

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 30TH SEPTEMBER 2009 / 8TH ASWINA 1931

WP(C) .No. 26364 of 2009 (M)

PETITIONER(S) :

1. MANAGER, KAYANI U.P.SCHOOL,
P.O.KAYANI - 670 702,
(VIA) MATTANNUR, MATTANNUR SUB DISTRICT.
2. MANAGER, ELAMPARA L.P.SCHOOL,
P.O.ELAMPARA, (VIA) VAYANTHOD,
MATTANNUR SUB DISTRICT.
3. MANAGER,
CHIRAKKAL RAJA'S U.P.SCHOOL,
P.O.CHIRAKKAL - 670 011
PAPPINISSERY SUB DIST.
4. MANAGER,
PAPPINISSERY WEST L.P. SCHOOL,
P.O. PAPPINISSERY (W)
670 561 PAPPINISSERY SUB DIST.
5. MANAGER,
RAMAGURU U.P.SCHOOL,
P.O.CHIRAKKAL - 670 011
PAPPINISSERY SUB DIST.
6. MANAGER, IRINAVE U.P.SCHOOL,
P.O.IRINAVE - 670 011
PAPPINISSERY SUB DIST.
7. MANAGER,
RADHAKRISHNA A.U.P.SCHOOL,
MANIYOOR, P.O.THALIPARAMBA,
THALIPARAMBA SUB DIST.
8. MANAGER,
KANHILERI L.P.SCHOOL,
P.O.PARAKKAT,
(VIA) KARIMBAM, IRIKKUR SUB DIST.
9. MANAGER,
MALAPPATTAM, MOPLA L.P.SCHOOL,
P.O.MALAPPATTAM - 670 631
IRIKKUR SUB DIST.
10. MANAGER,
MANGATTIDAM U.P.SCHOOL,
P.O.MANGATTIDAM,
KUTHUPARAMBA SUB DIST.
11. MANAGER,
THILLENKERI U.P.SCHOOL,
P.O.THILLENKERI - 670 702.
IRITTY SUB DISTRICT.

12. MANAGER,
CHALA EAST L.P.SCHOOL,
P.O. CHALA EAST,
KANNUR NORTH SUB DISTRICT
13. MANAGER,
MALOT A.L.P.SCHOOL,
P.O.KANNADIPARAMBA,
THALIPARAMBA (S) SUB DIST.
14. MANAGER,
BAVANTA PARAMBA L.P.SCHOOL,
P.O.CHAMPAD, - 670 694
CHOKLY SUB DIST.

BY ADV. SRI.P.M.PAREETH

RESPONDENT (S) :

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.
3. DEPUTY DIRECTOR OF EDUCATION, KANNUR.
4. ASSISTANT EDUCATIONAL OFFICER,
MATTANNUR SUB DISTRICT, KANNUR DIST.
5. ASSISTANT EDUCATIONAL OFFICER,
PAPPINISSERY SUB DISTRICT, KANNUR DIST.
6. ASSISTANT EDUCATIONAL OFFICER,
TALIPARAMBA (SOUTH) SUB DISTRICT, KANNUR DIST.
7. ASSISTANT EDUCATIONAL OFFICER,
IRIKKOOR SUB DISTRICT, KANNUR DIST.
8. ASSISTANT EDUCATIONAL OFFICER,
KUTHUPARAMBA SUB DISTRICT, KANNUR DIST.
9. ASSISTANT EDUCATIONAL OFFICER,
IRITTY SUB DISTRICT, KANNUR DIST.
10. ASSISTANT EDUCATIONAL OFFICER,
KANNUR (NORTH) SUB DISTRICT, KANNUR DIST.
11. ASSISTANT EDUCATIONAL OFFICER,
CHOKLY SUB DISTRICT, KANNUR DIST.

SENIOR GOVERNMENT PLEADER, SHRI MUHAMOOD T.T

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/09/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

T.R. RAMACHANDRAN NAIR, J.

~~~~~  
**W.P.(C). No.26364/2009-M**  
~~~~~

Dated this the 30th day of September, 2009

J U D G M E N T

The petitioners herein are Managers of various schools namely, pre-K.E.R schools. The challenge in the writ petition is against a Circular issued by the Department directing the reconstruction of these buildings in terms of the specifications of the K.E.R. The said issue is now covered in favour of the petitioner as per Ext.P6 judgment rendered by this Court referring to a judgment of a Division Bench in **Manager (Vengeri A.U.P School) v. State of Kerala** [ILR 2009 (2) KER 884). The findings rendered by the Division Bench in paragraph (10) of the judgment is as follows:-

“In the result, the impugned circulars Exts.P3 to P5 in this Writ Petition and Ext.P7 in W.P.(C). No.15274/2008 to the extent they stand in the way of using pre-KER building, which are strong and unenforcible. It is clarified that the various other directions in the impugned orders/letters circulars, concerning the steps to be taken for the safety of the

students and teachers and demolition of unsafe buildings, are not interfered with. In view of our above finding, the concerned Engineer (going by the materials on record we find it is the Assistant Engineer of the Local Self Government Department having jurisdiction over the area) is directed to inspect the schools of the petitioners immediately and decide whether they are entitled to get fitness certificates for their pre-KER buildings, so that they could house the class divisions in them. This, the said officer shall do within two weeks from the date of production of a copy of this judgment and the results shall be communicated to the Managers forthwith.”

2. The principles stated by the Division Bench will apply in the case of the petitioners herein also. Therefore, the petitioners are entitled to succeed in the writ petition. It is submitted by the learned counsel for the writ petitioners that fitness certificates have been issued except in the case of petitioners 1 and 7 to 10. Therefore, in respect of those schools, the concerned Engineer of the Local Self Government Department will conduct an inspection within six weeks and issue a fresh certificate, so that they can

W.P.(C). No.26364/2009

-:3:-

produce it before the authorities concerned. Follow-up actions will be taken by the departmental authorities in terms of the above directions without further delay. The writ petition is accordingly disposed of. No costs.

(T.R. Ramachandran Nair, Judge.)

ms