

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

&

THE HONOURABLE MRS. JUSTICE C.S. SUDHA

WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,

1944

WA NO. 65 OF 2023

AGAINST THE INTRIM ORDER DATED 19.12.2022 IN WP(C)

36659/2022 OF HIGH COURT OF KERALA

APPELLANTS/WRIT PETITIONERS:

- 1 SAMAJAM HIGHER SECONDARY SCHOOL,
MUTHUKULAM, MUTHUKULAM SOUTH.P.O,
ALAPPUZHA DISTRICT, PIN- 690 506,
REPRESENTED BY ITS MANAGER.
- 2 CHENTHRAPPINNI HIGHER SECONDARY SCHOOL,
P.O. CHENTHRAPPINNI, TRICHUR- 680687,
REPRESENTED BY ITS MANAGER,
- 3 MUKKOM MUSLIM ORPHANAGE COMMITTEE,
MUKKOM, KOZHIKODE DISTRICT - 673602,
REPRESENTED BY ITS MANAGER.
- 4 SREE NARAYANA HIGHER SECONDARY SCHOOL
OKKAL, ERNAKULAM REPRESENTED.
- 5 SREE NARAYANA GIRI LOWER PRIMARY SCHOOL,
THOTTUMUGAM, ALUVA, ERNAKULAM DISTRICT - 683105,
REPRESENTED BY ITS MANAGER (THE SECRETARY OF
S.N.S.SAMAJAM)
- 6 N.S.S.U.P.SCHOOL,
CHUNAKARA NORTH, ALAPPUZHA,
REPRESENTED BY ITS MANAGER.
- 7 H.S.S.THIRUVAMPADY,
PAZHAVEEDU.P.O, ALAPPUZHA-9
REPRESENTED BY ITS MANAGER

- 8 KOPPARETHU HIGHER SECONDARY SCHOOL,
PUTHIYAVILA, PATTOLI MARKET.P.O, ALAPPUZHA -
690531, REPRESENTED BY ITS MANAGER
- 9 P.P.M HIGHER SECONDARY SCHOOL,
KOTTUKKARA, P.O. KONDOTTY - 673638,
REPRESENTED BY ITS MANAGER
- 10 S.N.D.P.H.S.SCHOOL,
KUTTAMANGALAM.P.O, KAINAKARY,
ALAPPZUHA - 688501,
REPRESENTED BY ITS MANAGER.
- 11 T.D.H.S.SCHOOL
THURAVOOR, ALAAPPUZHA DISTRICT,
REPRESENTED BY IT MANAGER H.PREMKUMAR.
- 12 MSM HIGHER SECONDARY SCHOOL,
KALINGAPARAMBA, MALAPPURAM,
REPRESENTED BY ITS MANAGER.
- 13 ABDULLA KUNJU MEMORIAL HIGHER SECONDARY SCHOOL,
MYLAPURE, UMayANALLOORR P.O.,
KOLLAM - 691589, REPRESENTED BY ITS MANAGER.
- 14 V.M.H.M. HIGHER SECONDARY SCHOOL,
ANAYAMKUNNU, P.O.KUMARANELLUR,
MUKKOM, KOZHIKODE DISTRICT
REPRESENTED BY ITS MANAGER.
- 15 C.P.POCKER HAJI MEMORIAL HIGHER SECONDARY SCHOOL
OZHUR, VELLACHAL.P.O., MALAPPURAM DISTRICT -
676106, REPRESENTED BY ITS MANAGER
- 16 NARAYANAN NAIR MEMORIAL HIGHER SECONDARY SCHOOL
CHELAMBRA, PULLIPARAMBU.P.O, MALAPPURAM -
673634, REPRESENTED BY ITS MANAGER.
- 17 PAPPU MASTER MEMORIAL UPPER PRIMARY SCHOOL,
CHENTRAPPINNI, THRISSUR DISTRICT,
REPRESENTED BY ITS MANAGER.
- 18 DEVI VILASAM VOCATIONAL HIGHER SECONDARY SCHOOL,
VELIYAMBALAM, NADAVAYAL, PULPALLY,
WAYANAD - 673579, REPRESENTED BY ITS MANAGER
BY ADV M.R.ANISON

RESPONDENTS/RESPONDENTS:

- 1 STATE OF KERALA REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DIRECTOR OF GENERAL EDUCATION,
OFFICE OF THE DIRECTOR OF GENERAL EDUCATION,
JAGATHY, THIRUVANANTHAPURAM, PIN - 695014
SMT.B.VINITHA SR.GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
18.01.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.B.SURESH KUMAR & C.S.SUDHA, JJ.

Writ Appeal No.65 of 2023

Dated this the 18th day of January, 2023

JUDGMENT

P.B.Suresh Kumar, J.

This writ appeal is directed against the interim order dated 19.12.2022 in W.P.(C) No.36659 of 2022. Appellants are the petitioners in the writ petition.

2. The writ petition was instituted by the appellants challenging clauses 6 and 8 of Ext.P7 order and clause 2 of Ext.P9 order issued by the Government prescribing the procedure for effecting appointments of differently abled persons in aided schools, in terms of the provisions contained in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the Rights of Persons with Disabilities Act, 2016. The appellants are Managers of various aided schools. Along with writ petition, the

appellants prayed for stay of implementation of clauses 6 and 8 of Ext.P7 order and clause 2 of Ext.P9 order. The appellants also prayed for an interim direction in the writ petition to the Educational Authorities not to reject the proposals for approval of the appointments of teaching and non-teaching staff in their respective schools. The learned Single Judge declined to grant the interim reliefs sought for by the appellants, in terms of the impugned order.

3. Heard the learned Senior Counsel for the appellants as also the learned Government Pleader.

4. The learned Senior Counsel for the appellants elaborately argued the writ petition on the merits and submitted that it is a fit case where the learned Single Judge ought to have granted the interim reliefs sought for by the appellants. According to the learned Senior Counsel, the learned Single Judge did not grant the interim reliefs in the light of the interim order passed by this Court in W.A.No.1682 of 2022 and connected cases preferred against the judgment in W.P.(C) No.19808 of 2021, declining stay of operation of the

judgment impugned therein. According to the learned Senior Counsel, the present case has nothing to do with W.P.(C) No.19808 of 2021 and the writ appeals preferred against the judgment therein, as Exts.P7 and P9 orders were not under challenge in W.P.(C) No.19808 of 2021.

5. A perusal of the impugned order indicates that the learned Single Judge was not inclined to grant the interim reliefs sought for by the appellants in the writ petition in the light of the observations and directions issued in W.P.(C) No.19808 of 2021 as clarified by this Court in W.A.No.1682 of 2022 and connected cases. The submission made by the learned Senior Counsel that the learned Single Judge did not grant the interim reliefs in the light of the interim order passed by this Court in W.A.No.1682 of 2022 and connected cases, is without any substance. Appeals under Section 5 of the Kerala High Court Act, 1958 cannot be entertained against orders declining interim reliefs in the writ petitions, in exercise of the discretionary jurisdiction vested in the court under Article 226 of the Constitution.

The writ appeal, in the circumstances, is without substance and the same is, accordingly, dismissed. The appellants may move the learned Single Judge, if so advised, for disposal of the writ petition on merits, notwithstanding the pendency of W.A.No.1682 of 2022 and connected cases.

Sd/-

P.B.SURESH KUMAR, JUDGE.

Sd/-

C.S.SUDHA, JUDGE.

YKB