

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.VASHA

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

W.A.No. 1881 of 2015 IN W.P.(C).28804/2014

AGAINST THE JUDGMENT IN WP(C) 28804/2014 of HIGH COURT OF KERALA DATED 16-07-2015

APPELLANT/ORIGINAL PETITIONER:

SHAHIDA K AGED 40 YEARS
W/O MUHAMMED ALI, KUPPANATHU HOUSE,
PALEMADU.P.O.
MALAPPURAM-679 311.

BY ADV. SRI.K.A.MANZOOR ALI

RESPONDENTS/ORIGINAL PETITIONERS:

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, EDUCATION DEPARTMENT
STATE SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE HEADMASTER, MMMLP SCHOOL, EAST KALKULAM
MALAPPURAM DISTRICT.675 652.
3. THE MANAGER, MMMLP SCHOOL, EAST KALKULAM
MALAPPURAM DISTRICT.(ALSO MKMM LP SCHOOL
VELUMPIAMAPADAM).675 628.
4. THE DEPUTY DIRECTOR OF EDUCATION, THIRUVANANTHAPURAM - 695 001.
5. THE DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM - 675 505.
6. SAIFUNNISA, ARABIC TEACHER, MMMLP SCHOOL, EAST KALKULAM
MALAPPURAM DISTRICT - 675 508.
7. DISTRICT EDUCATION OFFICER, WANDOOR - 679 328.
8. ASSISTANT EDUCATIONAL OFFICER, NILAMBUR - 679 329.

R BY SR. GOVERNMENT PLEADER SRI.P.FAZIL
R BY SRI.V.RAJASEKHARAN NAIR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30-11-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.VASHA, JJ.

Writ Appeal No.1881 of 2015

Dated this the 30th day of November, 2015

JUDGMENT

Asha, J.

The appellant, who was the writ petitioner in W.P.(C)No.28804/14, has filed this writ appeal challenging the judgment of the learned Single Judge to the extent it granted liberty to the respondents 3 and 6 to work out their remedies against Ext.P2 order in the appropriate forum and in not directing the third respondent to implement Ext.P2 order.

2. The appellant had approached this court challenging Ext P3 order and sought for directions to the respondents to implement Ext P2 order. By Ext P2 order, Govt had directed the Manager to appoint the appellant, who is a 51A claimant, as LG Arabic Teacher in the place of the 6th respondent, in the vacancy which arose on 1.6.2010. Ext P2 was an order passed in a revision petition filed by the 6th respondent, against the order rejecting approval to her appointment as Junior Language Teacher (Arabic). Ext P3 order was passed on a review petition filed by the Manager, against Ext P2 order, directing the Assistant Educational Officer

to approve the appointment of the 6th respondent, while directing the Manager to appoint the petitioner against the next arising vacancy.

3. As review of an order passed in a revision petition is not permissible as provided in Rule 93 of Chapter XIVA of KER, the Learned Single Judge, following the judgment in **Anil Kumar v. State of Kerala [2009 (3) KLT 650 (F.B.)]**, quashed Ext P3 order, leaving it open to the respondents 3 and 6 to work out their remedies, if any, against Ext.P2 order before an appropriate forum. Being aggrieved by this direction, the appellant filed this writ appeal seeking direction to the third respondent to appoint the petitioner in the place of the 6th respondent.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. We find that the learned Single Judge has not made any observations affecting the right of the parties involved in Ext P2 order or in the order of transfer effected thereafter. When the order Ext P2 came into force, as a result of setting aside of the order Ext P3, which was in favour of the respondents 3 and 6, it was only proper that the aggrieved

parties are permitted to seek remedies as against that order. The legality of Ext P2 order, if challenged is to be adjudicated in separate proceedings, by the appropriate forum in accordance with law, when petitioner also will get opportunity to assert her claim. We are of the view that, the liberty granted the learned Single Judge to respondent 3 and 6 to seek remedy against Ext P2 or any orders based on that, does not in any manner affect the right of the petitioner or the respondents. Therefore petitioner cannot be said to have any grievance over the same.

6. In the above circumstances, we do not find any reason to interfere with the judgment of the learned Single Judge.

Appeal fails and it is accordingly dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
P.V.ASHA
JUDGE

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