

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY
MONDAY, THE 11TH DAY OF OCTOBER 2021 / 19TH ASWINA, 1943
WP(C) NO. 24738 OF 2018

PETITIONERS:

- 1 RAJKISHOR C, AGED 49 YEARS, S/O. CHELLAPPAN PILLAI, P.T.A. PRESIDENT OF GOVERNMENT P.V.H.S. PERUMKULAM, KOTTARAKARA, KOLLAM, RESIDING AT VAZHAVILA VEEDU, KOTTATHALLA, KOLLAM DISTRICT.
- 2 THE PRINCIPAL GOVERNMENT P.V.H.S. PERUMKULAM, KOTTARAKARA, KOLLAM, RESIDING AT VAZHAVILA VEEDU, KOTTATHALLA, KOLLAM DISTRICT.

BY ADVS.SRI.S.SREEKUMAR (KOLLAM)
SMT.V.BEENA

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001.
- 2 THE DIRECTOR GENERAL OF POLICE, POLICE HEAD QUARTERS, THIRUVANANTHAPURAM - 695010.
- 3 THE SUPERINTENDENT OF POLICE(RURAL), KOTTARAKARA, KOLLAM, PIN - 691506.
- 4 THE SUB-INSPECTOR OF POLICE, KOTTARAKARA POLICE STATION, PIN - 691506.
- 5 THE KERALA STUDENTS UNION KSU, REPRESENTED BY ITS PRESIDENT, STATE COMMITTEE OFFICE, ALTHARA NAGAR, ELANKOM ROAD, THIRUVANANTHAPURAM - 695002.
- 6 THE STUDENTS FEDERATION OF INDIA SFI, REPRESENTED BY ITS STATE SECRETARY, STATE COMMITTEE OFFICE, NEAR STUDENTS CENTRE, PALAYAM, THIRUVANANTHAPURAM - 695033.
- 7 THE AKHILA BHARATIYA VIDUARTHI PARISHATH ABVP, REPRESENTED BY ITS PRESIDENT, MARARJI MEMORIAL BUILDING PALAYAM, THIRUVANANTHAPURAM - 695033.
- 8 THE UNIT PRESIDENT, KERALA STUDENTS UNION (KSU), PERUMKULAM, KOTTARAKARA, KOLLAM - 691566.
- 9 THE UNIT ORGANIZER, AKHILA BHARATIYA VIDUARTHI PARISHATH (ABVP), KOTTARAKARA NAGAR SAMATHY, PERUMKULAM, KOTTARAKARA, KOLLAM - 691566.
- 10 THE UNIT PRESIDENT, STUDENTS FEDERATION OF INDIA (SFI) PERUMKULAM, KOTTARAKARA, KOLLAM - 691566.

SRI.K.P.HARISH, SR.G.P. for R1 to R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 11th day of October 2021

S.MANIKUMAR, C.J.

This writ petition is filed for banning educational strikes and thereby compelling to close the functions of Government P.V.H.S. School, Perumkulam, Kottarakkara, Kollam District, by the outside students' leaders and also for effective police protection for the smooth running of the school.

2. According to the petitioner, a Full Bench of this Hon'ble court has banned "Bandh" holding it as illegal and unconstitutional in ***Bharat Kumar K. Palicha and another v. State of Kerala and others*** reported in (1997) 2 KLT 287 (FB).

3. Later the Hon'ble Apex Court, in ***Communist party India v. Bharath Kumari*** reported in 1997 (2) KT 1007 (SC) has upheld the findings of the High Court.

4. Therefore, according to the petitioner, calling of educational bandh/strike by the students organization/political parties are illegal and unconstitutional, as "bandh/strike" has already banned by the Full Bench of this Hon'ble Court and upheld by the Hon'ble Apex Court in ***Barath Kumari's*** case supra. Hence once bandh is banned, there is no scope for calling educational bandh and conduct of it.

5. Material on record discloses that functioning of the Government P.V.H.S. school, Perumkulam, Kottarakara in Kollam district was affected, on account of the activities of the Kerala Students Union (KSU) represented by its President, the Students Federation of India (SFI) represented by its State Secretary, The Akhila Bharathiya Vidyarthi Parishath (ABVP) represented by its President, The Unit President, KSU Perumkulam, The Unit Organizer, ABVP Perumkulam, The Unit President, SFI Perumkulam/respondents 5 to 10 respectively, and that the school had to remain closed on a few days because of the 'bandh call' given by respondents 5 to 10. That apart, it is the contention of the petitioner that though Ext.P4 complaint dated 4.7.2018 was lodged by the Parent Teachers Association, Govt. P.V.H.S.School, Perumkulam, Kottarakara, Kollam to the Superintendent of Police (Rural), Kottarakara, Kollam/respondent No.3, no action was taken and hence this writ petition, seeking for the following reliefs:

“i) to declare, calling of “Educational Bandh” and its conduct by students organization/political parties as illegal, unconstitutional and in violation of the dictum laid down in Bharat Kumari case supra;

ii) to declare that calling of Educational Bandh/strike or whatever name it is called to mean the same and its conduct is violative of the provisions of the 'Right of Children to Free and Compulsory Education-2009'.

iii) to declare that there is latches on the part of the State Government in taking preventive measures to stop calling of Educational Bandh/Strike by the students organization/ political parties in the State of Kerala.

iv) issue a writ of mandamus or any other appropriate writ or direction, commanding and compelling the respondents 1 to 4 to initiate immediate steps to prohibit students union/political parties calling the Educational Bandh in order to secure the future of the students;

v) issue a writ of mandamus or any other appropriate writ or direction, commanding and compelling the respondents 1 to 4 to prevent the respondents 8 to 10 from entering into the P.V.H.S.S., Higher Secondary, Perumkulam, Kottarakara, Kollam District and thereby compelling the school authorities to declare holiday during the strike whenever they declare.”

6. On instructions, Mr.K.P.Harish, learned Senior Government Pleader submitted that on receipt of Ext.P4 complaint dated 4.7.2018, a meeting was arranged by the police authorities with all concerned and that issues raised in the complaint Ext.P4, were settled amicably. Thereafter there is no such incident.

7. Placing on record the above, we are of the view that there is no need to retain the writ petition. However, on the facts and circumstances of this case, we only observe that all the authorities concerned should implement the decision of the Hon'ble Apex Court and this Court, dealing

with strike/bandh, as stated supra, without giving room for any future complaint or representation in this regard, violation of which would be viewed seriously. Appropriate instructions be issued by the concerned.

Accordingly, writ petition is disposed of leaving open all the issues raised based on the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

**SD/-
S.MANIKUMAR
CHIEF JUSTICE**

**SD/-
SHAJI P. CHALY
JUDGE**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA DATED 13.07.2016 IN W.P.(C) 22487/16, PROHIBITING POLITICAL STRIKES INSIDE THE SCHOOLS.
- EXHIBIT P2 A TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY THE STUDENTS UNION (K.S.U.) DEMANDING TO CLOSE THE SCHOOL FOR THEIR DECLARED STRIKE.
- EXHIBIT P2(a) A TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2.
- EXHIBIT P3 A TRUE PHOTOSTAT COPY OF THE LETTER ISSUED BY THE STUDENTS UNION (A.B.V.P) DEMANDING TO CLOSE THE SCHOOL FOR THEIR DECLARED STRIKE.
- EXHIBIT P3(a) A TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3.
- EXHIBIT P4 A TRUE PHOTOSTAT COPY OF THE COMPLAINT FILED BEFORE THE DISTRICT POLICE SUPERINTENDENT (RURAL) KOLLAM.
- EXHIBIT P4(a) A TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P4.

// TRUE COPY //

P.S. TO JUDGE