



“C.R.”

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

THURSDAY, THE 3<sup>RD</sup> DAY OF JULY 2025 / 12TH ASHADHA, 1947

WP(C) NO. 10763 OF 2025

PETITIONER/S:

BY ADVS.  
SHRI.KALEESWARAM RAJ  
KUM.THULASI K. RAJ  
SMT.CHINNU MARIA ANTONY  
SMT.APARNA NARAYAN MENON

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY THE SECRETARY, DEPARTMENT OF GENERAL EDUCATION,  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 DIRECTOR OF GENERAL EDUCATION  
DEPARTMENT OF GENERAL EDUCATION, JAGATHI, THIRUVANANTHAPURAM, PIN -  
695014
- 3 DEPUTY DIRECTOR OF EDUCATION  
KOTTAPPADY DOWN HILL, MALAPPURAM, PIN - 676519



- 4 DISTRICT EDUCATIONAL OFFICER  
DISTRICT EDUCATIONAL OFFICE, WANDOOR, MALAPPURAM, PIN - 679328
- 5 ASSISTANT EDUCATIONAL OFFICER  
ASSISTANT EDUCATIONAL OFFICE, WANDOOR, MALAPPURAM, PIN - 679328
- 6 THE MANAGER
- 7 THE HEADMASTER

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BY ADVS.  
SRI.RAJIT  
SHRI.AJAIY BASKAR

OTHER PRESENT:

V.VENUGOPAL-GP

THIS WRIT PETITION (CIVIL) HAVING RESERVED ON 25.06.2025, THE COURT ON 03.07.2025  
DELIVERED THE FOLLOWING:



JUDGMENT

**“C.R.”**

Education is preparation for life, and considering life a process of continuing education. Education enables us to fix lifelong objectives which require lifelong efforts to achieve and realise. The ancient system of education was that of perfection, for the development of the mind and soul of mankind. In the ancient education system, teachers were known as Rishis, individuals who had lived a full life. Rishi's ashram was a veritable Gurukul, where the people were loved and cared for as members of the Guru's family. The Rishi represented not only the matured worldly and scholarly wisdom but also high spiritual realisation. The Guru/teacher was assigned high and exceptional reverence. The Guru/teacher was the guide and teacher on the spiritual path. A good teacher in the ancient system of Indian Education interweaves his own life with the life of his people.



1.1 **John C Maxwell** said, “*Students don't care how much you know until they know how much you care*”. **Solomon Ortiz** said, “*Education is the key to success in life, and teachers make a lasting impact on the lives of their students*”. “*They may forget what you said, but they will never forget how you made them feel*”, - **Carl W. Buehner**. A teacher takes a hand, opens his mind and touches the heart. Teachers are role models, inspirers, influencers and touchstones in the early years of education. The teacher is responsible for shaping future leaders by positively inspiring them to be responsible community members. So, while one teaches and one learns, the real lesson is always mutual respect.

1.2 The present case is where a teacher who is accused of sexually assaulting a girl child aged 9 years, 6 months, and 9 days.

2. Heard Ms Thulasi K Raj, learned Counsel for the petitioner; Mr Ajaiy Baskar, learned Counsel for the School, and Mr V Venugopal, learned Government Pleader for the State.



**Facts:**

3. The petitioner has been working as a Junior Language Teacher (Arabic) since 02.06.2003. An FIR as Crime No.234/2024 was registered against him at Police Station Wandoor, Malapuram District, for offences punishable under Section 354A(1)(i) read with Section 354A(2) of the Indian Penal code and Section 9(f) read with Section 10, Section 9(1) read with Section 10, Section 9(m) read with Section 10 and Section 9(p) read with Section 10 of the POCSO Act 2012.

3.1 The petitioner was arrested. However, later on he was enlarged on bail. The victim in her statement recorded under Section 164 of the CrPC stated sexual abuse by the petitioner on 04.01.2023 between 11.15 am and 12 noon and several days thereafter in the classroom of 4<sup>th</sup> A-Division of the School. The petitioner was suspended, and disciplinary proceedings were initiated against him. After the conclusion of the Inquiry, the Inquiry Report [Ext.P11] was submitted to the Manager by the Inquiry Officer. The petitioner was issued a Memo



of Charges in accordance with Rule 75 of Chapter XIV-A of Kerala Service Rules. The Memo of Charges would read as under:

- “a) That the Wandoor Police registered a POCSO case as crime No.234/2024 and arrested the petitioner and produced him before the Court and he was remanded on 11.03.2024, the same is a serious dereliction of duty.
- b) That the POCSO case registered against the petitioner shows serious indiscipline on his part.
- c) that the aforesaid caused damage to the reputation and goodwill of the institution and the same was not bound to happen from the petitioner's side.
- d) That the petitioner is expected to act as a role model for others and the conduct of the petitioner as aforesaid cannot be accepted and the same causes damage to the institution.”

4. During the inquiry, it has been revealed that the victim was merely a 10-year-old child studying in the School, who disclosed to her mother that the petitioner, the Arabic teacher in the School, during the class of Arabic, held on the breast of the victim with sexual intention and he continued this kind of action during Arabic classes while the child was asked to read and stand near the petitioner, as per his instructions.



The mother of the victim revealed the sexual assault meted out on the child to the class teacher. The class teacher informed the headmaster, which led to the filing of the FIR and the arrest of the petitioner.

4.1 After concluding the enquiry and considering the response of the petitioner as per Rule 71 of Chapter XIV-A KER, the Manager proposed the penalty of compulsory retirement as referred to in Rule 65(V) of Chapter XIV-A KER in accordance with Rule 75(XI) of Chapter XIV-A KER. At this stage the petitioner has approached this Court in this writ petition for setting aside the Inquiry Report and consequential proceedings on the ground that the petitioner has been acquitted in the criminal trial because the victim and her mother turned hostile.

**Analysis:**

5. I would not like to make the judgment verbose by citing a catena of judgments on well-established legal positions that disciplinary proceedings are based on the preponderance of probabilities, and the strict rule of evidence is not applicable while conducting the disciplinary



proceedings, as in the criminal trial. However, a few precedents are taken note of hereunder:

**Nand Kishore Prasad v. State of Bihar**<sup>1</sup>

6. This early Supreme Court case has laid down the principle that an acquittal in a criminal case does not automatically lead to the setting aside of a departmental inquiry. The court emphasised the difference in the nature of proceedings and the standard of proof.

6.1 Paragraphs 19 and 20 of the judgment is extracted hereunder:

“19. Before dealing with the contentions canvassed, we may remind ourselves of the principles, in point, crystallised by judicial decisions. The first of these principles is that disciplinary proceedings before a domestic tribunal are of a quasi-judicial character; therefore, the minimum requirement of the rules of natural justice is that the tribunal should arrive at its conclusion on the basis of some evidence, i.e. evidential material which with some degree of definiteness points to the guilt of the delinquent in respect of the charge against him. Suspicion cannot be allowed to take the place of proof even in domestic inquiries. As pointed out by this Court in *Union of India v. H. C. Goel*, "the principle that in punishing the guilty scrupulous care must be taken to see that the

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<sup>1</sup> (1978) 3 SCC 366



innocent are not punished, applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules".

20. The second principle, which is a corollary from the first, is, that if the disciplinary inquiry has been conducted fairly without bias or predilection, in accordance with the relevant disciplinary rules and the Constitutional provisions, the order passed by such authority cannot be interfered with in proceedings under Article 226 of the Constitution, merely on the ground that it was based on evidence which would be insufficient for conviction of the delinquent on the same charge at a criminal trial."

**Parameswaran Namboodiri v. State of Kerala**<sup>2</sup>

7. The Court in this judgment has held that, simply because of an acquittal in a criminal case, the disciplinary proceedings pending against an officer cannot be dropped even if the facts which led to the criminal case and the facts which gave rise to the disciplinary proceedings are the same. Enforcement of criminal law through criminal courts is different from disciplinary proceedings. So, the rule of *autrefois acquit* is not available to the officer who is facing disciplinary

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<sup>2</sup> 1981 KLT 231



proceedings.

7.1 Paragraph 5 of the said is extracted hereunder:

“It is true that the 3rd respondent-teacher under suspension was acquitted in the criminal case on the benefit of doubt. But the question is what is the effect of this acquittal on the disciplinary proceedings which was pending against him. It is now settled law that simply because of an acquittal in a criminal case the disciplinary proceedings pending against that officer cannot be dropped even if the facts which led to the criminal case and the facts which gave rise to the disciplinary proceedings are the same. Enforcement of criminal law through criminal courts is different from disciplinary proceedings. So, the rule of *autrefois acquit* is not available to the officer who is facing a disciplinary proceeding. In this view of the matter, the stand taken by the 2nd respondent-District Educational Officer in Ext. P7 that the disciplinary proceedings against the 3rd respondent need not be continued is nothing but wrong. By Ext P- 9 the 1st respondent-State has directed the petitioner - Manager to conduct the disciplinary proceedings. First of all, the Manager of a school cannot conduct a disciplinary enquiry under R.75 Chap. 14-A of the K.E.R. The power is with the department and, as a matter of fact, the enquiry was half way. The 1st respondent also has directed the reinstatement of the teacher. When once permission to place the teacher under suspension beyond 15 days has been given under R.67(8), Chap. 14-A of the K.E.R, the teacher will have to continue under suspension till the



culmination of the disciplinary proceedings. The scheme of the rules is that and there is no indication in any of the rules which enables the departmental authorities or the State Government to direct a reinstatement of the teacher under suspension before the disciplinary proceedings are over. In this view of the matter, the direction of the 1<sup>st</sup> respondent in Ext. P9 to reinstate the 3rd respondent teacher and to conduct the disciplinary proceedings if the petitioner Manager desires is against the relevant rules in the K.E.R. Hence I set aside Exts P7 and P9. It is for the 2nd respondent-District Educational Officer to continue the disciplinary enquiry, complete the same as expeditiously as possible and forward his report to the petitioner Manager. As the teacher is under suspension for the last 5 years it is only proper that disciplinary proceedings are completed without any further delay. The petitioner and the 2nd respondent should do everything possible to complete the disciplinary proceedings within 3 months from today.”

**Commissioner of Police, New Delhi v. Mehar Singh<sup>3</sup>**

8. The Supreme Court has held that the nature of acquittal is a necessary consideration, *i.e.*, whether acquittal is on technical grounds/not honourable. Quite often, criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on

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<sup>3</sup> (2013) 7 SCC 685



merit. Generally, as a rule, candidates whose acquittal is not honourable are not suitable for government service and are to be avoided.

8.1 Paragraphs 24 and 25 of the said judgment reads as under:

“24. .... We are aware that the question of co-relation between a criminal case and a departmental enquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical, namely, whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on a par with a clean acquittal on merit after a full-fledged trial, where there is no indication of the witnesses being won over. In **R.P. Kapur v. Union of India** this Court has taken a view that departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable.

25. The expression "honourable acquittal" was considered by this Court in **S. Samuthiram**. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under



Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in ***RBI v. Bhopal Singh Panchal***, where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This Court observed that the expressions "honourable acquittal", "acquitted of blame" and "fully exonerated" are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression "honourably acquitted". This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

9. The Supreme Court has reiterated many times that disciplinary proceedings are independent of criminal proceedings. Even if an employee is honourably acquitted in a criminal case, the employer



can still proceed with or sustain a disciplinary action if there is sufficient evidence to prove misconduct on a preponderance of probabilities.

10. The proposition is sound and legally supported. Disciplinary proceedings are distinct from criminal proceedings, operating under different standards of proof, rules of evidence, and objectives. An acquittal in a criminal case, even if based on the victim and witness turning hostile, does not automatically preclude or necessitate the dismissal of concurrent or subsequent disciplinary proceedings concerning the same underlying conduct. An acquittal in a criminal case does not necessarily mean that the accused is innocent or that the alleged misconduct did not occur. Therefore, an acquittal in one does not automatically negate the findings or outcome of the other.

11. While the victim or witness turning hostile in a criminal trial might weaken the prosecution's case to the extent of an acquittal, the disciplinary authority can still evaluate all available evidence, including the testimony of the hostile victim and witness (giving it the weight it



deserves), other documentary evidence, and circumstantial evidence, to determine if misconduct occurred on the lower civil standard. An acquittal in a criminal case does not prevent the disciplinary authority from taking action based on the teacher's conduct.

11.1 The objective of criminal proceedings is to punish offenders and deter crime, while the objective of disciplinary proceedings is to maintain discipline, ensure proper conduct within an organisation, and protect its reputation. An acquittal due to the hostile victim and witness in a criminal case does not negate the disciplinary authority to achieve its disciplinary objectives.

12. The teacher, headmaster and others have fully supported the case against the petitioner in the departmental proceedings. Section 164 CrPC statement of the victim is against the petitioner, which fully supports the prosecution's case. This Court is not making any comment on the trial Court judgment acquitting the petitioner, which is otherwise much to be commented upon. However, the scope of the domestic



enquiry and criminal trial is different. Even if a person is acquitted on a criminal trial, the same would not necessarily lead to discharge in the domestic enquiry. The petitioner, being the teacher of the victim, had a fiduciary relationship with the victim. If the petitioner's conduct, which has been proved in the domestic enquiry, is of the expected standard, and his behaviour is unbecoming of a teacher. He is liable to be removed as per Rule V of Chapter XIII of KER which state, "*any person employed as a teacher in a school shall not be eligible to continue as a teacher if he behaves towards his pupils, their parents, the Headmaster, the Manager or any Educational Officer or towards anybody in any manner grossly unbecoming a teacher*".

**Conclusion:**

13. The question is whether the petitioner's misconduct, which has been found proved in the domestic enquiry by the statement of the teachers of the school, which is grossly unbecoming of a teacher of the school, is to be considered in the domestic enquiry. A person accused of



sexually abusing a 10-year-old child is grossly unbecoming of a teacher at the school. The scar of the crime will never get removed, and it will always haunt the victim.

13.1 Further, the petitioner has approached this Court at a premature stage, inasmuch as only a show cause notice for proposing the punishment has been issued to him. At this stage, this Court would not like to interdict the proceedings.

**Result:**

Therefore, this Court does not find any substance in this writ petition, which is hereby dismissed. All Interlocutory Applications as regards interim matters stand closed.

Sd/-

**D K SINGH**

JUDGE



APPENDIX OF WP(C) 10763/2025

PETITIONER EXHIBITS

|             |                                                                                                                                 |
|-------------|---------------------------------------------------------------------------------------------------------------------------------|
| Exhibit P1  | TRUE COPY OF ORDER NO.1/2024 DATED 20.03.2024 ISSUED BY THE 6TH RESPONDENT.                                                     |
| Exhibit P2  | TRUE COPY OF THE LETTER DATED 18.04.2024 ISSUED BY THE 6TH RESPONDENT.                                                          |
| Exhibit P3  | TRUE COPY OF CHARGE MEMO NO.02/2024 DATED 18.04.2024 ISSUED BY THE 6TH RESPONDENT.                                              |
| Exhibit P4  | TRUE COPY OF THE STATEMENT OF ALLEGATIONS DATED 18.04.2024 ISSUED BY THE 6TH RESPONDENT.                                        |
| Exhibit P5  | TRUE COPY OF THE EXPLANATION DATED 06.05.2024 SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT.                            |
| Exhibit P6  | TRUE COPY OF NOTICE NO.AEOWDR/406/2024-B DATED 13.08.2024 ISSUED BY THE 5TH RESPONDENT.                                         |
| Exhibit P7  | TRUE COPY OF ORDER NO.DEOWDR/1854/2024-A3 DATED 09.09.2024 ISSUED BY THE 4TH RESPONDENT.                                        |
| Exhibit P8  | TRUE COPY OF THE JUDGMENT DATED 13.02.2025 PASSED BY THE HON'BLE FAST TRACK SPECIAL COURT II, PERINTHALMANNA IN SC NO.614/2024. |
| Exhibit P9  | TRUE COPY OF THE LETTER DATED 01.03.2025 SUBMITTED BY THE PETITIONER BEFORE THE 4TH , 5TH AND 6TH RESPONDENTS.                  |
| Exhibit P10 | TRUE COPY OF LETTER DATED 28.02.2025 ISSUED BY THE 6TH RESPONDENT.                                                              |
| Exhibit P11 | TRUE COPY OF THE ENQUIRY REPORT DATED 23.01.2025 PREPARED BY THE 5TH RESPONDENT.                                                |
| Exhibit P12 | TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT DATED 08.03.2025.                                  |
| Exhibit P3  | Translation of Exhibit P3                                                                                                       |
| Exhibit P10 | Translation of Exhibit P10                                                                                                      |
| Exhibit P11 | Translation of Exhibit P11                                                                                                      |