copy of the Writ Petition along with the Exhibits before the District Educational Officer, Ottapalam. The paramount consideration should be the welfare of the minor and her proper education and upbringing. The District Educational Officer shall make necessary enquiry with the headmaster of Ganeshgiri High School as well as the authorities of Darul Anwar Orphanage. The District Educational Officer shall also ascertain the wishes of Fasalul Farisa. It is submitted by the learned Government Pleader that Fasalul Farisa was admitted in the school showing the second respondent as the guardian. That does not mean that transfer certificate cannot be issued, if she objects to the issue of the same. As stated earlier, the most relevant consideration is the welfare of the minor and even if the mother or father objects to the issue of the transfer certificate, appropriate steps can be taken to protect the interests of the minor.

9. After making necessary enquiries, the District Educational Officer shall pass appropriate orders. The parties shall appear before the District Educational Officer on 14.9.2010. It is sufficient, if anyone of the petitioners appears on behalf of the other petitioners, unless the District Educational Officer feels that it is necessary to consider the views of others also. The District Educational Officer shall pass final orders on or before 17th September, 2010.

The Writ Petition is disposed of accordingly.