

(2025) 06 KL CK 0884

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5401 Of 2025

St Mary's English Medium School

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 16-06-2025

Acts Referred:

Right of Children to Free and Compulsory Education Act, 2009 — Section 18, 19, 38(2) (b)
Right of Children to Free and Compulsory Education Rules, 2010 — Rule 6
Kerala Right of Children to free and compulsory Education Rules, 2011 — Rule 6(1)(a), 6(1)(b)

Citation : (2025) 06 KL CK 0884

Hon'ble Judges : D. K. Singh, J

Bench : Single Bench

Advocate : Jose Abraham, E.Adithyan, Philip.N.Joseph, V.Venugopal

Final Decision : Dismissed

Judgement

D. K. Singh, J

1. The petitioner school is represented by its manager, Fr.Betson Thukkuparambil. According to the pleadings made in the writ petition, the said school is an English medium school situated in Thathamangalam, Palakkad, and has been running since 2013. It is also stated that the said school is recognized by the Kerala State Educational Department vide order dated 14.05.2015. The petitioner had made a representation for recognition from class I to class VII. But the recognition has been granted only for classes from V to VII.

2. The petitioner had made an application on 14.10.2024 to grant recognition for classes from I to IV. The said application has been rejected vide order dated 19.12.2024 (Ext.P2). The said order of rejection for recognition of classes from I to IV is under challenge before this Court in this writ petition. The two grounds have been stated in the impugned order in Ext.P2; 1. The school does not have a sufficient playground 2. Within 5 Kilometres vicinity of the school, there are 15

Government Aided schools.

3. The learned counsel for the petitioner submits that the State Government has not laid down the norms of sufficiency in respect of the playground of the school, and in absence of such a norm, the decision of the 4th respondent for rejection of the application of the petitioner on the ground of insufficiency of playground is wholly unjustified and not germane to the criteria which could have been laid down by the State Government.

4. In respect of the second ground taken for rejection regarding the 15 Government Aided schools situated within the vicinity of 5 Kilometers, the learned counsel for the petitioner submits that a child must be given the choice of studying in a school of his choice and the State Government cannot restrict the number of the schools in an area. He has also placed reliance on some of the judgments of this Court in support of his submissions, which I find absolutely have no relevance inasmuch as the relevant Rules and the provisions have not been considered in the aforesaid judgments.

5. Section 18 of the Right to Education Act, 2009, mandates a Certificate of Recognition for running a school, and it prohibits any school which does not have recognition to run. Section 18 of the Right to Education Act reads as under:

18. No School to be established without obtaining certificate of recognition.—(1) No school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed.

(2) The authority prescribed under sub-section (1) shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed:

Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.

(3) On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition:

Provided that such order shall contain a direction as to which of the neighbourhood school, the children studying in the derecognised school, shall be admitted:

Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.

(4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.

(5) Any person who establishes or runs a school without obtaining certificate of

recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

6. Section 19 provides norms and standards of schools, and it further states that no schools should be established or recognized under Section 18 unless it fulfill the norms and standards specified in the schedule. Section 19 reads as under:

19. Norms and standards for school.—(1) No school shall be established, or recognised under section 18, unless it fulfils the norms and standards specified in the Schedule.

(2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within a period of three years from the date of such commencement.

(3) Where a school fails to fulfil the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.

(4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.

(5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

7. Thus, a school must be set up according to the norms and standards as provided in Schedule read with Section 19, and it must have recognition from the competent authority to run the school. If the school does not have norms and standards prescribed under the Schedule, no recognition can be granted and such a school cannot be allowed to be run. For running such a school which does not fulfill the norms and standards and does not have recognition, consequences are provided in Section 18 itself.

8. As per the Schedule, the school inter alia must have a building which should be all weather building consisting of the followings:

- i. at least one class-room for every teacher and an office-cum-store-cum-Head teacher's room;
- ii. barrier-free access;
- iii. separate toilets for boys and girls;
- iv. safe and adequate drinking water facility to all children;

- v. a kitchen where mid-day meal is cooked in the school;
- vi. Playground;
- vii. arrangements for securing the school building by boundary wall or fencing.

9. The playground is one of the requirements of the building.

10. The petitioner in the writ petition has not stated the dimensions of the playground of his school. Nowhere in the writ petition I find anything mentioned about the area of the playground which the petitioner school have. When the Act contemplates playground, it means that it should be enough for sports facilities and if the playground is very small, it cannot be said to be a sufficient playground. When the Schedule contemplates a building to have a playground, it means it should have a playground of sufficient area in which sports can be played. In the absence of the requisite pleadings, I cannot accept the argument of the petitioner that the petitioner school has a playground of sufficient dimensions, which can provide a sports facility to its students.

11. Under Section 38(2)(b) of the Right of Children to free and compulsory Education Act, 2009, and Rule 6 of the Right of Children to Free and Compulsory Education Rules, 2010, lays down the area or limits of neighborhood and it further provide that the area or limits of neighbourhood within which a school has to be established by the appropriate government or the local authority in respect of children in classes from I to V, a school should be established within a walking distance of one km of the neighbourhood and in respect of classes from VI to VIII, a school should be established within a walking distance of three kms of the neighbourhood. Similar Rules have been framed by the State Government, "Kerala Right of Children to free and compulsory Education Rules, 2011", and Rule 6(1)(a) and (b) of the Rules framed by the State Government also provide the same distance.

12. The learned counsel for the petitioner has not disputed the fact that within the vicinity of 5Kilometers of the school, there are 15 Government Aided schools. And therefore, the learned counsel for the petitioner's contention that there should not be a limit of distance for setting up the schools is contrary to the spirit of the Statutory Rules mentioned above.

13. Even otherwise, it is the policy decision of the Government to provide a distance of establishing two or more schools, and the Court cannot interfere with such a policy decision which is otherwise not arbitrary or against statutory prescription. In view thereof, I do not find that both the grounds stated in Ext.P2 while rejecting the application of the petitioner for granting recognition from classes I to IV suffer from any illegality or arbitrariness. The writ petition has no merit and substance, and the same is hereby dismissed.