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C.A.No. 5794 OF 1999
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.....L.....I.....T.....T.....T.....T.....T.....T.....J.....
ITEM NO. 114 COURT NO. 7 SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 5794/1999

The Manager U.P. School Poovathur .. Appellant (s)

Vs.

M.Janaki Amma (Since Dead) .. Respondent(s)
By Lrs. & Ors.

(With appln. for permission to submit
additional documents and application seeking permission
to file addl. affidavit)

With C.A. No. 5796/1999, C.A. 5797/1999, 5798-5799/1999

DATE : 23.8.2001 : This/These matter (s) was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Appellant (s) : Mr. K.K. Venugopal, Sr. Adv.
Mr. K.V. Mohan, Adv.

Mr. C.N. Sreekumar, Adv.

Mr. L Nageshwar Rao, Sr. Adv.
Mr. E.M.S. Anam, Adv.

State of Kerala Mr. Ramesh Babu M.R., Adv.

For Respondent (s) : Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Roy Abraham, Adv.
Mr. Himinder Lal, Adv.

UPON hearing counsel the Court made the following

O R D E R

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C.A. No. 5794/1999@@
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The appeal is disposed of in terms of the signed
order.

C.A. Nos. 5796/1999, 5797/1999, 5798-5799/1999@@
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The appeals are disposed of in the same manner as
setforth in Civil Appeal No. 5794/1999.

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Charanjit

[Om Prakash]
Court Master

[Signed order is placed on the file]

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5794/1999@@
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Manager, UP School Poovathur .. Appellant

Vs.

M. Janaki Amma (Dead) By Lrs. .. Respondents
& Ors.

WITH

C.A. Nos. 5796/1999, 5797/1999, 5798-5799/1999@@
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C.A. NO. 5794/1999@@
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The dispute in this case is between two schools namely the U.P. School Poovathur and the S.V.M.M. High School, Vendar(hereinafter referred to as the 'appellant school and respondent-school' respectively)

It appears that appellant-school is a feeder to the respondent-school which has no primary section of its own whereas the other schools in that Panchayat are having primary sections. It is in this circumstance, the respondent-school filed a writ petition before the High Court for having permitted the upgradation of the appellant-school as High School.

The learned Single Judge set aside the permission granted to the appellant-school to upgrade as High

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School. The appeal against the said order having failed this appeal is filed by special leave.

One thing is clear that the appellant had been running the upgraded school from the academic year 1984-85 and even after the disposal of the writ petition, there is an interim order in their favour in the writ appeal. Again after the disposal of the writ appeal, this court granted the interim order in their favour. In the circumstances, the appellant-school had been continuously running right from the academic year 1984-85. In the face of this circumstance, we do not think that it would serve any public interest if we uphold the order made by the High Court in quashing the sanction granted to the appellant to upgrade its school. The sole objection in the whole matter was by the

respondent-school, on the basis that the appellant-school was one of the feeder schools. If that is so, the proper course for the respondent is to have an appropriate recourse to have sufficient intake to its school. Mr. Rakesh Dwivedi, learned senior counsel for the respondent-school submits that the only way that can be achieved is by permitting the said school to open primary sections. If an appropriate application is made by the said school to the Government, we do hope that the same

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will be appropriately considered by the Government, bearing in mind all aspects of the matter, including the factor that we are disposing of this matter on the ground of equities that it would not serve any public interest to close the appellant-school which had been running after upgradation from academic year 1984-85.

In this background, we set aside the order made by the High Court in the writ petition as well as in the writ appeal and the order made by the authorities permitting the appellant to upgrade its school shall stand. Subject to the observations made in regard to the opening of primary sections by the respondent- school, this appeal shall stand disposed of.

C.A. Nos. 5796/1999, 5797/1999,5798-5799/1999@@
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These appeals are disposed of in the same manner as setforth in Civil Appeal No. 5794/1999.

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[S. RAJENDRA BABU]@@
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[BRIJESH KUMAR]@@
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New Delhi,@@
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August 23, 2001 @@
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