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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 08TH DAY OF JANUARY 2021 / 18TH Pousha, 1942

WP (C) .No.29032 OF 2020 (D)

PETITIONER:

JACOB JOHN,
AGED 44 YEARS,
S/O. JOHN XAVIOUR, J S BHAVANAM,
GOOD SHEPHERD HOME, VADAKKUMBHAGOM, CHAVARA SOUTH,
KOLLAM, 691 584.

BY ADVS.
SRI.JOHNSON GOMEZ
SRI.BASIL AJITH
SHRI.JOHN GOMEZ

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED THROUGH ITS PRINCIPAL SECRETARY, DISASTER
MANAGEMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM - 695 001.
- 2 PRINCIPAL SECRETARY,
DEPARTMENT OF EDUCATION, GOVERNMENT SECRETARIAT,
TRIVANDRUM - 695 001.

BY ADV. SMT.VINITHA.B, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.01.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

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Petitioner, who claims that his daughter Amala Jain Jacob, is a student of 9th standard in a Government Higher Secondary School at Chavara, seeks a direction to the Government of Kerala to permit re-opening and functioning of Schools and Technical Educational Institutions.

2. The petitioner states that Ext.P1 order issued by Government on 24.11.2020 by which other educational institutions except schools and technical education institutions were allowed to function is in violation of Article 14 of the Constitution of India. The next contention of the petitioner is that the students are prevented from meeting their teachers and clear their doubts or seek assistance for studying their portions and

that they have to rely on unpredictable internet connections for pursuing their education and they are left with less equipped means to prepare for year-end exams for the promotion to the next academic year.

3. The learned Government Pleader points out that the Government has been issuing orders from time to time taking stock of the situation; even in Ext.P1 the number of students, who are permitted to attend, was restricted to a maximum of 100 while relaxing the COVID protocol. It is stated that the High Level Committee under the Chief Minister had in its meeting held on 17.12.2020 decided that students of 10th and 12th standard would be permitted to attend the Schools from 01.01.2021, with the permission of their parents, in order to prepare for them to appear in the public examination to be held in

March 2021, to clear their doubts in continuation of the digital classes, to prepare them for model examination, etc strictly in accordance with the COVID protocol. Director of General Education, as per his letter dated 24.12.2020 addressed to the Heads of the Schools, forwarded the guidelines containing the precautionary measures to be taken by all the stake holders including the teachers as well as the students. In order to observe physical distancing, sanitisation, etc, they are directed to arrange the classes in different batches with different duration, after constituting a COVID cell, comprising of personnel from Police department as well as local bodies, which has to submit daily surveillance report in the prescribed form.

4. Thus classes for 10th and 12th standard

of the schools under the General Educational Department as well as students of the Colleges have already been permitted to function with strict restrictions, that too in different batches and different timings for the students of the very same class.

5. In the circumstances of the case it is clear that the Government had issued orders closing Schools due to the outbreak of the COVID-19 pandemic, in the larger interest of public which includes students community also, to arrest the spread/super spread in view of such unprecedented and extra ordinary situations that have arisen affecting the health of the people in the whole world. Right from April, 2020, orders are being issued by the Central and State Governments in relaxation of orders on lock down, having regard to the situation prevailing in the

country, based on the opinion of the experts in the field. It can be noticed that as far as Kerala is concerned, the number of positive cases in the state even as on today is more than 5000. Apart from that reports are there, as to cases affected by new variants of Corona Virus while steps are afoot for starting vaccination also. Both the central and State government are striving for the revival of the pre-covid state, step by step. The contention of the petitioner relying on Article 14 of the Constitution of India is absolutely untenable.

I am of the view that when the authorities, who are equipped with the expertise in these matters are issuing orders relaxing the restrictions at regular intervals, a decision as to when the schools can start functioning in its full swing, protecting the interest of all concerned would

also be issued by them, in accordance with the prevailing conditions. In order to protect the right of the children, Government has already taken possible steps by conducting classes through digital media. There is no reason for any doubt that Government would not come forward with orders for re-opening of the Schools as and when the situation becomes normal/ ensuring the protection of the health of the children. Therefore I am of the considered view that interference by this Court under Article 226 is absolutely unwarranted.

The writ petition is accordingly dismissed.

Sd/-

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JUDGE

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APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	G.O. (RT.) NO.947/2020/DMD DATED 24.11.2020 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P1 (A)	TRUE TRANSLATION OF EXHIBIT P1.
EXHIBIT P2	REPRESENTATION OF THE PETITIONER DATED 21.12.2020 TO THE 1ST RESPONDENT THROUGH EMAIL.