

(2009) 04 KAR CK 0130
In the Karnataka High Court
Case No : Writ Petition No. 9575 of 2009

Sri Abdul Ayub

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 09-04-2009

Acts Referred:

Citation : (2009) 04 KAR CK 0130

Hon'ble Judges : P.D. Dinakaran, C.J.;V.G. Sabhahit, J

Bench : Division Bench

Advocate : S. Vishwajith Shetty, for the Appellant; Niloufer Akbar, AGA, for the Respondent

Final Decision : Dismissed

Judgement

V.G. Sabhahit, J.—This PIL is filed seeking for quashing of the proceeding dated 28.2.2009 passed by the third respondent in the writ petition-Assistant Commissioner, Mangalore sub-Division, Mangalore reserving 1.20 acres of land in Sy. No. 31/1B of Kairangala village, Bantawal Taluk for the purpose of construction of Higher primary school by Dakshina Kannada Zilla Panchayat.

2. It is averred in the petition that the impugned order reserving 1.20 acres of land in Sy. No. 31/1B of Kairangala village, Bantawal Taluk for the construction of school building is clearly erroneous as there are no students in the school and there are already two schools in the neighbouring villages. It is averred that there is already a school in Nadupadau village which is an aided school and there was no necessity of having a school in Kairangala village and therefore, the impugned order is liable to be set aside.

3. We have heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

4. Learned Counsel appearing for the petitioner submitted that the strength of the students in the school run by Zilla Panchayat at Kairangala is very low and there was no necessity of constructing a building in the said school and the

amount to be utilised for construction of the said building can be utilised for public purpose and therefore, the impugned order is liable to be set aside.

5. On the other hand, learned Government Advocate submitted that the land is earmarked for the construction of the school building by the Dakshina Kannada Zilla Panchayat and there is no other school in Kairangala village and school situated at the neighbouring village is at a distance of 2 kms from Kairangala village and there is no merit in the writ petition and the same is liable to be dismissed.

6. We have considered the contention of the learned Counsel appearing for the parties and scrutinised the material on record.

7. The material on record would clearly show that in Kairangala village there is already a school run by the Dakshina Kannada Zilla Panchayat Higher Primary school and by the impugned the order land measuring 1.20 acres in Sy. No. 31/1B has been reserved for construction of building for the school. Mere fact that there is an aided school at a distance of about 1 to 2 kms. from Kairangal village would not by itself be a ground to hold that there is no necessity of putting up construction of the building for running a Government school at Kairangala a village and there is no merit in the contention of the learned Counsel appearing for the petitioner that the amount which would be utilised for construction of the school building can be utilised for public purpose as it well settled that establishment of school for providing primary education is the obligation of the State Government and therefore, reservation of 1.20 acres of land for construction of school building by the impugned order is in larger public interest and cannot at all be said to be illegal or erroneous as to call for interference in exercise of writ jurisdiction of this Court and accordingly, we hold that there is no merit in the writ petition and pass the following order:

The writ petition is dismissed.