

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

MONDAY, THE 31ST DAY OF DECEMBER 2012/10TH POUSHA 1934

WP(C).No. 31143 of 2012 (P)

PETITIONER(S):

M.NARAYANAN,
MANIKKOTH HOUSE, P.O PUNNAD, 670 703
KANNUR DISTRICT.

BY ADV. SRI.POOVAMULLE PARAMBIL ABDULKAREEM

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM 695 001.
2. DEPUTY DIRECTOR OF EDUCATION
KANNUR 670 702.
3. ASSISTANT EDUCATIONAL OFFICER
IRITTY, KANNUR DISTRICT. 670 703.
4. THE MANAGER
BAFAKI MEMORIAL LPS, VELIYAMBRA, P.O P.R NAGAR
670 702, KANNUR DISTRICT.

BY GOVERNMENT PLEADER SMT.LOUZI. A

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31-12-2012,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : COPY OF THE SUSPENSION ORDER NO.1/05 DATED 9.7.2005 OF THE 4TH RESPONDENT
- EXT.P2 : COPY OF THE MEMO OF CHARGES CUM STATEMENT OF ALLEGATIONS ISSUED BY 4TH RESPONDENT
- EXT.P3 : COPY OF THE REPLY FURNISHED BY THE PETITIONER TO EXT.P2
- EXT.P4 : COPY OF THE REPLY NO.E/6480/05 DATED 10.10.2005 OF THE 3RD RESPONDENT
- EXT.P5 : COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT
- EXT.P6 : COPY OF THE LETTER OF 4TH RESPONDENT TO THE 3RD RESPONDENT
- EXT.P7 : COPY OF THE ORDER NO.E/6480/05 DATED 26.4.2006 ISSUED BY 3RD RESPONDENT
- EXT.P8 : COPY OF THE DETAILED APPEAL BEFORE THE 2ND RESPONDENT
- EXT.P9 : COPY OF THE ORDER NO.B3/14637/05 DATED 20.2.2007
- EXT.P10 : COPY OF THE REVISION PETITION
- EXT.P11 : COPY OF THE GO(MS) NO.4758/08/G.Edn DATED 10.10.2008
- EXT.P12 : COPY OF THE LETTER NO.1813/03/09/G.Edn DATED 24.4.2009
- EXT.P13 : COPY OF THE JUDGMENT DATED 21.5.2012 OF THIS HON'BLE COURT IN WP(C) NO.30757/2009
- EXT.P14 : COPY OF THE SHOW CAUSE NOTICE DATED 26.9.2012
- EXT.P15 : COPY OF THE EXPLANATION DATED 20.10.2012 TO EXT.P14 SHOW CAUSE NOTICE
- EXT.P16 : COPY OF THE ORDER NO.D/3030/2012/K.Dis. DATED 9.11.2012 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.A. TO JUDGE

vps

P.N.RAVINDRAN, J.

W.P.(C) No.31143 OF 2012

Dated this the 31st day of December, 2012

J U D G M E N T

Ext.P16 order dated 9.11.2012 passed by the Assistant Educational Officer, Iritty, removing the petitioner from service is under challenge in this writ petition. The petitioner was initially removed from service by Ext.P7 order dated 26.4.2006 issued by the Assistant Educational Officer, Iritty. That order was confirmed in appeal by Ext.P9 order dated 20.2.2007 passed by the Deputy Director of Education, Kannur. The revision petition filed by the petitioner before the Government was rejected and the decision communicated to the petitioner by Ext.P11 order dated 10.10.2008. Though the petitioner sought a review of the Government's decision, that was also rejected by Ext.P12. He thereupon filed W.P.(C) No.30757 of 2009 in this Court challenging the aforesaid orders. By Ext.P13 judgment delivered on 21.5.2012, a learned single Judge of this Court set aside the impugned orders in so far as it related to charges 2 and 3 for non-compliance with rule 75 of Chapter XIV-A of the Kerala Education Rules. The findings as regards the first charge was upheld. This Court also remitted the matter back to the Assistant Educational Officer. By Ext.P16 order passed on 9.11.2012, which is

impugned in this writ petition, the Assistant Educational Officer ordered removal of the petitioner from service.

2. Having regard to the fact that Ext.P7, the original order passed against the petitioner, stands affirmed in so far as it relates to charge No.1, I am of the opinion that the petitioner should challenge Ext.P16 before the competent appellate authority in so far as it relates to charges 2 and 3. Under rule 80 of Chapter XIV-A of the Kerala Education Rules, an appeal lies from Ext.P16 order passed by the Deputy Director of Education to the next higher authority. I therefore find no grounds to entertain this writ petition at this stage and examine the merits of the contentions raised by the petitioner. The period of limitation prescribed for filing an appeal is 60 days from the date on which a copy of the order is communicated to the appellant. As Ext.P16 order is dated 9.11.2012, the period of limitation prescribed for filing an appeal from Ext.P16 has not so far expired.

I accordingly decline jurisdiction and dismiss the writ petition, leaving open the petitioner's contentions and reserving liberty with him to challenge Ext.P16 in other appropriate proceedings.

**P.N.RAVINDRAN,
(JUDGE)**

vps

