
(2011) 03 KL CK 0132

In the High Court Of Kerala

Case No : Writ Petition (C) No's. 22855/10 F and 24686/10 I

The Manager

APPELLANT

Vs

Director of Public Instructions, District Educational Officer
and Deputy Director of Education

RESPONDENT

Date of Decision : 22-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0132

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : P.N. Mohanan, for the Appellant; Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

T.R. Ramachandran Nair, J.—The proceedings of the Director of Public Instructions produced as Exhibit P8 in W.P. (C) No. 22855/10 and Exhibit P16 in W.P. (C) No. 24686/10 are under challenge.

2. This is a case wherein the Super Check Cell conducted visits in the school on two dates. The Director of Public Instructions accepted the details of bogus admissions submitted by the Officer of the Super Check Cell and found that 142 students cannot be reckoned for the purpose of fixation of staff strength. The division admissible to the school has been fixed after reducing it from 38 to 35 accordingly and the impugned order has been passed.

3. The learned Counsel for the Petitioner submitted that the Director of Public Instructions disbelieved the promotion list approved by the District Educational Officer without any justification. It is pointed out that the list contains 64 students who are continuing in the higher classes on promotion and therefore the Director of Public Instructions even without physical verification by any officer has jumped into the conclusion that the District Educational Officer has not physically verified it before approval and it cannot be relied upon. Evidently, in

the internal page 9 of Exhibit P8 order what is stated is as follows:

The DEO has approved the promotion list without making any physical verification of the pupils included in it. So, the promotion list approved by the DEO could not be accepted as a valid document to establish the genuineness of pupils. The school authorities have not put forth any convincing evidence to establish the genuineness of the objected pupils.

4. Exhibit P5 is the list approved by the District Educational Officer, which contains the names of 61 students. When the school authorities have relied upon the same, the matter ought to have been thoroughly verified and it is not that much difficult to find out whether the promotes are continuing in the school. The order Exhibit P8 is passed only in the next academic year.

5. The next aspect is regarding the 56 students who have been removed. It is submitted by the learned Counsel for the Petitioner that the same is also not considered by the Director of Public Instructions and if it was considered properly, it could have been found that what remains further is only 25 students which will not affect the staff strength.

6. In Exhibit P8 order, what is pointed out is that there were two visits by the Super Check Cell and therefore the explanation given by the school authorities for absence is also not correct. It is submitted by the learned Counsel for the Petitioner that Exhibit P2 will show that 60 students were not able to attend the school in the light of Id-ul-Fitr. It is also submitted that due to model examination some students were absent and these aspects were not considered.

7. The learned Counsel for the Petitioner relies on the principles laid down in *Nalini Kumari v. State of Kerala* ILR 1975 Ker 496 in this context. After considering the effect of Rule 15, this Court examined the manner in which allegations regarding bogus admission has to be examined and held thus:

...To prove bogus admission the Educational Officer should go deep into the details of the matter and examine individual cases of pupils who are removed for long absence and for other reasons mentioned in Rule 15, Chapter VI.

8. Evidently, all the relevant points were raised by the Petitioner before the Director of Public Instructions. The learned Counsel for the Petitioner submitted that the contentions which were supported by relevant documents have not been verified properly and therefore the matter will have to be reconsidered properly.

9. If, the Petitioner is able to establish the various facts as pointed out above, the sanction of the division may require modification.

10. In that view of the matter, the impugned order Exhibit P8 in W.P. (C) No. 22855/10 (Exhibit P16 in W.P. (C) No. 24686/10) is quashed. There will be a direction to the Director of Public Instructions to reconsider the matter and pass appropriate orders, after hearing the Manager within a period of two months from the date of receipt of a copy of this judgment. Other legal contentions

raised by the Petitioners are left open.

The Writ Petitions are allowed as above.