



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 10TH DAY OF JULY 2023 / 19TH ASHADHA, 1945

WA NO. 1920 OF 2022

AGAINST THE JUDGMENT DATED 27.10.2022 IN WP(C) 22794/2018 OF
HIGH COURT OF KERALA

APPELLANT/5TH RESPONDENT IN THE WP(C) :

G. SURESH
AGED 55 YEARS
MANAGER, KARAVARAM VOCATIONAL HIGHER SECONDARY
SCHOOL, KALLAMBALAM, THIRUVANANTHAPURAM,
PIN - 695605

BY ADV ELVIN PETER P.J.

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 4 IN THE WP(C) :

- 1 B. SHOBA
HEADMISTRESS (RETIRED FROM KARAVARAM VOCATIONAL
HIGHER SECONDARY SCHOOL, KALLAMBALAM,
THIRUVANANTHAPURAM DISTRICT) RESIDING AT 'ASWATHY',
MARUTHIKUNNU.P.O., NAVAIKULAM, THIRUVANANTHAPURAM
DISTRICT, PIN - 695603
- 2 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001
- 3 THE DIRECTOR OF PUBLIC INSTRUCTION
(NOW RE-DESIGNATED AS DIRECTOR OF GENERAL
EDUCATION), DIRECTORATE OF PUBLIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM., PIN - 695014
- 4 THE DEPUTY DIRECTOR OF EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION,
THIRUVANANTHAPURAM ., PIN - 695033



2023:KER:39105

:2:

W.A.No.1920 of 2022

5 THE DISTRICT EDUCATIONAL OFFICER
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
ATTINGAL, THIRUVANANTHAPURAM DISTRICT., PIN -
695101

BY ADVS.
SRI.R.RENJITH
BY SR.GOVERNMENT PLEADER SMT.VINITHA B

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
10.07.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



:3:

W.A.No.1920 of 2022

JUDGMENT

A.K.Jayasankaran Nambiar, J.

The 5th respondent Manager of the Karavaram Vocational Higher Secondary School, Kallambalam, is the appellant herein aggrieved by the judgment dated 27.10.2022 of the learned Single Judge in WP(C).No.22794 of 2018.

2. Briefly stated the facts necessary for the disposal of this Writ Appeal are as follows:

The writ petitioner retired as a Headmistress from the aforementioned school on 31.05.2015. While she was in service, disputes arose between her and the appellant herein, particularly on the imputation that the latter did not appoint her and that a junior person was preferred to the post of Headmistress. This led to various proceedings at the hands and instance of the educational authorities under the Kerala Education Act and Rules, and finally, a decision was taken to disqualify the Manager on the ground that he had disobeyed



lawful orders issued to him from time to time. It needs to be mentioned that the grievance of the writ petitioner was redressed well before her retirement with effect from 31.05.2015, consequent to a suspension she was subsequently reinstated on the intervention of the educational authorities who found that there was no material to proceed against her under the provisions of the Kerala Education Act and Rules.

3. It would appear that consequent to the order of the Deputy Director that directed the appellant to reinstate the writ petitioner in service, when the appellant did not do so within the time granted by the Deputy Director, a show cause notice was issued by the Deputy Director asking the appellant to show cause as to why he should not be disqualified for noncompliance with the directions of the Deputy Director. Although the appellant preferred a reply pointing out, *inter alia*, that against the direction of the Deputy Director to reinstate the writ petitioner, he had preferred a statutory revision before the revision authority, and that the same was pending, by a separate communication (Ext.R5(P)), the appellant also indicated to the Deputy Director that he was willing to reinstate the writ petitioner subject to the outcome of the Revision Petition. At any rate, it is not in dispute that the petitioner was reinstated days prior to her retirement with effect from 31.05.2015, and that the writ petitioner has since received all the monetary benefits due



W.A.No.1920 of 2022

to her for her service including her service as a Headmistress and her retirement from the school.

4. The Writ Petition was preferred by the writ petitioner three years after her retirement when she came across Ext.P19 Government Order, which allowed the revision preferred by the appellant Manager against the order of the Deputy Director disqualifying him. In Ext.P19 order, the Government had taken a stand that a lenient view could be taken against the appellant Manager with regard to the breach occasioned by him of the provisions of the Kerala Education Act and Rules since the writ petitioner, who was directly affected by those actions had since retired from the school after obtaining all the monetary benefits. The writ petitioner, however, impugned the said order, *inter alia*, on the contention that the Government had unjustifiably taken a lenient view against the appellant Manager, and this was not in public interest.

5. We note from the pleadings that an objection was raised by the appellant herein to the maintainability of the Writ Petition by questioning the *locus standi* of the writ petitioner to impugn Ext.P19 order, which did not infringe any of the rights of the writ petitioner but



was rather one that affected the rights of the appellant Manager vis-a-vis the regulatory authority under the Kerala Education Act and Rules.

6. The learned Single Judge who considered the matter brushed aside the argument regarding *locus standi* and found that inasmuch as the Government had taken the view that it did in Ext.P19 solely for the reason that the writ petitioner had retired from service on 31.05.2015 after being reinstated in duty, there was no proper application of mind by the Government to the issue as to whether the Manager ought to have been proceeded against for breach of the provisions of the Kerala Education Act and Rules. According to the learned Single Judge, misfeasance and malfeasance of Managers, who are bound to act within the contours of the Kerala Education Act and Rules, ought to have received the attention of the Government, and the Government had no unbridled discretion to turn a blind eye to the same. The learned Single Judge eventually relegated the matter to the Government to reconsider the Revision Petition preferred by the appellant against the order disqualifying him and also required the Government to consider whether the writ petitioner had any *locus standi* to call for an action against the Manager.



:7:

W.A.No.1920 of 2022

7. Before us, it is the submission of Sri.Elvin Peter, the learned counsel for the appellant Manager, that there was no justification for the learned Single Judge to have set aside Ext.P19 order that was impugned in the Writ Petition and remit the matter back to the Government for a fresh consideration of the matter including the question of *locus standi*. It is his contention that the aspect of *locus standi* was raised in the context of maintainability of the Writ Petition before this Court, and the said issue could not have been relegated to the Government for consideration. It is also his contention that at any rate, after the retirement of the writ petitioner from the school with effect from 31.05.2015, there was no right of hers that was infringed, consequent to the lenient view taken by the Government in a matter that concerned the non-compliance by the appellant Manager with the provisions of the regulating statute.

8. Per contra, it is the submission of Sri.Renjith, the learned counsel for the writ petitioner that since it was at the instance of the writ petitioner, and the action taken against her by the appellant Manager while she was in service, that the order of disqualification came to be passed against the appellant Manager, she had the necessary *locus standi* to pursue the matter against the appellant



W.A.No.1920 of 2022

Manager even though she had retired from service on 31.05.2015. He also refers to the various orders passed in the disciplinary proceedings that were initiated against the writ petitioner while she was in service to show that the appellant Manager had resorted to a very vindictive stand against the writ petitioner while she was in service and that was reason enough to proceed against the Manager for disqualification, which had necessarily to be imposed in such cases as a deterrent to future action by Managers regulated by the Kerala Education Act and Rules.

9. We have considered the submission on either side and also perused the pleadings on record, but for reasons that are to follow, we cannot find in favour of the writ petitioner. While it is a fact that it was the service dispute between the writ petitioner and the appellant Manager of the school that triggered the issuance of a show cause notice by the Deputy Director of Education to the appellant Manager asking him to show cause as to why he should not be disqualified for non-compliance with the provisions of the statute and the directions of the Deputy Director of Education, in our view, once the Deputy Director had exercised his statutory discretion to initiate action against the Manager through the issuance of a show cause notice to him, the writ



petitioner had no further role to play since any action by the education authorities thereafter was only vis-a-vis the appellant Manager. In other words, there was no subsisting right of the writ petitioner that continued to exist during the adjudication of the dispute between the educational authorities and the Manager, once the educational authorities had decided to act on the complaint of the writ petitioner by issuing a show cause notice against the Manager. In the instant case, we further find that the writ petitioner had retired from service on 31.05.2015 after her reinstatement in service and after obtaining all the monetary benefits flowing from her service up to the date of retirement. She, therefore, did not have any *locus standi* to impugn Ext.P19 Government order that exonerated the Manager from the disqualification that was proposed by taking a lenient view in the matter. It needs to be pointed out at this juncture that the Writ Petition was not filed in the nature of a public interest litigation, and on that count, the aspect of *locus standi* assumes significance. We find that there was no individual right of the writ petitioner that was infringed through the lenient view taken by the Government in Ex.P19 Government Order in favour of the appellant Manager and that being the case, the Writ Petition ought to have been dismissed as not maintainable at the instance of the writ petitioner.



:10:

W.A.No.1920 of 2022

For the reasons stated above, we find that this Writ appeal has to be allowed. We do so by setting aside the impugned judgment of the learned Single Judge and dismissing the Writ Petition.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

MOHAMMED NIAS C.P.
JUDGE

mns



APPENDIX OF WA 1920/2022

RESPONDENT ANNEXURES

- ANNEXURE R1 (A) TRUE PHOTOSTAT COPY OF THE NOTICE NO. GEN-F1/10/2022-GEN DATED 23-11-2022 ISSUED ON BEHALF OF GOVERNMENT
- ANNEXURE R1 (B) TRUE PHOTOSTAT COPY OF THE ARGUMENT NOTE SUBMITTED BY THE APPELLANT ON 5-12-2022
- ANNEXURE R1 (C) TRUE PHOTOSTAT COPY OF THE COMMUNICATION DATED 24-12-2022 ISSUED BY THE DEO, ATTINGAL TO THE DIRECTOR OF PUBLIC INSTRUCTIONS
- ANNEXURE R1 (D) TRUE PHOTOSTAT COPY OF THE HEARING NOTE SUBMITTED ON BEHALF OF THE DIRECTOR OF PUBLIC INSTRUCTIONS
- ANNEXURE R1 (E) TRUE PHOTOSTAT COPY OF THE HEARING NOTE DATED 3-12-2022 SUBMITTED BY THE DEPUTY DIRECTOR OF EDUCATION
- ANNEXURE R1 (F) TRUE PHOTOSTAT COPY OF THE HEARING NOTE DATED 1-12-2022 SUBMITTED BY THE DEO, ATTINGAL
- ANNEXURE R1 (G) TRUE PHOTOSTAT COPY OF THE NOTICE DATED 7-12-2022 ISSUED ON BEHALF OF THE GOVERNMENT TO THE APPELLANT
- ANNEXURE R1 (H) TRUE PHOTOSTAT COPY OF THE LETTER DATED 14-12-2022 GIVEN BY THE APPELLANT TO THE 2ND RESPONDENT
- ANNEXURE R1 (I) TRUE PHOTOSTAT COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT ON 3-5-2011 IN WPC NO. 12870 OF 2011