
(1988) 10 KL CK 0026
In the High Court Of Kerala
Case No : O.P. No. 7510 of 1988

S.B. Sheela

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 10-10-1988

Acts Referred:

Kerala Education Rules, 1959 — Rule 15A

Citation : (1988) 2 KLJ 615

Hon'ble Judges : U.L. Bhat, J

Bench : Single Bench

Advocate : P. Gopalakrishnan Nair and D. Somasundaram, for the Appellant;
K.R.B. Kaimal Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

U.L. Bhat J.

1. A copy of the Original Petition is served on learned Government Pleader appearing for respondents 1 and 2. I find it unnecessary to issue notice to the third respondent. I have heard both sides. The dispute in this case arises out of Ext. P1 staff fixation order dated 30-10-1985 passed by the second respondent in regard to Victory High School, Olathanni of which the third respondent is the Manager. The High School had standards 5 to 10. During the previous year 19 divisions had been sanctioned, Under Ext. P1, 18 divisions were sanctioned. There was a reduction of one division for standards 5 and 9 and increase of one division for standard 10. Petitioner and the third respondent are aggrieved by the fall in division strength of standard 9. Third respondent filed a revision before the State Government. Petitioner had also approached the State Government with a revision. As per judgment of this Court in earlier OPs. the State Government considered the objections of the petitioner and the third respondent and rejected the same under Ext. P3 order dated 9-7-1987. This order is now challenged.

2. Ext. P3 order was passed on 9-7-1987. This Original Petition is filed on

5-9-1988, after considerable delay. There is no explanation forthcoming for this delay. For this reason alone, the Original Petition can be dismissed.

3. Even on meats the petitioners has no case. It appears there was a verification of student strength of the school on 24-9-1985. Learned Government Pleader explained that that was not by the second respondent. District Educational Officer. During that period government ordered a one day verification of all schools and naturally District Educational Officer could not verify student strength in all the schools. High School Assistants of Government schools were deputed to aided schools for that purpose and, as a matter of fact, in the school concerned in this case verification was conducted by a High School Assistant of a government school and not by the District Educational Officer. On 1-10-1985, the District Educational Officer himself conducted verification. The student strength found on the rolls and on both these occasions are seen mentioned in Ext. P1.

4. We are concerned only with the student strength of standard 9. The roll strength on the 12th working day was 158. The verified attendance on 1-10-1985 was 132. As per the guidelines 5% of the roll strength would be added to the verified attendance and thus the effective strength of standard 9 was arrived at as 140. If the student strength is between 96 and 140, only three divisions could be allowed. There is no dispute about this proposition. That is why the second respondent allowed only three divisions for standard 9.

5. Petitioner invokes Rule 15A of Chapter XXIII of Kerala Education Rules. Before referring to this Rule, it is necessary to refer to certain other Rules in the same Chapter. Rule 12 deals with the fixation of strength of teaching staff. Rule 12 C enables the higher officers to scrutinise the staff fixation made by the lower officers. Rule 12D grants the manager right of appeal against staff fixation before the superior officer. Rule 12E contemplates revision to the Director of Public Instruction against the orders of the Deputy Director of Education. It also gives suo motu revisional power to the Director. Rule 12 F confers on the government with powers of revision, to be exercised suo motu or otherwise. Rule 15 A reads thus:

In cases where the fixation of staff strength in schools is revised by the Director of Public Instruction or by the Educational Officers concerned under Rule 12E or Rule 15 as the case may be after September, an allowance for a fall of 10% in the effective strength only to support the first verification of staff strength shall be allowed

6. In order that Rule 15A can be attracted, it must be a case where staff strength of the school has been already fixed by the statutory authority and such fixation has been revised by the Director of Public Instruction or by the Educational Officers under Rule 12E or Rule 15 after September. In such cases an allowance for a fall of 10% in the effective strength only to support the first verification of staff strength shall be allowed. The idea contained in the Rule is absolutely clear, namely, that it applies only to a case where staff fixation order passed by the

statutory authority is revised by a higher authority under Rule 12E or Rule 15 and that too after September. In this case the staff fixation order passed before September has not been revised by the Director of Public Instruction or by the Educational Officer under Rule 12E or Rule 15 after September. There is only one staff fixation order and that has not been revised either before or after September either under Rule 12E or Rule 15, Therefore, Rule 15A cannot be attracted to the facts of the case and 10% allowance cannot be granted. Learned counsel for the petitioner would contend that Rule 15A would apply even where there is no revision of staff fixation order under Rule 12E or Rule 15, but Where a second visit has been made after September as in this case. I am afraid I am not able to agree with this submission. The Rule will apply only when the staff strength is fixed originally by the statutory authority and that fixation is revised after September under Rule 12E or Rule 15. Such is not the case here in this case. Therefore, Rule 15A cannot be invoked. In these circumstances, I find no ground to interfere and accordingly dismiss the Original Petition.