

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 690 of 2015 (I)

PETITIONER(S):

SHAINY CHACKO AGED 41 YEARS
W/O.TOMY, KUNNAMAKKAL, IDUKKI COLONY P.O
IDUKKI 685603

BY ADV. SRI.BABY MATHEW

RESPONDENT(S):

1. VAZHATHOPPE GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY
THADIYAMPADU P.O. IDUKKI - 685 602

2. SRIKALA V.S. AGED 36 YEARS
W/O.VINOD, NEYSERIYIL, THANNIKANDAM
IDUKKI-685 602

R2 BY ADV. SRI.P.K.RAVISANKAR

R2 BY ADV. SRI.M.K.THANKAPPAN

R1 BY ADV. SRI.RAJU SEBASTIAN VADAKKEKKARA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

EXT.P1 - TRUE COPY OF THE NEWS PUBLISHED IN DEEPIKA DAILY DATED 5-6-2014

EXT.P2 - TRUE COPY OF THE RELEVANT PAGES OF THE SSLC BOOK OF THE PETITIONER

EXT.P3 - TRUE COPY OF THE RESIDENTIAL CERTIFICATE

EXT.P4 - TRUE COPY OF THE RANK LIST DATED 28-08-2014

EXT.P5 - TRUE COPY OF THE APPOINTMENT ORDER DATED 29-09-2014

EXT.P6 - TRUE COPY OF THE REPORT OF THE 1ST RESPONDENT REGARDING APPOINTMENT OF THE TEACHER IN CHILD CARE CENTRE

EXT.P7 - TRUE COPY OF THE SHOW CAUSE NOTICE DATED 30-12-2014 ISSUED BY THE 1ST RESPONDENT

RESPONDENT(S) ' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE OBJECTION SUBMITTED BY the PETITIONER ON 01.01.2015

EXT.R2(a): TRUE COPY OF THE REPRESENTATION DATED 22.09.2014 SUBMITTED BY the MEMBERS OF THE PANCHAYATH TO the SECRETARY

EXT.R2(b): TRUE COPY REPRESENTATION DATED 29.09.2014 SUBMITTED BY THE 2nd RESPONDENT TO the DEPUTY DIRECTOR OF PANCHAYATH, THODUPUZHA

EXT.R2(c): TRUE COPY OF THE JUDGMENT DTD 18.12.2014 IN WP(C). NO.31634 OF 2014 ON THE FILE OF THIS HONOURABLE COURT

EXT.R2(d): TRUE COPY OF THE TABULATION SHEET WITH RESPECT TO the INTERVIEW HELD ON 07.07.2014

EXT.R2(e): TRUE COPY OF THE CONSOLIDATED TABULATION SHEET WITH RESPECT TO the INTERVIEW CONDUCTED FOR SELECTION TO THE POST OF TEACHER IN the 1st RESPONDENT PANCHAYATH

True Copy/

P A to Judge

A.MUHAMMED MUSTAQUE, J.
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W.P(C).No.690 of 2015
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Dated this the 23rd day of February, 2015

JUDGMENT

Petitioner pursuant to a public notice regarding vacancy of teacher in Thannikandam Child Care Centre (Sishu Manniram) applied for the post. Public notice was issued on 05.06.2014. In the notice, it is specifically stated the eligibility of persons who are below 40 years and also should be a resident of Vazhathope Grama Panchayath apart from other qualifications like pass in SSLC and necessary Teachers Training Course. Petitioner was selected after the interview and appointed in the school. It seems the second respondent raised complaint against petitioner's appointment alleging that petitioner is over aged. Based on the complaint, a notice was issued as per Ext.P7 show cause notice against termination of the petitioner's employment. In the notice itself it was mentioned that panchayath has taken decision to appoint the second respondent in the place of petitioner. It is challenging this notice, petitioner has approached this Court.

2. Petitioner has two fold challenge against Ext.P7. One of the contention is that petitioner is fully qualified to be appointed. Secondly, it is submitted that a decision has already

been taken to appoint Srikala V.S which is per se illegal.

3. On the other hand, learned counsel for the second respondent points out that petitioner is not eligible to be appointed as she was over aged at the time of notification. Learned counsel for the second respondent relied on the judgment of Supreme Court in **Shankar K.Mandal and Ors. Vs. State of Bihar and Ors. (2003 KHC 1673)** and submits that if there is no cut off date appointed by the Rules then such date shall be as appointed for the purpose in the advertisement calling for applications. Therefore, it is submitted that date of application was on 05.06.2014 and petitioner completed the age of 40 on 14.02.2014. Therefore, petitioner was ineligible for appointment.

4. There can be no doubt that petitioner should satisfy the eligibility conditions as prescribed in the notice. Ext.P7 is only a notice. This Court need not interfere with Ext.P7 at this stage. Therefore, after hearing the petitioner and other affected persons, proceedings pursuant to Ext.P7 shall be concluded within a period of three weeks from the date of receipt of a copy of this judgment. It is made clear that if it is found that petitioner was ineligible, any other appointment

can only be made in accordance with the Rules prescribing eligibility conditions. Petitioner's objection regarding qualification and eligibility of second respondent also need to be adverted. Perhaps, the appointment of second respondent would arise only when petitioner's appointment is found illegal. In view of the matter, Writ Petition is disposed of directing the first respondent to take a decision pursuant to Ext.P7 within a period of three weeks as indicated above.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/23/02/15