
(2010) 04 KL CK 0040
In the High Court Of Kerala
Case No : WA. No. 643 of 2010

State of Kerala

APPELLANT

Vs

Mujeeb and Others

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Kerala Education Rules, 1959 — Rule 3

Citation : (2010) 04 KL CK 0040

Hon'ble Judges : P.N.Ravindran, J;K. Balakrishnan Nair, J

Bench : Division Bench

Advocate : Government Pleader, for the Appellant; No Appearance, for the Respondent

Judgement

K. Balakrishnan Nair, J.—The respondents 1 to 3 in the Writ Petition have filed this Writ Appeal, challenging the interim order passed by the learned Single Judge in the Writ Petition on 30.03.2010, which reads as follows:

There would be an interim order directing respondents 1 to 3 to see that the transfer certificates issued by the 5th respondent for the students of Std.VII in the 4th respondent's school are accepted and honoured for admission to all Government and aided schools in the State of Kerala.

The above order is passed on a prayer for interim relief to stay Ext.P5 and also to direct the 3rd respondent Headmaster (5th respondent in the Writ Petition) to issue transfer certificates to the students of Std.VII of Vivekodayam aided Lower Primary School, Karakuthangadi, Muthuthala P.O., Pattambi.

2. The 1st respondent/writ petitioner is the President of Parent-Teachers Association of the aforementioned school. The Manager, anticipating sanction of upgradation of his school, on the strength of Ext.P2 judgment of the Division Bench of this Court, admitted students to Std.V, during the academic year 2007-08. Those students, who have completed their studies in that class, were promoted to Std.VI and further promoted to Std.VII. Since the said students

studied in an unrecognised Upper Primary School for Stds.V, VI and VII, they cannot get admission in any aided or Government High School. Confronted with the above position, the 1st respondent/writ petitioner was constrained to approach this Court, seeking appropriate reliefs. In fact, before that, the 1st respondent had moved the Assistant Educational Officer (AEO) by a representation seeking appropriate reliefs. But, that representation was rejected by the AEO, Pattambi by Ext.P5 communication dated 3.3.2010. Against that order, the 1st respondent filed Ext.P6 appeal before the Deputy Director of Education, Palakkad, on 3.3.2010. Thereafter, the Writ Petition was filed, challenging Ext.P5 and seeking further reliefs.

3. The learned Single Judge, after hearing both sides, granted the aforementioned interim relief. Feeling aggrieved by the same, respondents 1 to 3 in the Writ Petition have preferred this Writ Appeal.

4. The appellants would point out that the students of an unrecognised school have no legal right to get transfer certificate or join other schools. They also point out that the final relief that could be granted in the Writ Petition has been granted by way of an interim relief. Several other contentions are also raised, including the one on the maintainability of the Writ Petition.

5. We heard Sri. George Thomas Mevada, learned senior Counsel for the 1st respondent/writ petitioner. At this stage, we refrain from examining the contentions of the parties on the merits of their case, because the same may prejudice one side or the other at the time of final hearing of the Writ Petition. But, we are inclined to accept the contention of the learned Government Pleader that by way of an interim order, the learned Single Judge has granted the final relief that may be granted after the disposal of the Writ Petition. Therefore, we think, the interim order cannot be sustained. Accordingly, we set aside the same. The Deputy Director of Education, Palakkad is directed to hear the 1st respondent and dispose of Ext.P6 in accordance with law, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. The 1st respondent will also be free to move the Government, if so advised, under Rule 3 of Chapter I of the Kerala Education Rules. Since the Deputy Director of Education, Palakkad is not a party to the Writ Petition, the learned Government Pleader shall bring to the notice of the said officer the direction of this Court.

The Writ Appeal is disposed of as above.