

**(2014) 03 KL CK 0139**  
**In the High Court Of Kerala**  
**Case No : Writ Appeal No. 1011 of 2013**

Peter N. Chacko

APPELLANT

Vs

State of Kerala

RESPONDENT

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**Date of Decision :** 17-03-2014

**Acts Referred:**

**Citation :** (2014) 2 KHC 353

**Hon'ble Judges :** T.B. Radhakrishnan, J;A. Muhamed Mustaque, J

**Bench :** Division Bench

**Advocate :** K. Jaju Babu, (Senior Advocate), M.U. Vijayalakshmi, T.R. Sadeesan and T.S. Shyam Prasanth, Advocate for the Appellant; George Aedaiodi, (Government Pleader), N. Raghuraj and P. Martin Jose, Advocate for the Respondent

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## Judgement

T.B. Radhakrishnan, J.—We have heard the learned Senior Counsel for the appellant, who is the writ petitioner, the respective learned counsel appearing for respondent Nos. 4 & 5 and the learned Government Pleader. Intertwined in the procedures and prescriptions under the Kerala Education Act and Kerala Education Rules regarding management of aided schools under approved scheme, is the fate of the 5th respondent school, which is run at Government expense, meaning thereby being an aided one, while two factions of the management appear to be unable to reconcile their differences. We notice this in the back drop of the fact that the subject-matter of the writ petition before the learned Single Judge was the approval granted by the statutory authority to the election of the 4th respondent as the manager of the school. While the learned Senior Counsel for the appellant says that the election was conducted when there were prohibitory orders in terms of interlocutory orders issued by this Court, we see that there was a dispute and a resultant writ petition arising from a civil suit, which ultimately terminated on default on 17/08/2010. That writ petition carried an interlocutory order dated 09/04/2010 staying the effect of the order that was impugned in that writ petition. It is submitted by the learned Senior Counsel for the appellant that the said interdiction was against the conduct of election, which

was authorised by the Court below. The learned counsel for the private respondents say that the said order was about the appointment of an Advocate Commissioner for the purpose of conducting the election. Whatever that be, the fact of the matter remains that there was an interlocutory order by the jurisdictional Court, namely, this Court. That held the field on 11/04/2010 on which day the 4th respondent is stated to have been elected. Therefore, the District Educational Officer could not have been found fault with by the superior authorities for saying that the election of the 4th respondent was in violation of the order of stay granted by this Court. Be that as it may, the superior authorities, including the Government, tried to sustain the appointment of the 4th respondent as the Manager stating different reasons, however not contradicting the fact that the order of stay granted by this Court was in force.

2. With the passage of time, we see that the term of the 4th respondent will end on 20/08/2015. The learned Single Judge has refused to interfere with the matter. One thing is certain. The interest of students and the interest of public funds going from the State Exchequer in the form of aid to the aided schools are of prime importance in national governance. This is the situation when the school belongs to an educational agency. At this distance of time, while we do not think that it is in the ends of justice to disturb the ongoing exercise of authority by the 4th respondent as the Manager, it has to be taken that the impugned orders of the Government and other statutory authorities do not get the approval of this Court, since the election was while the stay order was in force. The best interest of an educational institution is to be secured by the Government. Therefore, if a duly constituted meeting cannot appropriately select a Manager in terms of the approved scheme, as regards the institution, it is high time that the statutory authorities rethink on modalities of managing the 5th respondent educational institution. Therefore, it is hereby directed that, while we do-not interfere with the decision of the learned Single Judge, if the 5th respondent cannot find a Manager of its choice in accordance with the approved scheme, it would be open to the statutory authorities to consider other appropriate means within the framework of the Kerala Education Act and Rules to ensure that the 5th respondent institution is properly managed through the statutory machinery.

In the result, subject to what is said in the preceding paragraph, this writ appeal is dismissed.