

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WA.No. 1164 of 2015 () IN WP(C).28386/2013

JUDGMENT IN WP(C) 28386/2013 of HIGH COURT OF KERALA
DATED 02-02-2015

APPELLANTS/RESPONDENTS 1 &4 IN W.P(C):

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY
TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM - 695 001.
3. THE DEPUTY DIRECTOR OF EDUCATION,
ALAPPUZHA - 688 001.
4. THE DISTRICT EDUCATION OFFICER, ALAPPUZHA - 688001

BY SPECIAL GOVERNMENT PLEADER REKHA VASUDEVAN

RESPONDENT(S):

1. SWAPNA.R, H.S.A., LUTHEREN HIGH SCHOOL,
SOUTH ARYAD, ALAPPUZHA - 688006
2. THE MANAGER, CORPORATE MANAGEMENT OF
LUTHERAN SCHOOLS, I.E.L. CHURCH CONCORDIA
H.S. COMPOUND, THIRUVANANTHAPURAM - 695 001

BY SRI.P.K.MANOJKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.1164 of 2015

Dated this the 11th day of June, 2015

JUDGMENT

Antony Dominic,J.

Heard the learned Government Pleader appearing for the appellants and the learned counsel appearing for the first respondent.

2. W.P.(C) No.28386 of 2013 was filed by the first respondent, challenging the order declining approval of her appointment as HSA(Malayalam) in the school of which the second respondent is the Manager.

3. Referring to the judgment of this Court in **Usha Thayyil v. State of Kerala** [2009(4) KLT 1], the learned Single Judge allowed the writ petition and ordered that the appointment shall be approved and the salary shall be paid to the first respondent. It is this judgment which is under challenge before us.

4. The ground on which the approval was rejected was that the appointment of the first respondent was made overlooking the superior claim of a senior teacher by acting upon an illegal

relinquishment of another teacher by name, Girija. Although it is true that the judgment referred to by the learned Single Judge was rendered in the context of Rule 44 of Chapter XIV-A of the K.E.R dealing with the promotion to the post of headmaster, the fact remains that even going by Ext.P5 issued by none other than Girija, the affected teacher herself, it is evident that she had given relinquishment as claimed by the first respondent and the Manager. Girija or other teachers, who according to the Government Pleader are affected by the appointment of the first respondent, have also not chosen to dispute the appointment in question. Nor have any one of them chosen to file any appeal against the judgment. In such circumstances, this appeal filed by the departmental authorities, does not merit to be entertained.

Appeal fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. to Judge

smv