



W.A.No.1118 of 2026

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2026:KER:76926

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 8TH DAY OF OCTOBER 2026 / 16TH ASWINA, 1948

WA NO. 1118 OF 2026

AGAINST THE JUDGMENT DATED 28.04.2026 IN W.P.(C) NO.15783
OF 2026 OF HIGH COURT OF KERALA

APPELLANTS/3RD PARTY:

- 1 K. A MUHAMMED ASHRAF
AGED 75 YEARS
S/O ADV.HAJI VMA KAREEM, MANAGER MM MUM UP SCHOOL
KARAKAD, NADAKKAL P.O ERATTUPETTA,
KOTTAYAM DISTRICT (RESIDING AT FATHIMA MANZIL,
KARAKAD, KOTTAYAM DISTRICT-686121)
- 2 P.R ASHOKA VARMA
AGED 81 YEARS
S/O NARAYANA NAMBOOTHIRI MANAGER,
SMV HSS POONJAR, KOTTAYAM DISTRICT (RESIDING AT
KANJIRAMATTOM PALACE, POONJAR P.O.
KOTTAYAM DISTRICT-686 581).

BY ADVS.
SRI.K.A. MANZOOR ALI
DR.GEORGE ABRAHAM

RESPONDENTS/WRIT PETITIONER/RESPONDENTS 1 TO 7:

- 1 MUSLIM GIRLS' HIGHER SECONDARY SCHOOL,
REPRESENTED BY ITS MANAGER MR. M.K. ANSARI
ERATTUPETTA, KOTTAYAM DISTRICT,



KERALA, PIN - 686121

- 2 STATE OF KERALA REPRESENTED BY THE SECRETARY
GENERAL EDUCATION (F) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695014
- 3 DIRECTOR OF GENERAL EDUCATION
OFFICE OF THE DIRECTOR OF GENERAL EDUCATION
JAGATHY, THIRUVANANTHAPURAM, PIN - 695014
- 4 DISTRICT EDUCATIONAL OFFICER, KANJIRAPPALLY
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,
KANJIRAPPALLY PONKUNNAM JUNCTION,
KOTTAYAM, PIN - 686506
- 5 ELECTION COMMISSION OF INDIA,
REPRESENTED BY ITS SECRETARY
NIRVACHAN SADAN, ASHOKA ROAD,
NEW DELHI, PIN - 110001
- 6 CHIEF ELECTORAL OFFICER
KERALA ELECTION DEPARTMENT KERALA LEGISLATIVE COMPLEX,
VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM, PIN - 695033
- 7 MUNICIPAL COUNCIL, REPRESENTED BY ITS SECRETARY
ERATTUPETTA MUNICIPALITY,
ERATTUPETTA P.O KOTTAYAM, PIN - 686121
- 8 THE SECRETARY
ERATTUPETTA MUNICIPALITY,
ERATTUPETTA P.O KOTTAYAM, PIN - 686121
- *9 KRISHNAKANTH K.C
AGED 45, S/O. CHANDRASEKHARAN NAIR K.,
KAIPPUZHA HOUSE, POONJAR P.O.,
KOTTAYAM DISTRICT -686581
- **10 NIMA SOMAN
AGED 37 YEARS
D/O. SOMAN, ODANATTU HOUSE,
KODANAD P.O. ERNAKULAM-683544
- ***11 VIJESH VIJAYAN
AGED 39, S/O. K.K. VIJAYAN,



KUNNEL HOUSE, POONJAR SOUTH P.O.
KOTTAYAM -686582.

****12 NOOPURA.S. NAIR
AGED 27 YEARS, D/O. K.K. SURESHKUMAR,
KODUMPANIYIL HOUSE, POONJAR P.O.
KOTTAYAM-686582.

#13 DHANYA.V
AGED 32 YEARS, D/O. VIDHYADHARA MENON,
PUTHOORAM VEEDU, POOVARANY P.O.
VILAKKUMADAM -686577.

##14 PARVATHY.S.NAIR
AGED 31 YEARS, D/O. SURESHKUMAR K.E,
SIVASAKTHI HOUSE, POONJAR P.O. KOTTAYAM-686582.

@15 KRISHNAPRASAD.V
AGED 32 YEARS, S/O. N. VENUGOPAL,
LAKSHMI MANDIARAM, ARUNAPURAM P.O.
KOTTAYAM -686574

@@16 BIBISHA.S
AGED 31 YEARS, D/O. SOMAN P.N, PARAPURATH HOUSE,
MELUKKAVUMATTOM, KOTTAYAM-686652. (*#@ADDITIONAL
RESPONDENTS R9 TO R16 ARE IMPEADED VIDE ORDER DATED
29.06.2026 IN I.A.NO. 4 OF 2026 IN W.A.NO. 1118 OF
2026 SUBJECT TO STIPULATED CONDITIONS THEREIN.)

BY ADVS.

SHRI.M.AJAY, SC, ELECTION COMMISSION OF INDIA
SHRI.SUNIL V.MOHAMMED, SC, ERATTUPETTA MUNICIPALITY
SMT.NISHA GEORGE
SRI.A.L. NAVANEETH KRISHNAN
SRI.GEORGE POONTHOTTAM (SR.)
SMT. REEHA KHADER K., SR. GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01.09.2026,
THE COURT ON 08.10.2026 DELIVERED THE FOLLOWING:



JUDGMENT

Muralee Krishna S., J.

The appellants, who are third parties to W.P.(C)No.15783 of 2026, filed this writ appeal under Section 5(i) of the Kerala High Court Act, 1958, seeking leave of this Court to challenge the judgment dated 28.04.2026 passed by the learned Single Judge in that writ petition.

2. This writ appeal was moved during the summer vacation and, by the order dated 12.05.2026, the Division Bench held the sitting during the summer vacation in which one among us [Muralee Krishna S., J.] granted an interim order in favour of the appellants, making it clear that any decision taken pursuance of the said judgment shall be subject to the final decision in the leave petition. By the order dated 21.05.2026 in I.A.No.1 of 2026, we allowed the said interlocutory application, granting leave to the appellants; however, without prejudice to the right of the 1st respondent-writ petitioner to raise the question of maintainability of the writ appeal at the appropriate stage. By the order dated 29.06.2026 in I.A.No.4 of 2026, additional respondents 9 to 16,



who are the teachers of SMV Higher Secondary School, Poonjar, a School managed by the 2nd appellant, are impleaded in the appeal subject to the very same condition stipulated in the order dated 21.05.2026 in I.A.No.1 of 2026.

3. W.P.(C)No.15783 of 2026 is one filed by the 1st respondent-writ petitioner under Article 226 of the Constitution of India, seeking the following reliefs;

"i. To issue a writ of mandamus or any other appropriate writ, order or direction directing the 7th Respondent, Secretary of Erattupetta Municipality to issue approval letter forthwith on Exhibit P4 application, to the petitioner school to complete the formalities and for onward transmission to the respondents 1 and 2 for granting approval to introduce the co-education scheme in the petitioner school.

ii. To issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents 1 and 2 to grant permission to start the co-education scheme in the petitioner school without insisting for the receipt of approval letter from the 6th respondent Municipality, so as to enable the petitioner to start the co-education during the academic year 2026-2027 itself.

iii. To call for the records leading to the issuance of Exhibit P3 circular and quash the same, to the extent it insists for approval of the Municipality for applying the co-education scheme, after declaring that such a procedure is not the one



contemplated in the relevant Statute or Rules.

iv. To declare that the Model Code of Conduct is not a bar for consideration of the Petitioners application by the 6th or 7th or 1st and 2nd respondents in granting approval to start co-education."

4. Going by the averments in the writ petition, the 1st respondent-writ petitioner School (The 'School' for short) is a well-established Educational Institution in the aided Sector, functioning in Erattupetta, Kottayam District. The School is represented by its Manager. The School is a girls-only school. The Managing Trustee of the School decided to introduce co-education in the School, for which an appropriate resolution is passed by the Managing Trustees, approved by the General Body and the PTA, as evident from Ext.P1 proceedings passed in the General Body by the members of the Trust dated 17.02.2026, and Ext.P2 proceedings passed in the PTA Executive Committee dated 17.02.2026. The Government of Kerala issued Ext.P3 Circular dated 21.06.2022, dealing with the procedure for applying for mixed/Co-education scheme in the Schools, which stipulates a requirement of permission from the concerned local body before applying to the General Education Department. Such a procedure is neither



contemplated in the Kerala Education Rules, 1959 ('KER' for short) nor prescribed in the Kerala Municipality Act or Rules. However, the 1st respondent-writ petitioner has chosen to apply for approval by the Municipal Council, Erattupetta Municipality, for which it submitted Ext P4 application dated 18.02.2026. Aggrieved by the delay in taking a decision by the Municipality, the 1st respondent-writ petitioner approached this Court by filing W.P.(C) No. 10617 of 26, in which, by Ext.P8 judgment, this Court ordered the 6th respondent therein to take a decision within 3 weeks. The 6th respondent therein failed to take a decision, stating the reasons of the Model Code of Conduct pursuant to the declaration of the Assembly election, objection from a rival school, etc. The time limit fixed by this Court to pass orders as per Ext.P8 judgment has also expired. In fact, the approval of the Municipality is not a statutory requirement as per the KER or Kerala Municipality Act and Rules. So insistence on such an approval is not a mandatory requirement. The only provision to introduce co-education is provided under Rule 12 of Chapter VI of the KER, which confers power exclusively with the Director of Education. So, Ext.P3



circular has no statutory force. The 1st respondent-writ petitioner school decided to introduce co-education during this academic year commencing in June 2026, for which, as per Ext.P14 Circular dated 18.04.2026, the admission process was started by 02.05.2026. With these pleadings, the 1st respondent-writ petitioner filed W.P.(C)No.15783 of 2026.

5. W.P.(C)No.15783 of 2026 was also one moved by the 1st respondent-writ petitioner during summer vacation. When the writ petition came up for admission before the learned Single Judge, after hearing the learned counsel for the 1st respondent-writ petitioner, the learned Government Pleader and the learned Standing Counsel for Erattupetta Municipality, the learned Single Judge disposed of the writ petition. Paragraphs 13 to 15 and the last paragraph of that judgment read thus;

“13. I have also gone through Ext.P3 circular issued by the Government. In Ext.P3 circular, it is made clear that the policy of the Government is to promote co-education. The stand of the Government is to convert the girls only school and boys only school to mixed school. Certain guidelines were issued in Ext. P3 circular to ensure the necessary infrastructure, including furniture and facilities such as drinking water, separate toilet facilities for boys and girls,



playground, and so on. But, however, I am unable fathom why clause (4) insists an approval from the concerned local authority. What is the role of local authority in converting girls only school to mixed school or a boys only school to mixed school is not clear from the above circular.

14. It is pertinent to note that, even though Clause (4) insists on approval from the local authority, no procedure such as inspection, etc., is provided in the guidelines. The vesting of blanket powers with an authority without prescribing the procedures to be followed by such authority, would lead to arbitrary exercise of powers.

15. Considering the urgency and the inaction on the part of the 7th respondent Municipality, I deem it appropriate to dispose of this writ petition to the following directions:

(i) The 7th respondent, the Secretary of the Municipality, shall grant approval to the petitioner school as per Clause (4) of Ext. P3 circular within three days from the date of receipt of a copy of this judgment.

(ii) If the 7th respondent fails to grant approval within the said period of three days, the school management may proceed with the introduction of coeducation in the school even without the approval of the local authority. The petitioner school shall forward a copy of this judgment to the 7th respondent by email and also produce the physical copy of the judgment before the Municipality.

This Writ Petition is disposed of as above.”

Being aggrieved, the appellants have filed the present writ appeal.



6. Heard the learned counsel for the appellants, the learned counsel for the 1st respondent-writ petitioner, the learned Senior Government Pleader and the learned counsel for the additional respondents 9 to 16 and also the learned Standing Counsel for Erattupetta Municipality.

7. The learned counsel for the appellants submitted that the 1st respondent-writ petitioner had previously approached this Court by filing W.P.(C)No.10617 of 2026 with certain prayers and by Ext.P8 judgment dated 19.03.2026, this Court disposed of that writ petition directing the Secretary, Erattupetta Municipality to consider the application dated 18.02.2026 submitted by the Manager of the 1st respondent School for approval in a time bound manner, at any rate, within a period of three weeks from the date of receipt of a certified copy of that judgment. However, without pursuing the direction in Ext.P8 judgment, the 1st respondent-writ petitioner had chosen to file a fresh writ petition during summer vacation, which, in fact, is barred by principles of res judicata. The learned counsel for the appellants further pointed out that there is another writ petition filed by the 1st appellant as



W.P.(C)No.13677 of 2026 in which another learned Single Judge of this Court issued Ext.P11 interim order dated 07.04.2026, ordering notice to the 1st respondent-writ petitioner herein. It was in respect of the very same subject matter; W.P.(C)No.13677 of 2026 was filed by the 1st appellant. Even then, without making the appellants a party to W.P.(C)No.15783 of 2026, the impugned orders have been obtained by the 1st respondent-writ petitioner. In support of his arguments regarding constructive res judicata, the learned counsel for the appellants relied on the judgment of a Division Bench of this Court in **Varadarajan V. v. Union of India [2026 KHC OnLine 1579]**.

8. The learned counsel for the 1st respondent-writ petitioner would submit that the No Objection Certificate from the Municipality was insisted by the authorities concerned only based on Ext.P3 Circular dated 21.06.2022 issued by the Government. The reliefs sought in the previous writ petition, i.e., W.P.(C)No.10617 of 2026 and in the present writ petition are entirely different and therefore, the principles of constructive res judicata are not applicable to the present case. It is vehemently



submitted by the learned counsel for the 1st respondent-writ petitioner that, since the academic session was fast approaching, and the steps to admit the students had to be completed as directed in Ext.P3 Circular, the 1st respondent-writ petitioner had to move the writ petition during summer vacation. It is further submitted by the learned counsel for the 1st respondent-writ petitioner that after the impugned judgment, the Secretary of Erattupetta Municipality had issued Annexure R1(a) No Objection Certificate dated 02.05.2026 and the Director of General Education issued Annexure R1(b) order dated 14.05.2026 permitting co-education in the school of the 1st respondent-writ petitioner. Consequently, students were admitted, and the academic session is ongoing in the school of the 1st respondent-writ petitioner. In support of his arguments regarding non-application of principles of constructive res judicata, the learned counsel for the 1st respondent relied on the judgment of a Division Bench of this Court in **South Indian Bank v. M/s. PDMC Industries [2025 KHC 1307]** in which one among us [Anil K. Narendran, J.] was a party and also the judgment of this Court in



M.D. Esthappan Infrastructure Pvt. Ltd. (M/s.) v. Reserve Bank of India [2025 (6) KLT SN 53].

9. The learned Senior Government Pleader submitted that the Government had already issued Ext.P3 Circular, and after the impugned judgment, the Director of General Education issued Annexure R1(b) order, sanctioning co-education in the school of the 1st respondent-writ petitioner.

10. The learned counsel for the impleaded additional respondents 9 to 16 vehemently submitted that the prayers in the writ petitions are contradictory in nature. After seeking approval from the Municipality, the 1st respondent-writ petitioner cannot contend that the necessity of such an approval itself is bad. According to the learned counsel, after submitting to the authority of the Municipality in the earlier writ petition, i.e., W.P.(C)No.10617 of 2026, the 1st respondent-writ petitioner cannot file a writ petition stating that the Municipality has no authority to issue such a No Objection Certificate or, in other words, such a No Objection Certificate is unnecessary in the matter. According to the learned counsel for additional



respondents 9 to 16, Rule 12 of Chapter VI of KER prescribes the procedure for beginning co-education in a school and by the impugned judgment, the said provision itself became redundant. It is further submitted by the learned Counsel that the additional respondents, who are nearby School teachers, are affected by the impugned judgment since there was a reduction in the number of students in their school, which will cause division fall in their school. According to the learned counsel, other boys' schools nearby in the vicinity are necessary parties in the writ petition, in view of Rule 12 of Chapter VI of KER. In support of his arguments, the learned counsel relied on the Judgment of the Apex Court in **Bir Bajrang Kumar v. State of Bihar [AIR 1987 SC 1345]** and that of a Division Bench of this Court dated 22.08.2019 in W.A.No.1987 of 2018 [2019:KER:52907] and 11.04.2025 in W.A.No.1866 of 2024 [2025:KER:31630].

11. The learned Standing Counsel for Erattupetta Municipality submitted that in view of the direction in the impugned judgment, Annexure R1(a) No Objection Certificate was issued by the Municipality.



12. We have perused the pleadings and materials on record and the submissions made at the Bar. Previously, the 1st respondent-writ petitioner had filed a writ petition before this Court in respect of the very same subject matter as W.P.(C)No.10617 of 2026. The prayers in that writ petition are as under;

"1. To issue a writ of mandamus or any other appropriate writ, order or direction directing the Secretary of Erattupetta Municipality to consider and pass appropriate orders on the petitioner's application, Exhibit P4, for approval within a time limit fixed by this Hon'ble Court.

i. To declare that the consideration of the petitioner's application is an administrative function within the powers of the Secretary and does not require decision of the Municipal Council, except where specifically required by law.

ii. Issue such other writ or orders or directions as that Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

13. By Ext.P8 judgment, the learned Single Judge of this Court disposed of that writ petition with the following directions;

"1. The 2nd respondent is directed to consider Ext.P4, after giving sufficient opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within a period of three weeks from the date of receipt of a certified copy of



this judgment.

2. The petitioner will produce a certified copy of this judgment, along with a copy of this Writ Petition with exhibits, before the 2nd respondent for compliance.”

14. Subsequently, during summer vacation, the 1st respondent-writ petitioner moved the present writ petition, i.e., W.P.(C)No.15783 of 2026 with the prayers extracted in the initial part of this judgment. While going through the prayers in the previous writ petition filed by the 1st respondent-petitioner and in the present writ petition, we find that there are arguable points in the contentions raised by the appellants as well as the additional respondents 9 to 16 that there are contradictions in the relief sought in the present writ petition and also some of the reliefs are barred by principles of constructive res judicata. However, we are not entering into those aspects in the present writ petition, for the simple reason that from the perusal of the impugned judgment, we notice that the learned Single Judge disposed of the present writ petition at the admission stage itself without giving opportunity to submit the contentions of the respondents in the writ petition by way of a counter affidavit. We have also noticed that in the impugned judgment, the learned Single Judge has



noted that W.P.(C)No.13677 of 2026 filed by the 1st appellant herein challenging the introduction of co-education has been pending before this Court. The posting date of that case was also noted in the impugned judgment. Therefore, the learned Single Judge ought to have posted the present writ petition, i.e., W.P.(C)No.15783 of 2026, also along with the said writ petition, since the subject matter in both the writ petitions is the same.

15. The 1st appellant, who has filed W.P.(C)No.13677 of 2026 in respect of the very same subject matter, is not made a party in W.P.(C)No.15783 of 2026, even though the 1st respondent-writ petitioner here is one of the respondents in that writ petition. It is also appropriate to note at this juncture, Rule 12 of Chapter VI of KER, which reads thus;

“Rule 12 – Admission of Boys into Girls’ Schools : (1) All Primary Schools (Lower and Upper) shall be deemed to be mixed schools and admission thereto shall be open to boys and girls alike. But under Special circumstances the Director may exempt particular institutions from this rule so that admission there to might be restricted to boys or girls and in the absence of such special circumstances the Director may withdraw such exemption.

(ii) Admission to Secondary Schools which are specifically



recognised as Girls Schools shall be restricted to girls only; but the Director may issue a general permission to boys below the age of twelve to be admitted to classes not higher than standard VII in particular Girls Schools Provided there are no Boys schools in the locality. But such boys on completing the age of twelve shall not be allowed to continue in such schools beyond the school year in which they complete the age of twelve.

(iii) Girls may be admitted into Secondary Schools for boys in areas and in towns where there are no Girls' Schools and in such cases adequate arrangements should be made for the necessary convenience. The admission will be subject to general permission of the Director in particular Boys' Schools which will be specified by him."

(Underline supplied)

16. A reading of the aforesaid provisions would show that there are certain aspects to be considered by the Director of General Education while issuing permission for beginning co-education. All these matters have to be considered on merits in view of the contentions raised by the 1st appellant in the writ petition filed by him. In such circumstances, we are of the considered opinion that the impugned judgment dated 28.04.2026 in W.P.(C)No.15783 of 2026 is liable to be set aside for reconsideration on merits. Since the rival contentions have to be



considered in the writ petition, we are not entering to the principles stated in the judgments relied by the parties, with a view to give a free hand to the learned Single Judge and the parties to raise all their legal and factual contentions in the writ petition.

17. During the course of arguments, the learned counsel for the 1st respondent-writ petitioner submitted that after Annexure R1(b) order, 28 boy students were admitted from 5th standard to 10th standard and they are studying in the school of the 1st respondent-writ petitioner. To safeguard their interest, who were admitted to the school without knowing the dispute existing between the parties, we are of the view that the status quo as of now has to be continued in the 1st respondent-writ petitioner School till a decision has been taken in the writ petition on merits.

In the result, without expressing anything on the legal and factual contentions raised by the parties, this writ appeal is disposed of by setting aside the impugned judgment dated 28.04.2026 in W.P.(C)No.15783 of 2026 and the writ petition is restored to file. The appellants as well as the additional



respondents 9 to 16 are at liberty to file appropriate applications in the writ petition to implead them as additional respondents therein, at any rate, within a period of two weeks from the date of receipt of a certified copy of this judgment. The Registry is directed to list the writ petition as per roster for consideration on merits.

Sd/-

ANIL K. NARENDHAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

**APPENDIX OF WA NO. 1118 OF 2026****RESPONDENT ANNEXURES**

Annexure R9(a) TRUE COPY OF THE ORDER NO. DGE/8073/2026-H4
DATED 14.05.2026 ISSUED BY THE 3RD RESPONDENT

PETITIONER ANNEXURES

Annexure -I TRUE COPY OF THE REPORT SUBMITTED BY THE
SECRETARY, MUNICIPALITY, ERATTUPETTA

Annexure -II TRUE COPY OF THE OBJECTION FILED BY THE 2ND
APPELLANT BEFORE THE MUNICIPALITY
ERATTUPETTA DATED 12.03.2026

Annexure -III TRUE COPY OF THE DECISION REPORTED IN 1999
KHC 318 =1999 (2) KLT 282 DATED 09.04.1999 (
MALABAR CEMENT LTD V MUKUNDAN

RESPONDENT ANNEXURES

Annexure R1(a) A TRUE COPY OF THE ORDER PASSED BY THE 8TH
RESPONDENT DATED 02-05-2026

Annexure R1(b) A TRUE COPY OF THE ORDER NO:DGE/8073/2026-H
4DATED 14-05-2026