

(2013) 05 KL CK 0021

In the High Court Of Kerala

Case No : WP (C) . No. 13191 of 2013 (Y)

Smt. Ancey Joseph and Jancy Rani

APPELLANT

Vs

The Manager, The District Educational Officer, The Director of
Public Instruction and State of Kerala

RESPONDENT

Date of Decision : 27-05-2013

Acts Referred:

Citation : (2013) 05 KL CK 0021

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : George Abraham, for the Appellant; Lowsy, Government Pleader, for the Respondent

Judgement

Thomas P. Joseph, J.—The learned Government Pleader takes notice for respondents 2 to 4. The petitioners are working as High School Assistants (HSA) in the Sacret Heart High School, Kanthallur, Idukki District (for short "the school"). According to the petitioners, a few students doing MSW course in the Marian College, Kuttikkanam conducted a study into the problems of students of the School and complained against Shri. S. Paul Raj, Social Studies teacher that he has been harassing girl students of the school. The Child Welfare Committee gave Ext. P2, report to the Dy. S.P., Idukki for action. Consequently, a case was registered against the said Paul Raj for sexual harassment of girl students. The 2nd respondent has placed him under suspension. The 2nd respondent, the DEO has by Ext. P9, report, according to the petitioners, recommended to warn them to avoid recurrence of such incidents. It is stated that some of the students gave statement to the Child Welfare Committee and that petitioners mentally harassed the students against giving statement. Grievance of the petitioners is that based on Ext. P9, report the first respondent has issued Exts. P11 and P12 orders to the petitioners directing them to show cause why they shall not be terminated from service. Petitioners have given their reply to Exts. P11 and P12.

2. The learned counsel submits that Exts. P11 and P12 orders are per se illegal

as they do not conform to the requirements of Rule 75 of Chapter XIV A of Kerala Education Rules (for short "the KER"). The learned counsel submits that if the reply given to the show cause notices is not satisfactory to the authority concerned, that must be followed by memo of charges and enquiry and only if in such enquiry it is found that the petitioners have indulged in any misconduct or such other indiscipline that question of terminating their services would arise. It is also submitted that even in Ext. P9, the DEO only recommended to warn the petitioners. But the management has issued notices to show cause against termination from service and that too, as aforesaid, violating the relevant rules of Chapter XIV A of the KER.

3. The learned Government Pleader appearing for the respondents 2 to 4 has submitted that if petitioners have replied to Ext. P11 and P12 orders, the Manager will necessarily follow the procedure prescribed by the law.

4. Though a challenge is made to the observations made against the petitioners in Ext. P9, I do not find reason to interfere with the said observations at this stage. The Manager of the School has issued Exts. P11 and P12, notices to the petitioners to which as the learned counsel submits, petitioners have suitably replied. It is open to the petitioners to raise all defences and contentions as are available to them in law and facts. Obviously, the Manager could proceed further only after consideration of the reply given by the petitioners to Exts. P11 and P12 notices. In that view of the matter, it is not necessary to interfere with Exts. P11 and P12 notices in this proceeding. Resultantly, this writ petition is disposed of without prejudice to the right of the petitioners to take up suitable defences and contentions in reply to Exts. P11 and P12.

The Manager of the School, if not satisfied with the replies has to proceed, in case the Manager decides to do so, in accordance with law governing disciplinary action.

Petitioners shall produce a copy of this writ petition and judgment before the 1st respondent.