

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A. BADHARUDEEN**

Tuesday, the 9th day of May 2023 / 19th Vaisakha, 1945
WP(C) NO. 15455 OF 2023(F)

PETITIONERS:

1. KERALA CBSE SCHOOL MANAGEMENT ASSOCIATION (REGD) REPRESENTED BY ITS GENERAL SECRETARY P.S. RAMACHANDRAN PILLAI, REG.NO. 174/1996, PENTA TOWER, 7TH FLOOR, KALOOR, KOCHI, PIN - 682017
2. PRINCIPAL, ST: JOHN'S SCHOOL, KEERUKUZHAY, THUMPAMON, PATHANAMTHITTA, PIN - 689502
3. PRINCIPAL, VIDYADHIRAJA VIDHAYA PEEDOM CENTRAL SCHOOL, PONNARAMTHOTTAM, MAVELIKKARA, ALAPPUZHA, PIN - 690101
4. SENIOR PRINCIPAL, ST: THOMAS SENIOR SECONDARY SCHOOL, PUNALUR, KOLLAM - 691305

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE SECRETARY, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001
2. KERALA STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS REPRESENTED BY ITS REGISTRAR, TC NO. 14/2036, VANROSS JUNCTION, THIRUVANANTHAPURAM - 695034
3. THE DIRECTOR OF GENERAL EDUCATION, DIRECTORATE OF GENERAL EDUCATION, JAGATHY, THYCAUD, THIRUVANANTHAPURAM, PIN - 695014
4. THE REGIONAL DIRECTOR ,CENTRAL BOARD OF SECONDARY EDUCATION, BSNL RTTC CAMPUS, KAIMANAM, THIRUVANANTHAPURAM - 695040
5. THE CENTRAL BOARD OF SECONDARY EDUCATION REPRESENTED BY ITS SECRETARY, VIKAS MARG, C BLOCK, PREETHI VIHAR, NEW DELHI - 110062

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction to the 4th respondent to give permission for conducting vacation classes in CBSE School on the basis of their respective applications pending disposal of the Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.K.P.SATHEESAN SENIOR ADVOCATE along with M/S.P.MOHANDAS (ERNAKULAM), K.SUDHINKUMAR, SABU PULLAN, GOKUL D. SUDHAKARAN & R.BHASKARA KRISHNAN, Advocates for the petitioners, GOVERNMENT PLEADER for the respondents 1 & 3 and of SRI.NIRMAL S., ADVOCATE for the respondents 4 & 5, the court passed the following:

A.BADHARUDEEN, J.

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Dated this the 9th day of May, 2023

ORDER

The learned Government Pleader takes notice for respondent Nos.1 & 3. Sri. Nirmal S. appears for respondent Nos. 4 & 5. Issue notice to respondent No.2 by speed post.

2. Heard the learned counsel for the petitioners and the learned Government Pleader. Also heard Advocate Nirmal S.

3. It is submitted by the learned counsel for the petitioners that, Ext.P1 circular dated 28.04.2017 shown as reference No.1 in Ext.P4 was considered by this Court as per interim order in W.P(C) Nos.10076 of 2018 and connected cases dated 16.04.2018 and the order in W.P.(C) Nos.3689 & 4036 of 2018 and also interim directions, were issued. Further in the decision reported in ***I.S.S. (English Medium) Senior Secondary School, Perinthalmanna v. State of Kerala and Others [2018 (2) KHC 849]***, this Court held that, as conduct of summer classes is at the request and advice of

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the parents and students of the various schools and the classes are being conducted only for the children above 14 years, such classes can be continued in strict vigilance by the competent educational authorities. Therefore, Ext.P4 dated 03.05.2023, in continuation of Ext.P1 is unsustainable. Hence, the learned Counsel pressed for an interim stay of operation of Ext.P4. Further he submitted that the petitioners in ***I.S.S. (English Medium) Senior Secondary School, Perinthalmanna v. State of Kerala and Others*** (*supra*) have been conducting vacation classes in view of the above judgment at present also and the petitioners could not conduct vacation classes in view of operation of Ext.P4. The learned counsel also submitted that since only three weeks remain for the vacation classes to be conducted, an urgent order in this matter is required.

4. The learned Government Pleader opposed grant of stay on the submission that Ext.P4 circular has been issued in view of the present environmental condition and also to facilitate enjoyment of vacation by the students. Therefore, the

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challenge against Ext.P4 is unsustainable and as such no interim stay is liable to be granted.

5. Advocate Nirmal S. submitted that the order in WP(C).No.10076/2018 and connected cases was considered by the Division Bench and the burden cast upon respondents 4 and 5 has been modified. He also submitted that the conduct of vacation classes shall be at the helm of the 3rd respondent and respondents 4 and 5 may not be burdened for the same.

6. I have appraised the rival submissions. Since it appears that if the matter is adjourned without considering the plea for interim stay, the matter will become infructuous by the end of this month. Therefore, the interim prayer is considered on the basis of the decisions of this Court and on appraising the available materials.

7. On perusal of the decisions cited by the learned Counsel for the petitioners, this Court consistently held that vacation classes meant for the welfare and well-being of the students and vacation classes being run by the schools for the

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children above 14 years in consensus with the parents and students need not be obstructed and thereby this Court permitted conduct of vacation classes. It is relevant to note that even though this Court, after issuance of Ext.P1, permitted conduct of vacation classes, Ext.P4 dated 03.05.2023 was issued after referring Ext.P1. Even on a cursory reading of Ext.P4, no specific reasons stated for stopping vacation classes and what is the action taken in view of the interim direction in W.P(C).No.10076/2018 and connected cases is not even stated in Ext.P4. It is relevant to note that the decision in ***I.S.S. (English Medium) Senior Secondary School, Perinthalmanna v. State of Kerala and Others*** (*supra*) also was not considered while issuing Ext.P4. In fact, *prima facie*, it appears that Ext.P4 was issued without assigning any reason or without referring the judgments of this Court. Insofar as conduct of vacation classes, it has to be observed that when the parents and students, who are aspiring a bright future, give

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consent to attend vacation classes, the same need not be obstructed.

8. In this context, it has to be observed that classes during vacation, in fact, are aimed for the welfare and well-being of the students, for which PTA (Parent Teacher Association) also given consent. Therefore, classes provided during summer vacation, as consented by the school authorities and the parents and the students for the benefit of the students, need not be disturbed without valid reasons.

9. Therefore, in the interest of justice, the implementation of Ext. P4 shall stand stayed for a period of two weeks from today on condition that the schools represented by the association of the writ petitioners can continue the vacation classes after ensuring proper facilities in the respective schools by providing sufficient numbers of fan at the class rooms and drinking water to adjust with the present environmental situation and the final verdict of the writ petition shall be rendered after hearing all the parties in detail.

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10. It is specifically ordered that if any parent has an objection in the matter of vacation classes, the school authorities shall consider the said objection and shall defer vacation classes, taking note of the objection and to do so, this interim order shall not be a rigour.

Post after ten days.

Hand over.

Sd/-



A. BADHARUDEEN, JUDGE

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APPENDIX OF WP(C) 15455/2023

Exhibit-P1

**TRUE COPY OF THE CIRCULAR NO. H(4)/26488/2017/D.P.I.
DATED 28-04-2017 ISSUED BY THE 3RD RESPONDENT**

Exhibit-P4

**TRUE COPY OF THE COMMUNICATION NO. H4/7002/2023/D.G.E
DATED 3-5-2023 ISSUED BY THE 3RD RESPONDENT**

