

WP(C) Nos.8716 & 11682/2021

3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 14<sup>TH</sup> DAY OF JULY 2021 / 23RD ASHADHA, 1943

WP(C) NO. 11682 OF 2021

**PETITIONER:**

NIRANJANA PRAKASH (MINOR),  
AGED 12 YEARS  
D/O.PRAKASHAN K., KUYVAL HOUSE, VESALA,  
CHATTUKAPARA P.O., KANNUR 670 592  
REP. THROUGH HER MOTHER LIJA C., AGED 37,  
W/O.PRAKASHAN K., KUYVAL HOUSE, VESALA,  
CHATTUKAPARA P.O., KANNUR 670 592

BY ADV MANAS P HAMEED

**RESPONDENTS:**

- 1 MINISTRY OF EDUCATION,  
REP. BY ITS SECRETARY, GOVERNMENT OF INDIA,  
SHASTRI BHAWAN, NEW DELHI 110 001
- 2 NAVODAYA VIDYALAYA SAMITI  
AUTONOMOUS BODY UNDER MINISTRY OF EDUCATION,  
GOVERNMENT OF INDIA, REP. BY ITS CHAIRMAN,  
INSTITUTIONAL AREA, SECTOR 62, NOIDA, UTTAR  
PRADESH 201 307
- 3 VIDYALAYA MANAGEMENT COMMITTEE  
REP. BY ITS CHAIRMAN, JAWAHAR NAVODAYA VIDYALAYA,  
CHENDAYAD P.O., PANOOR, KANNUR 670 692.
- 4 THE DISTRICT COLLECTOR, KANNUR,  
CHAIRMAN OF VIDYALAYA MANAGEMENT COMMITTEE,  
COLLECTORATE, THAVAKKARA, KANNUR 670 002
- 5 THE PRINCIPAL  
JAWAHAR NAVODAYA VIDYALAYA, CHENDAYAD P.O.,  
PANOOR, KANNUR 670 692

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 14.07.2021, ALONG WITH WP(C).8716/2021, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING:

WP(C) Nos.8716 & 11682/2021

4

**JUDGMENT**

A girl of 12 years in age has approached this Court seeking a direction to the 2<sup>nd</sup> respondent - Tahsildar, Taliparamba Taluk, to issue her a certificate to the effect that the School in which she was earlier studying, namely "KAKNS AUP School", Kuttiattor, is situated in a rural area, so that she can seek admission to the "Jawahar Navodaya Vidyalaya", Kannur, of which the 5<sup>th</sup> respondent is the Principal.

2. I am considering these two writ petitions together because my decision in the first among them, namely W.P.(C)No.8716/2021, will fully cover the other, namely W.P.(C).No.11682/2021.

3. For the same reason as afore, I will treat W.P.(C)No.8716/2021 as the lead case; and all reference to parties and documents in this judgment will be as arrayed and produced in the said writ petition, unless otherwise specifically said.

4. The petitioner says that, as per the admission policy of the "Jawahar Navodaya

WP(C) Nos.8716 & 11682/2021

5

Vidyalaya", only a student who had earlier studied in a school in a "rural area" can obtain admission therein by transfer; and therefore, that unless the 2<sup>nd</sup> respondent - Tahsildar issues her a certificate to that effect, she would be denied admission; and consequently, that her future would be jeopardized.

5. The petitioner, therefore, prays that the 2<sup>nd</sup> respondent - Tahsildar, who is the jurisdictional officer for the area where her former school is situated, be directed to issue a 'Rural Certificate' at the earliest.

6. The learned counsel for the petitioner, Shri.Manas P.Hameed, pointed out that his client is edifying her case on Ext.P2 provisional certificate issued by the Tahsildar, Taliparamba; on Ext.P5 certificate issued by the Secretary of the Kuttiattoor Grama Panchayat and on Ext.P8 judgment of this Court in W.P(C)No.26835 of 2015. He submitted that, in Ext.P2, the Tahsildar, Taliparamba, has crystallly certified that his client's earlier School is situated within a Grama

WP(C) Nos.8716 & 11682/2021

6

Panchayat, which is a "Rural Area"; and that this has been reiterated in Ext.P5 certificate of the Kuttiattoor Grama Panchayat. He then argued that, as is evident from Ext.P8 judgment, this Court has already found that if the area where the earlier School situates, is not notified as an 'Urban Area' under the Delimitation Act or under the Kerala Panchayat Raj Act, the Tahsildar is bound to grant his client a 'Rural Certificate", without relying on the Census data.

7. Shri.Manas P.Hameed then explained that, in this case, the sole reason why the certificate has been denied to his client is because, in Ext.P3, the Tahsildar, Taliparamba, has recorded that, as per the 2011 census, the area where the earlier School situates is an 'Urban' one. The learned counsel submitted that this statement of the Tahsildar is irrelevant because a learned Judge of this Court has, as early as in the year 2012, delivered a judgment in **James N.X. & another v. District Collector, Ernakulam and Others** [2012(4)KHC 179]

WP(C) Nos.8716 & 11682/2021

7

declaring affirmatively that areas in a Panchayat, notified under Section 10(3)(A) of the Kerala Panchayat Raj Act, 1994, will have to be construed as being 'Rural'. The learned counsel, therefore, prayed that this writ petition be allowed.

8. The learned Government Pleader, Shri.Sunil Kumar Kuriakose, responded to the afore submissions of the petitioner by first admitting that he has no information whether the area of the old School of the petitioner has been included as an "Urban Area" either under the Delimitation Act or as per the Kerala Panchayat Raj Act. He, thereafter agreed that, going by Ext.P5 certificate issued by the Secretary, Kuttiattoor Grama Panchayat, the area where the School is situated is included in its territory and therefore, certified to be within a 'Rural Area'. The learned Government Pleader, however, submitted that this may not be, by itself, sufficient, because it will have to be first verified whether the area is now a "Rural" one, particularly because the Census Data of the year

WP(C) Nos.8716 & 11682/2021

8

2011 shows it to be an "Urban one". He, therefore, prayed that no further reliefs be granted in these writ petitions.

9. Before I delve to the rival contentions of the parties on its merits, I must record that, in obedience to the interim order of this Court dated 07/04/2021, a certificate has been now issued to the petitioner by the Tahsildar, showing her earlier School to be situated in a "Rural Area", albeit recording that this certificate is only a provisional one, subject to the final outcome of W.P.(C)No.8716/2021. Based on the said certificate, the Principal of the "Jawahar Navodaya Vidyalaya" has offered her admission, provisionally. This, however, has lead to the petitioner to file W.P.(C)No.11682/2021 alleging that the school is not providing her with any of the benefits and facilities being enjoyed by other students, since they are treating her only a "provisional" admission and not as a regular student.

10. Shri.M.K.Padmanabhan Nair, learned Standing

WP(C) Nos.8716 & 11682/2021

9

Counsel for the "Jawahar Navodaya Vidyalaya", submitted that his client has acted strictly in accordance with the directions of this Court and therefore, that only a provisional admission could have been given to the petitioner, since the Certificate produced by her from the Tahsildar is also only provisional. He, submitted that, therefore, the allegation of the petitioner in W.P(C)No.11682 of 2021 that she has not been granted any benefit of a regular student is meant solely to confuse and is resultantly malafide. He, therefore, prayed that these writ petitions be dismissed.

11. From the facts I have already narrated above, it is limpid that there can be little doubt that the School of the petitioner, where she had earlier studied, is situated within the territorial limits of the Kuttiattoor Grama Panchayat. Therefore, going by **James N.X. (Supra)**, as long as the area is within a Panchayat, as notified under Section 10(3) (A) of the Kerala Panchayat Raj Act, it will be justified for the petitioner to claim that

WP(C) Nos.8716 & 11682/2021

10

said area be construed as a "Rural" one. In fact, this is the same view that has been carried forward in Ext.P8 judgment in W.P(C)No.26835 of 2015, wherein, another learned Judge of this Court has found that if the area in question is not notified as an "Urban" one under the Delimitation Act or the Kerala Panchayat Raj Act, the candidate is entitled to a 'Rural Certificate'.

12. As I have already indited above, the respondents have no case that the area, where the petitioner's earlier School situates, is now defined as an "Urban" one under the Delimitation Act or the Kerala Panchayat Raj Act. Consequently, I am persuaded to the certain opinion that merely because the Census Data of the year 2011 shows otherwise, as long as the area in question is part of a Panchayat and is notified as such under the Kerala Panchayat Raj Act, there can obtain no reason why the petitioner should not get the benefit of the declarations in **James N.X. (Supra)**, as also that in Ext.P8 judgment produced along with W.P(C)No.8716 of



WP(C) Nos.8716 & 11682/2021

11

2021.

In the afore circumstances these writ petitions are ordered as under:-

(a) W.P(C)No.8716 of 2021 is allowed, declaring that the certificate now produced by the petitioner before the Principal of the "Jawahar Navodaya Vidyalaya", from the Tahsildar, Taliparaba, will be construed as being a final one and her admission will be regularized; she being thus granted all the benefits available to a regular student of the said School.

(b) W.P(C)No.11682 of 2021 is consequently closed without any further orders, in view of my directions above.

Sd/-

**DEVAN RAMACHANDRAN**

**JUDGE**

**MC/15.7**

WP(C) Nos.8716 & 11682/2021

12

APPENDIX OF WP(C) 8716/2021

PETITIONER ANNEXURE

- EXHIBIT P1 TRUE COPY OF ADMISSION FORM PROPOSED TO BE SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT ALONG WITH THE CERTIFICATES ISSUED BY HEAD OF KAKNS AUP SCHOOL KUTTIATTOR, UNDERTAKING MADE BY THE PARENT OF THE PETITIONER AND THE MEDICAL CERTIFICATE ISSUED BY CIVIL SURGEON, COMMUNITY HEALTH CENTRE, MAYYIL.
- EXHIBIT P2 TRUE COPY OF REPORT DATED 22.03.2021 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT.
- EXHIBIT P3 TRUE COPY OF LETTER DATED 24.03.2021 COMMUNICATED BY THE 2ND RESPONDENT TAHSILDAR TO THE MOTHER OF THE PETITIONER, DENYING RURAL CERTIFICATE TO THE PETITIONER.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, SHOWING THE PROCEEDINGS DATED 26.03.2021 OF THE 1ST RESPONDENT.
- EXHIBIT P5 TRUE COPY OF CERTIFICATE DATED 27.03.2021 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER FOR THE PURPOSE OF PRODUCING BEFORE THE 2ND RESPONDENT FOR ISSUANCE OF RURAL CERTIFICATE.
- EXHIBIT P6 TRUE COPY OF LETTER DATED 30.03.2021 GIVEN BY THE ELECTED PRESIDENT OF KUTTIATTOOR GRAMA PANCHAYAT TO THE PETITIONER FOR PRODUCING BEFORE THE 2ND RESPONDENT FOR THE PURPOSE OF ISSUANCE OF RURAL CERTIFICATE.
- EXHIBIT P7 TRUE COPY OF REPRESENTATION DATED 30.03.2021 SUBMITTED BY THE PETITIONER'S MOTHER BEFORE THE 2ND RESPONDENT FOR ISSUANCE OF RURAL CERTIFICATE IN FAVOUR

WP(C) Nos.8716 & 11682/2021

13

OF THE PETITIONER.

EXHIBIT P8

TRUE COPY OF JUDGMENT DATED 12.10.2015  
PASSED BY THIS HONOURABLE COURT IN  
W.P(C)NO.26835/2015.

WP(C) Nos.8716 & 11682/2021

14

APPENDIX OF WP(C) 11682/2021

PETITIONER ANNEXURE

- Exhibit P1 TRUE COPY OF INTERIM ORDER DATED 7.4.2021  
PASSED BY THIS HONOURABLE COURT IN W.P.  
(C) NO.8716 OF 2021
- Exhibit P2 TRUE COPY OF RURAL CERTIFICATE DATED  
9.4.2021 ISSUED BY THE TAHSILDAR,  
TALIPARAMBA TALUK.
- Exhibit P3 TRUE COPY OF THE ADMISSION FORM SUBMITTED  
BY THE PETITIONER BEFORE THE 4TH  
RESPONDENT.
- Exhibit P4 TRUE COPY OF LETTER DATED 18.4.2021  
SUBMITTED BY THE PETITIONER BEFORE THE  
5TH RESPONDENT REQUESTING TO PERMIT THE  
PETITIONER TO ATTEND THE ONLINE CLASSES.
- Exhibit P5 TRUE COPY OF RTI REPLY DATED 21.4.2021  
GIVEN BY PUBLIC INFORMATION OFFICER,  
TALIPARAMBA TALUK.
- Exhibit P6 TRUE COPY OF LETTER DATED 7.4.2021  
COMMUNICATED BY THE HEADMISTRESS, KAKANS  
AUP SCHOOL KUTTIATTOOR TO THE TAHSILDAR  
TALIPARAMBA.