

WP(C) Nos.21615/2023, 28053/2024



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2026:KER:9078

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 2<sup>ND</sup> DAY OF FEBRUARY 2026 / 13TH MAGHA, 1947

WP(C) NO. 21615 OF 2023

PETITIONERS:

- 1 MOITHUNNYKUTTY  
AGED 46 YEARS  
MOITHUNNYKUTTY, S/O. MOHAMMED ALI, KOLLAKKATTU  
HOUSE, PUNNAYUR P.O, THRISSUR, PIN - 679562
- 2 BAPPU  
AGED 65 YEARS  
BAPPU, S/O. AYAMU HAJI, PUTHIYAVEETIL HOUSE,  
PUNNAYUR P.O, THRISSUR, PIN - 679562

BY ADVS.  
SRI.S.K.ADHITHYAN  
SRI.MANU MOHAN (M-1378)  
SMT.SHAHINA NOUSHAD  
SHRI.KRISHNA S. KARUNAKARAN  
SHRI.JAI PRAKASH CHOUDHARY

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR  
OFFICE OF THE DISTRICT COLLECTOR, COLLECTORATE,  
CIVIL STATION, THRISSUR, PIN - 680001
- 2 DISTRICT EDUCATIONAL OFFICER  
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER,  
CHAVAKKAD, THRISSUR DIST, PIN - 680506
- 3 ASSISTANT EDUCATIONAL OFFICER  
OFFICE OF THE ASSISTANT EDUCATIONAL OFFICER,  
CHAVAKKAD, THRISSUR DISTRICT-680506

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4 PUNNAYUR GRAMA PANCHAYATH  
REPRESENTED BY ITS SECRETARY, PUNNAYUR P.O, THRISSUR  
DISTRICT, PIN - 679562

5 UMMER FAROOQ  
S/O. KHADHAR HAJI, PARIYAKKAL HOUSE, PUNNAYUR P.O,  
VADAKKEKADU (VIA), THRISSUR, PIN - 679562

6 ABDUL MAJEED  
S/O. KHADHAR HAJI, PARIYAKKAL HOUSE, PUNNAYUR P.O,  
VADAKKEKADU (VIA), THRISSUR, PIN - 679562

ADDL.R7 MA'DIN KNOWLEDGE GUE PREARDEN' ZEE QSCHO  
MKG PUBLIC SCHOOL, HADIYA WOMEN'S ACADEMY, PUNNAYUR  
P.O THRISSUR REP BY ITS MANAGER .

ADDL R7 IS IMPLEADED AS PER ORDER DATED 12-06-2024  
IN IA NO.2/2024 IN WP(C) 21615/2023.

BY ADVS.  
SMT.JAYASREE K.P.  
SRI.P.S.ABDUL KAREEM  
SHRI.JOHN JOSEPH  
SHRI.NAZIF K.N.

OTHER PRESENT:

SRI SUNIL NATH, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
02.02.2026, ALONG WITH WP(C).28053/2024, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

WP(C) Nos.21615/2023, 28053/2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 2<sup>ND</sup> DAY OF FEBRUARY 2026 / 13TH MAGHA, 1947

WP(C) NO. 28053 OF 2024

PETITIONER:

MA'DIN KNOWLEDGE GARDEN PUBLIC SCHOOL, REP. BY IT'S  
MANAGER,  
AGED 33 YEARS  
VADAKKEKAD, PUNNAYUR.P.O., THRISSUR, PIN - 679562

BY ADVS.  
SRI.P.S.ABDUL KAREEM  
SHRI.NAZIF K.N.

RESPONDENTS:

- 1 ASSISTANT EDUCATIONAL OFFICER  
ASSISTANT EDUCATIONAL OFFICE, CHAVAKKAD, CHAVAKKAD  
P.O., THRISSUR, PIN - 680506
- 2 DISTRICT EDUCATIONAL OFFICER  
DISTRICT EDUCATIONAL OFFICE, CHAVAKKAD, CHAVAKKAD  
P.O., THRISSUR, PIN - 680506
- 3 PRINCIPAL SECRETARY  
GENERAL EDUCATION, ROOM NO.206, 2ND FLOOR, SOUTH  
SANDWICH BLOCK, GOVT. SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 4 STATE OF KERALA

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REPRESENTED BY THE CHIEF SECRETARY, GOVT.  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

SRI.SUNILNATH, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
02.02.2026, ALONG WITH WP(C).21615/2023, THE COURT ON THE SAME  
DAY DELIVERED THE FOLLOWING:

WP (C) Nos.21615/2023, 28053/2024

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## **JUDGMENT**

[W.P.C) Nos.21615 of 2023 and 28053 of 2024]

These two connected writ petitions are with reference to an educational institution stated to have been run by the petitioners in W.P.(C) No.28053 of 2024, who is the additional 7<sup>th</sup> respondent in W.P.(C) No.21615 of 2023.

2. The petitioners in W.P.(C) No.21615 of 2023 have approached this Court pointing out that respondents 5 and 6 are running an educational institution (the additional 7<sup>th</sup> respondent) without obtaining the relevant licence / recognition required with reference to the provisions of Right of Children to Free and Compulsory Education Act, 2009 (for short " the Act"). They have pointed out that, on the basis of a complaint filed by them, a report (Ext.P4) was prepared by the 3<sup>rd</sup> respondent herein addressed to the 2<sup>nd</sup> respondent and the 2<sup>nd</sup> respondent by the proceedings at Ext.P10 having found that the educational institution is being run without any recognition, appropriate action requires to be taken in the matter. They have also sought for a direction to the 1<sup>st</sup>

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respondent - District Collector to act on the basis of Exts.P4 and P10 referred to above. Further direction to the 2<sup>nd</sup> respondent on the basis of Ext.P4 report is also sought for. The subsequent writ petition – W.P.(C) No. 28053 of 2024 has been filed by the afore referred educational institution seeking to challenge the proposed direction on the basis of Ext.P1 issued by the 1<sup>st</sup> respondent therein, directing the petitioner therein to close the educational institution and also issue transfer certificate to the students studying there.

3. I have heard Sri.S.K.Adhithyan, the learned counsel for the petitioners in W.P.(C) No.21615 of 2023, Sri.Nazif K.N representing Sri.P.S.Abdul Kareem, the learned counsel for the petitioner in W.P.(C) No.28053 of 2024, as well as the Sri.N.B.Sunilnath, the learned Government Pleader.

4. The learned counsel representing the educational institution sought to rely on Ext.P12 produced in W.P.(C) No.21615 of 2023 issued by the District Collector to contend that since the District Collector has already passed orders on the basis of the proceedings at Ext.P10 issued by the 2<sup>nd</sup> respondent, the writ petition itself is infructuous. He would also point out to the stop

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memo issued by the 2<sup>nd</sup> respondent in support of the afore contention.

5. This court on 17.07.2024 in W.P.(C) No.21615 of 2023 had issued an order, making it clear that the pendency of the writ petition would not stand in the way of the educational authorities, if the same is functioning without recognition. Though the afore order dated 17.07.2024 was the subject matter of challenge in W.A.No.1283 of 2024 at the behest of the educational institution, a Division Bench of this Court rejected the appeal, holding that the stop memo could be challenged in appropriate proceedings.

6. The learned counsel for the educational institution would also rely on Ext.R7(k) dated 28.11.2024, an accreditation granted by the National Institute of Open Schooling to point out that the school at least with reference to the afore is running with valid a recognition and therefore, cannot be shutdown.

7. At the same time, this Court takes note of the provisions of Section 18 of the Act, as per which it is mandatory for every school / educational institution to obtain an appropriate recognition from the Government concerned. Here there is no dispute about

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the fact that the educational institution - the petitioner in W.P.(C) No.28053 of 2024, is running the same without valid recognition from the concerned Government. This Court also takes note of the averments contained in the counter affidavit filed by the educational institution (the additional 7<sup>th</sup> respondent in W.P.(C) No.21615 of 2023) in paragraph 3 to the effect that the said institution is imparting preschool education for about 300 students teaching Quran and allied subjects.

8. Sri.S.K.Adhithyan, the learned counsel for the petitioners in W.P.(C) No.21615 of 2023 would place reliance of the judgment of this Court in **Trustee, Hidaya Educational & Charitable Trust v. State of Kerala and Others [2020 (1) KHC 775]**, wherein this Court has frowned upon the conduct of educational institutions in the afore manner, in the following lines:-

"26. This issue has to be examined in yet another perspective. The RTE Act was enacted by the parliament after the insertion of Art.21A in the Constitution. Under S.29, the Act mandates that the curriculum and evaluation procedure should be as laid down by the appropriate authority to be specified by the government. Appropriate authority, as defined under



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S.2(a)(ii)(A) in relation to school within the State, is the State Government. In such circumstances, no school which is required to have recognition shall impart any religious instruction or religious study without permission from the State Government.

.....

28. In this case there is a clear finding that the petitioner imparts religious instruction exclusively following Islamic religious. This cannot be permitted. Since it offends the very fabric of the secular society, the Government is justified in ordering closure of the school. However, taking note of the peculiar facts and circumstances of the case, this Court is of the view that an opportunity should be given to the petitioner to desist from imparting religious instructions or study without permission from the Government. In light of the fact that this issue is of great significance, the Secretary of General Education Department is directed to issue a general government order directing all recognised private schools in the State to desist from imparting religious instruction or religious study without permission from the Government. In light of the above, if the Government finds that inspite of the direction, schools including that of the petitioner violates such order, the Government can initiate action for closure and derecognition of such schools."

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9. In the afore circumstances, I am of the opinion that the educational institution - petitioner in W.P.(C) No.28053 of 2024 may not be entitled for running the same without a valid recognition with reference to the provisions of Section 18 of the Act.

10. In that view of the matter, I allow W.P.(C) No.21615 of 2023 directing the competent among the respondents to take note of the findings in this judgment and take appropriate steps to shutdown the educational institution. Taking note of the stand taken by the learned counsel for the educational institution that a reasonable time may be extended for making alternate arrangements, this Court direct the respondents to permit the educational institution to run the school for the academic year 2025-26.

In view of the afore findings, W.P.(C) No.28053 of 2024 would stand dismissed.

Sd/-

**HARISANKAR V. MENON**  
**JUDGE**

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APPENDIX OF WP(C) NO. 21615 OF 2023

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE COMMUNICATION DATED 21/6/2021 ISSUED AS NO. A1-2542/2021 ISSUED BY THE 4 TH RESPONDENT TO THE 2 ND PETITIONER
EXHIBIT P2	TRUE COPY OF THE COMPLAINT DATED 5/4/2022 FILED BY THE PETITIONER BEFORE THE 4 TH RESPONDENT
EXHIBIT P3	TRUE COPY OF THE COMMUNICATION ISSUED BY THE 4 TH RESPONDENT TO THE 1 ST PETITIONER AS LETTER NO. 400666/BAUV01/GPO/2023/1906(1) DATED 27/4/2023
EXHIBIT P4	TRUE COPY OF THE REPORT OF THE 3 RD RESPONDENT PRODUCED BEFORE THE 2 ND RESPONDENT AS NO. AEOC/D/857/2023-E DATED 14/6/2023
EXHIBIT P5	TRUE COPY OF THE PHOTOGRAPH SHOWING THE ARABIC SCHOOL
EXHIBIT P6	TRUE COPY OF THE PHOTOGRAPH SHOWING THE ILLEGAL CONSTRUCTION OF THE SCHOOL
EXHIBIT P7	TRUE COPY OF ANOTHER PHOTOGRAPHS SHOWING THE ARABIC SCHOOL
EXHIBIT P8	A TRUE COPY OF THE COMPLAINT DATED 5/6/2023 FILED BY THE 1 ST PETITIONER BEFORE THE 1 ST RESPONDENT
EXHIBIT P9	A TRUE COPY OF THE LETTER NO. DCTSR/6119/2023- H2 DATED 8/6/2023 ISSUED BY THE 1 ST RESPONDENT TO THE DEPUTY DIRECTOR OF EDUCATION, THRISSUR
EXHIBIT P10	A TRUE COPY OF THE COMMUNICATION SEND BY THE 2 ND RESPONDENT TO THE DEPUTY DIRECTOR OF EDUCATION, THRISSUR BY LETTER NO. DEOCKD/2433/2023-B1 DATED 21/6/2023
EXHIBIT P11	A TRUE COPY OF THE REPORT AND SKETCH PREPARED BY THE TALUK SURVEYOR AS FILE NO. 39/2019 DATED 18/3/2020
EXHIBIT P12	TRUE COPY OF THE LETTER NO. DCTSR/6119/2023-

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H2 DATED 27.10.2023 SENT BY THE 1 ST  
RESPONDENT TO THE 3 RD RESPONDENT

RESPONDENT EXHIBITS

EXHIBIT R7 (A)	TRUE COPY OF THE INSPECTION NOTICE OF NIOS DATED 20-06-2024
EXHIBIT R7 (B)	TRUE COPY OF THE SITE APPROVAL AND BUILDING PERMIT DATED 21-03-2023
EXHIBIT R7 (C)	TRUE COPY OF THE RECEIPT FOR THE BUILDING NUMBER DATED 22-05-2024
EXHIBIT R7 (D)	PHOTOGRAPH OF THE SCHOOL BUILDING
EXHIBIT R7 (E)	TRUE COPY OF THE FITNESS CERTIFICATE ISSUED BY THE ASSISTANT ENGINEER OF PUNNAYUR GRAMA PANCHAYAT FOR THE NEW CONSTRUCTION DATED 31- 05-2025
EXHIBIT R7 (F)	TRUE COPY OF THE BUILDING CERTIFICATE ISSUED BY THE PUNNAYUR GRAMA PANCHAYAT DATED 19-04- 2025
EXHIBIT R7 (G)	TRUE COPY OF THE BUILDING TAX RECEIPT DATED 30-04-2025
EXHIBIT R7 (H)	TRUE COPY OF THE POSSESSION CERTIFICATE DATED 26-02-2025
EXHIBIT R7 (I)	TRUE COPY OF THE CERTIFICATE ISSUED BY THE PUNNAYUR GRAMA PANCHAYAT FOR EDUCATIONAL BUILDING DATED 25-10-2024
EXHIBIT R7 (J)	TRUE COPY OF THE PAYMENT RECEIPT OF APPLICATION FEE FOR THE NO OBJECTION CERTIFICATE FOR CONDUCTING CBSE SCHOOL DATED 14-10-2024
EXHIBIT R7 (K)	TRUE COPY OF THE RECOGNITION FROM NATIONAL INSTITUTE OF OPEN SCHOOLING DATED 28-11-2024
EXHIBIT P7 (L)	TRUE COPY OF THE ACKNOWLEDGEMENT FOR THE APPLICATION SUBMITTED BY THE SCHOOL FOR THE ISSUANCE OF NOC ISSUED FROM THE OFFICE OF THE DEO DATED 16-10-2025
ANNEXURE- R4 (A)	A TRUE COPY OF THE ORDER BEARING NO. TCPTSR/868/2022 C1 -DDIS, DATED 10.02.2023 ISSUED BY THE DISTRICT. TOWN PLANNER

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PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT, THE ASSISTANT EDUCATIONAL OFFICER, CHAVAKKAD DATED 03-07-2024
EXHIBIT P2	TRUE COPY OF THE APPEAL FILED BEFORE THE 3RD RESPONDENT, PRINCIPAL SECRETARY OF GENERAL EDUCATION DEPARTMENT DATED 02-08-2024
EXHIBIT P3	TRUE COPY OF THE RECEIPT DATED 22-05-2024 SHOWING BUILDING NUMBER
EXHIBIT P4	TRUE COPY OF THE SITE APPROVAL AND BUILDING PERMIT DATED 21-03-2023
EXHIBIT P5	PHOTOGRAPH OF THE SCHOOL BUILDING
EXHIBIT P6	TRUE COPY OF THE INSPECTION NOTICE OF NIOS DATED 20-06-2024
EXHIBIT P7	TRUE COPY OF THE FITNESS CERTIFICATE ISSUED BY THE ASSISTANT ENGINEER OF PUNNAYUR GRAMA PANCHAYAT FOR THE NEW CONSTRUCTION DATED 31-05-2025
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EXHIBIT P12	TRUE COPY OF THE PAYMENT RECEIPT OF APPLICATION FEE FOR THE NO OBJECTION CERTIFICATE FOR CONDUCTING CBSE SCHOOL DATED 14-10-2024
EXHIBIT P13	TRUE COPY OF THE RECOGNITION FROM NATIONAL INSTITUTE OF OPEN SCHOOLING DATED 28-11-2024