
(1977) 01 KL CK 0003
In the High Court Of Kerala
Case No : O.P. No. 3361 of 1976

K. Sreedharan

APPELLANT

Vs

The State of Kerala and Others

RESPONDENT

Date of Decision : 14-01-1977

Acts Referred:

Kerala Education Rules, 1959 — Rule 67(8), 75

Citation : (1977) 01 KL CK 0003

Hon'ble Judges : V. Balakrishna Eradi, J;K.K. Narendran, J

Bench : Division Bench

Advocate : S. Easwara Iyer, C. Sankara Menon and E. Subramoni, for the Appellant; B. Moosakutty, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Balakrishna Eradi, J.—The Petitioner is the Manager of an Aided High School in Kottarakkara Educational District. By an order dated 5th June, 1976 evidenced by Ext. P-1 the Petitioner placed the Headmaster of that school under suspension pending disciplinary proceedings which were contemplated to be taken against the Headmaster on certain allegations that were set out in Ext. P-1. The Petitioner submitted a report to the Regional Deputy Director of Public Instruction, Trivandrum (2nd Respondent) regarding the action taken by him to place the Headmaster under suspension and a request was made in that report to the Regional Deputy Director to grant sanction for continuance of the period of suspension of the teacher beyond 15 days. It would appear that the Headmaster who was placed under suspension also put in a representation before the 2nd Respondent on 9th June 1976 questioning the justifiability of the action of the Manager in placing him under suspension. Sub-rule (8) of Rule 67 of Chapter XIV(A) of the Kerala Education Rules, 1959 (hereinafter referred to as the Rules) lays down the procedure to be followed by the Educational Officer on receipt of a report from the Manager concerning an order of suspension passed by the Manager against a teacher. That sub-rule states that the Educational Officer -- in

the case of suspension of Headmaster of High School it is the Regional Deputy Director who is to function under this rule -- shall make a preliminary investigation into the grounds of suspension and if on such investigation the authority is satisfied that there was no valid ground for suspension he may direct the Manager to reinstate the teacher with effect from the date of suspension. If, on the contrary, on such investigation it is found by the Officer that there are valid grounds for such suspension permission is to be given to the Manager to continue the teacher under suspension beyond fifteen days pending completion of the enquiry into the charges levelled against the teacher.

2. In the present case what the 2nd Respondent did on receipt of the report submitted by the Manager was to conduct a detailed enquiry into the charges including the calling of witnesses and recording their testimony and to pass an elaborate order entering definite findings on the merits of the charges of misconduct levelled against the teacher. Such a procedure is not warranted by Sub-rule (8) of Rule 67 of the Rules and the 2nd Respondent has travelled very much outside the scope of her legitimate functions under the said sub-rule in conducting such a detailed enquiry and in recording final findings on the charges at this stage. What the sub-rule contemplates is only that the Educational Officer exercising the powers conferred by the said rule should conduct a preliminary investigation with a view to find out whether there are prima facie grounds justifying the suspension of the teacher. Under the scheme of Chapter XIV(A) the enquiry into the charges is to be conducted only at a later stage in accordance with the provisions contained in Rule 75 of the Rules.

3. It is therefore manifest that the procedure adopted by the Regional Deputy Director in this case in calling upon the Manager to produce before her all his evidence in support of the charges framed against the teacher at the stage of consideration of the limited question as to whether or not grounds existed warranting the suspension of the teacher was obviously illegal and without jurisdiction. The Petitioner is well-founded in his contention that he has been put to very serious prejudice in the matter of having a proper enquiry conducted against the teacher under Rule 75 by reason of the 2nd Respondent having already expressed herself finally on the merits of the charges in the impugned order evidenced by Ext. P-2.

4. We, therefore, set aside the order Ext. P-2 on the ground that it does not evidence a proper exercise of the power conferred on the Regional Deputy Director under Sub-rule (8) of Rule 67 of Chapter XIV(A) of the Rules. Ordinarily this should have led us to direct the 2nd Respondent to pass fresh orders under the said sub-rule on the question of granting approval for the Manager's action in placing the Headmaster under suspension and on the request made by the Manager for continuing the period of suspension beyond fifteen days. However, having regard to the fact that in consequence of this Court having refused to grant a stay of implementation of Ext. P-2 pending disposal of the writ petition the Headmaster has been already reinstated into service and that he has been so

continuing in service for the past few months we consider that the more appropriate course to be adopted in this case is to direct the Regional Deputy Director of Public Instruction, Trivandrum which post we are informed is now held not by the officer who passed the order Ext. P-2 but by Anr. person, to conduct a proper enquiry into the charges framed against the Headmaster in accordance with law uninfluenced by any of the observations or findings recorded by his predecessor in the impugned order evidenced by Ext. P-2. Such enquiry should be completed by the Regional Deputy Director and the enquiry report should be forwarded by him to the Manager of the school within a period not exceeding three months from today. In view of the directions given above we do not consider it necessary that any fresh investigation or order under Rule 67(8) need hereafter be made by the Regional Deputy Director in respect of the action taken by the Manager as per Ext. P-1 to place the Headmaster under suspension.

5. The original petition is allowed to the extent indicated above. The parties will bear their respective costs.