

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WA.No. 2138 of 2015 IN WP(C).22364/2012

AGAINST THE JUDGMENT IN WP(C) 22364/2012 of HIGH COURT OF KERALA DATED 04-02-2015

APPELLANTS/RESPONDENTS 1 TO 4:

1. STATE OF KERALA
REP. BY THE SECRETARY, GENERAL EDUCATION DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695 001.
3. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE-673 001.
4. DISTRICT EDUCATIONAL OFFICER,
VADAKARA-673 101.

BY ADV. GOVERNMENT PLEADER SRI.M.A.FAYAZ

RESPONDENTS/PETITIONER & 5TH RESPONDENT IN WPC:

1. K RIYAS
HIGH SCHOOL ASSISTANT (MALAYALAM)
MIM HIGHER SECONDARY SCHOOL, P.O.PERODE, NADAPURAM
VADAKARA, KOZHIKODE DISTRICT, PIN:673 504.
2. THE MANAGER
MIM HIGHER SECONDARY SCHOOL, P.O.PERODE, NADAPURAM
VADAKARA, KOZHIKODE DISTRICT, PIN:673 504.

R1 BY ADV. SRI.N.MANOJ KUMAR
R1 BY ADV. SMT.JAYASREE MANOJ
R2 BY ADV. SMT.K.AMMINIKUTTY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

Writ Appeal No.2138 of 2015

Dated this the 2nd day of November, 2015

JUDGMENT

Antony Dominic, J.

First respondent was appointed as High School Assistant (Malayalam) in the school in which the second respondent is the manager. Approval was rejected on the ground that the manager has not appointed protected teachers in the school in violation of the Government Orders requiring that managers of newly opened schools shall fill up vacancies by appointing protected teachers. That order was confirmed by all authorities including the Government. In these circumstances, writ petition was filed by the first respondent, seeking essentially to quash the aforesaid orders and also to direct that her appointment be approved. By the judgment under appeal, the learned Single Judge allowed the writ petition and ordered approval of the appointment of the first respondent with effect from 13.7.2004 with consequential benefits. It is this judgment, which is under challenge before us.

2. We heard the learned Government Pleader appearing for the appellants and the respective counsel who appeared for respondents 1 and 2.

3. Reading of the judgment itself show that two reasons were taken into account by the learned Single Judge - one is the judgment of this Court in Nadeera v. State of Kerala [2011 (3) KLT 790], which was confirmed in State of Kerala V. Nadeera [2013 (2) KLT 88] and the second reason is Ext.P10 wherein approval of a subsequent appointee has been granted by the Government itself.

4. Though the correctness of these findings were not disputed by the learned Government Pleader, in his arguments, he placed reliance on G.O.(P)No.154/2014/G.Edn. dated 11.8.2014 and contended that the order of the learned Single Judge is illegal. In so far as this contention is concerned, first of all neither before the learned Single Judge nor even in the appeal memorandum, the appellants have placed reliance on the Government Order mentioned above. Therefore, for that reason itself this contention has to be rejected. Even apart from that, this Government Order issued in 2014 and which is only prospective, could

not have any relevance in so far as the issue of appointment of the first respondent made in 2004 is concerned.

We, therefore, 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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