

"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 11TH DAY OF APRIL 2024 / 22ND CHAITHRA, 1946

WP(C) NO. 19170 OF 2014

PETITIONERS:

- 1 PRAKASH N
S/O.NANU, FARMER, KADUKATHITTA VEED,
THUVAYOOR SOUTH P.O., KADAMPANAD VILLAGE,
PANTHALAM, PATHANAMTHITTA, PIN-691552.**
- 2 RAJANI R.
W/O.SUNILKUMAR, SREELAKAM,
THUVAYOOR SOUTH P.O., KADAMPANAD VILLAGE,
PANTHALAM, PATHANAMTHITTA, PIN-691552.
BY ADVS.SRI.SHIJU VARGHEESE
SRI.A.C.EAPEN**

RESPONDENTS:

- 1 G.W.L.P.(GOVERNMENT WELFARE LOWER PRIMARY) SCHOOL,
THEVAYOOR SOUTH
PANDIMALAPPURAM THUVAYOOR SOUTH P.O.,
KADAPAD VILLAGE, PANTHALAM,
PATHANAMTHITTA, PIN-691552
REPRESENTED BY ITS HEAD MISTRESS.**
- 2 DISTRICT PANCHAYATH
PATHANAMTHITTA, PATHANAMTHITTA P.O.,
PIN-689645 REPRESENTED BY ITS SECRETARY.**
- 3 KADAMPANAD GRAMA PANCHAYAT
KADAMPANAD SOUTH P.O., PATHANAMTHITTA DISTRICT,
PIN-691553, REPRESENTED BY ITS SECRETARY
(SPECIAL GRADE)**
- 4 ASSISTANT ENGINEER
WATER AUTHORITY, ADOOR DIVISION,
PATHANAMTHITTA, PIN-689645.**
- 5 ASSISTANT EDUCATION OFFICER,
ADOOR, PATHANAMTHITTA,
PANTHANAMTHITTA P.O., PIN 689 645**
- 6 DEPUTY DIRECTOR OF EDUCATION,
THIRUVALLA, PATHANAMTHITTA P O, PIN 689 645**

7 THE DISTRICT COLLECTOR,
PATHANAMTHITTA, PATHANAMTHITTA P O,
PIN 686 645
BY ADVS.
SRI.ANOOP.V.NAIR
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS ERNAKULAM
DR.K.P.SATHEESAN SR.
SRI.SIDDHARTH KRISHNAN
SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
SRI.S.VIBHEESHANAN

OTHER PRESENT :

SRI.PRINCY XAVIER, SR.GP
SRI.V.V.JOSHI, SC
SRI.VARGHESE M.EASOW, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 08.04.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

“C.R.”

P.V.KUNHIKRISHNAN, J.

W.P.(C).No.19170 of 2014

Dated this the 11th day of April, 2024

JUDGMENT

A playground in a school is a part and parcel of the school. Without a playground, there cannot be a school. The education of the children is not in the classroom alone; it should spread to the playground as well. Playgrounds are the ultimate classroom where children learn through play. The playground is where the children can themselves shine mentally and physically.

2. The above writ petition is filed by the President of the Parent Teachers Association and the Managing Committee Member of the Government Welfare Lower Primary School, Thevayoor South, Pathanamthitta, with following prayers:

- i. Issue a Writ of mandamus or any other Writ, Order or Direction, restraining the respondents 2 and 3 from constructing water tank or such other constructions without the permission of the educational authorities with in the compound of the 1st respondent school;
- ii. cost of the proceedings; and
- iii. Issue such other writs, orders or directions as this Hon'ble Court may be pleased to deem fit and proper to grant.

(SIC)

3. The petitioners were forced to file this writ petition when there was an attempt from respondents 2 and 3 to construct a water tank in the school ground without obtaining permission from the school authorities or higher authorities. The petitioners produced Ext.P13 photographs to show that the construction activities have already started in the playground of the school. At that stage this writ petition was filed. Now it is conceded by both sides that the proposal to construct the water tank is dropped and there is no grievance to the petitioners. Therefore, the prayers in this writ petition are in effect

infructuous.

4. But, before closing this writ petition, it is to be reminded to the authorities about the importance of playground in a school. Chapter IV Rule 1 of the Kerala Education Rules (for short, KER) deals with the establishment and maintenance of schools. Chapter IV Rule 1 KER says about the minimum site area necessary for Lower Primary Schools, Upper Primary Schools with or without Lower Primary Section, Secondary Schools (High Schools) with or without Primary Section, Higher Secondary Schools with or without Primary Section and Training Schools with or without Model Schools. Chapter IV Rule 3 KER deals with playground and garden. It will be better to extract Chapter IV Rule 3 KER:

“Playground and Garden -

- (1) The sites should be provided with compound walls or good fencing.
- (2) Every school shall have suitable playgrounds for games and sports. The site should contain sufficient clear space for the purpose.
- (3) The compound should be kept fairly levelled

and clear of rank vegetation.

- (4) The Manager and Head of every school should put forth their best efforts for laying out gardens in the premises. Efforts also should be made for planting suitable trees in the school compound so that pupils may play and rest under them during leisure hours. Care should be taken to see that trees are so planted as not to (a) reduce unduly the space available for play, and (b) obstruct the entry of the light into the class rooms or in course of time cause damage to the structure.”

5. Chapter IV Rule 3(2) says that every school shall have suitable playgrounds for games and sports. The site should contain sufficient clear space for the purpose. But the extent of the playground necessary in different types of schools mentioned in Chapter IV Rule 1 KER is not separately given in Chapter IV Rule 3(2) KER. It seems that taking advantage of this, some of the schools are not maintaining suitable playgrounds for games and sports with sufficient clear space. The Right of Children to Free and Compulsory Education Act (for short, the Right to Education Act) also does not specify the area needed for

playground. Serial No.2 of Schedule to the Right to Education Act, expressly states about specification of building required for establishing a school. There also, the area needed for a playground is not specifically mentioned. It only mentions that there should be a playground for the school.

6. But, as far as the affiliation of schools as per CBSE, ISCE, etc., it is clearly stated about the extent of the playground. In **State of Kerala & Another v. Manager, Mahatma Public School, Kottackakom** [2019 (3) KLJ 744], this Court held that the State in considering recognition either under the Right to Education Act and as stipulated by the affiliating Board/Body is competent to look into the norms and conditions of affiliation as prescribed by affiliating Board/Body and when so satisfied as to grant of recognition, shall also issue an NOC as required. Affiliation of Bye-laws 2018 of the Central Board of Secondary Education (for short, CBSE) deals about the playground. Clause 3.1.3 of the CBSE Affiliation of Bye-

laws 2018 says that the school or society/trust/ company managing the school must have land with a proper playground. The land on which the school is located should necessarily be a contiguous single plot of land. If there are more than two survey numbers etc. all the survey numbers/plots should be adjacent/touching each other and shall make a single plot of land on the whole is the requirement as per 3.1-3.1.1. of the Affiliation Bye-laws of CBSE. Clause 3.1 -3.1.3 says that a proper playground should exist on the remaining part of the land mentioned in Clause 3.1.1. Moreover Clause 4.7.9 of the CBSE Affiliation Bye-laws 2018 clearly says that a playground should consist adequate ground to create outdoor facilities for at least 200 meter Athletics Track, facilities for Kabbadi, Kho-Kho, Volleyball, basketball etc.

7. The Council for Indian School Certificate Examinations (for short, CISCE) prescribed Affiliation Rules. As per Clause 4 (c) of the CISCE Rules for Affiliation, the school should have a minimum of 2000 sq.

metres of land, suitable buildings constructed on a part of the land and proper playgrounds on the remaining land with adequate facilities as prescribed from time to time by the Council. As per Chapter III of the CISCE Rules for Affiliation, at the time of inspection for affiliation, the size, suitability, maintenance, the games and sports that the ground is used for and games and sports equipment will be inspected.

8. Therefore, CBSE Affiliation Bye-laws 2018 and CISCE Rules for Affiliation clearly stipulate the facilities that are required in a school playground. But in the Kerala Education Act and Rules, the same is lacking except for a condition in Chapter IV Rule 3(2) KER which says that every school shall have suitable playground for games and sports and site should contain sufficient clear space for the purpose. Several schools in the State were established decades back. In several schools in the State, adequate playgrounds for games and sports with sufficient clear space is not available because of the subsequent

building constructions and even alienation of school property. The school authorities and aided school management are taking advantage of this lacuna in Chapter IV KER which is silent about the measurement of the playground necessary in the schools. Therefore, it is imperative to issue an order or regulation about the extent of the playground necessary in all schools in the State and the facilities required in the school's playground.

9. School playgrounds are an essential part of a child's learning environment providing a safe and fun place to play. The playgrounds can help children to develop their physical, social, emotional and imaginative skills. The education should not be restricted in classrooms and the extra curricular activities including sports and games should also be a part of the education curriculum. It will increase the physical skills of the children like flexibility and balance motor skills, hand-eye co-ordination and heart and lung function, is the new

scientific study. Social skills, cognitive skills and emotional skills also will improve, if the children are allowed to engage in games and other activities in the school playground. This will definitely reduce the stress and anxiety of the children in the classroom.

10. Therefore, I am of the considered opinion that the Government should formulate a norm/guideline, in tune with Chapter IV Rules 1 and 3(2) of KER, prescribing the extent of playground necessary in each category of schools and also the requisite facilities. Right to education is a fundamental right of the children. The education includes play and other extra curricular activities. If there is no suitable playgrounds for games and sports in schools containing sufficient clear space for that purpose as provided in KER, the government should take stringent action including closure of those schools. The facilities that are necessary in playgrounds of schools may vary in LP Schools, U.P Schools, High Schools etc. But a proper norm/guideline is necessary.

Therefore, this writ petition is disposed of with following directions to the State Government:

1. The State of Kerala shall issue norms/guidelines in tune with Chapter IV Rule 3(2) of KER about the extent of playground necessary in each category of schools mentioned in Chapter IV Rule 1 and also the facilities required in school playground. The above norms/guidelines shall be issued by the Government within four months from the date of receipt of a copy of this judgment.
2. Once the above norms/guidelines are issued, the educational authorities shall see that all the schools in the State are following the same and if any of the schools is not following the same, after giving sufficient opportunity and time to them, stringent action including closure

of the school should be ordered.

3. The Registry shall forward a copy of the judgment to the Secretary, General Education Department, State of Kerala, forthwith.

JV

sd/-
P.V.KUNHIKRISHNAN
JUDGE

APPENDIX OF WP(C) 19170/2014

PETITIONER EXHIBITS

EXHIBIT P1: TRUE COPY OF THE REQUEST DT.7-7-2014 FILED BEFORE THE R6.

EXHIBIT P2 : TRUE COPY OF THE REQUEST DT.7-7-2014 FILED BEFORE R5.

EXHIBIT P3 : TRUE COPY OF THE REQUEST DT.8-7-2014 FILED BEFORE R3.

EXHIBIT P4 : TRUE COPY OF THE REQUEST DT.8-7-2014 FILED BEFORE THE PRESIDENT OF R3.

EXHIBIT P5 : TRUE COPY OF THE REPRESENTATION FILED BY THE 2ND PETITIONER BEFORE R2 DT.17-7-2014.

EXHIBIT P6 : TRUE COPY OF THE REPRESENTATION FILED BY THE 2ND PETITIONER BEFORE R7 DT.17-7-2014.

EXHIBIT P7 : TRUE COPY OF THE COMMUNICATION DT.18-7-2014 ISSUED BY R5.

EXHIBIT P8 : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE R5 DT.14-7-2014.

EXHIBIT P9 : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE R6 DT.14-7-2014.

EXHIBIT P10 : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE RDO, ADOOR DT.14-7-2014.

EXHIBIT P11 : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE R7 DT.14-7-2014.

EXHIBIT P12 : TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE SI OF POLICE, ENATH POLICE STATION DT.16-7-2014.

EXT.P13, P13(A) & P13(B) PHOTOGRAPHS OF THE COMPOUND OF THE 1ST RESPONDENT

EXT.P14 COPY OF THE RECEIPT ISSUED BY THE PHOTOGRAPHER DATED 7.8.2014

EXT.P15 COPY OF THE MATHRUBHOOMI DAILY, KOTTAYAM EDITION DATED 25.7.2014

RESPONDENTS' EXHIBITS

- R6(A) COPY OF THE VISIT REPORT OF 5TH
RESPONDENT DATED 28.04.2014**
- R6(B) COPY OF THE RESOLUTION OF 5TH
RESPONDENT DATED 28.4.14**
- R6(C) COPY OF THE LETTER NO.C4.7528/14 DATED
28.06.2014**
- R6(E) COPY OF HTE INFORMATION LETTER TO THE
1ST AND 3RD RESPONDENT DATED 25.7.2014**
- R6(E) COPY OF THE LETTER DATED 01.07.2014**
- R6(F) COPY OF THE LETTER NO.C4.7528/14 DATED
30.08.2014**