

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 2033 of 2015 (D)

PETITIONER(S):

**SOUMYA G.D. AGED 30 YEARS
UPSA, VELLIYUR AUP SCHOOL, P.O NOCHAD
KOZHIKODE DISTRICT.**

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENT(S):

- 1. STATE OF KERALA
REP. BY SECRETARY TO GENERAL EDUCATION DEPARTMENT
TRIVANDRUM-695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM-695014.**
- 3. THE ASSISTANT EDUCATIONAL OFFICER
PERAMBRA, KOZHIKODE DISTRICT-673525.**
- 4. THE MANAGER
VELLOIYUR AUP SCHOOL, P.O., NOCHAD
KOZHIKODE DISTRICT-673614.**
- 5. SAJILA T.P.
LPSA, VELLIYUR AUP SCHOOL, P.O. NOCHAD
KOZHIKODE DISTRICT-673614.**

R-R5 BY ADV. SRI.V.A.MUHAMMED

R-R5 BY ADV. SRI.M.SAJJAD

R BY GOVERNMENT PLEADER, SRI. RINNY STEPHEN CHAMAPARAMBIL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** A TRUE COPY OF THE RELEVANT PAGES OF THE STAFF FIXATION ORDER DATED 22.12.2006.
- EXHIBIT P2:** A TRUE COPY OF THE RELEVANT PAGES OF THE STAFF FIXATION OF THE SCHOOL DATED 7.9.2007.
- EXHIBIT P3:** A TRUE COPY OF THE APPOINTMENT ORDER DATED 29.12.2008.
- EXHIBIT P4:** A TRUE COPY OF THE RELEVANT PAGE OF THE SENIORITY LIST OF THE SCHOOL.
- EXHIBIT P5:** A TRUE COPY OF THE STAFF FIXATION ORDER DATED 10.8.2010.
- EXHIBIT P6:** A TRUE COPY OF THE RELEVANT PAGE OF APPENDIX 1.
- EXHIBIT P7:** A TRUE COPY OF THE GO(P) NO.191/10/G.EDN DATED 22.9.2010.
- EXHIBIT P8:** A TRUE COPY OF THE ORDER DATED 12.6.2012.
- EXHIBIT P9:** A TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 17.7.2012.
- EXHIBIT P10:** A TRUE COPY OF THE COMMUNICATION BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT DATED 11.7.2014.
- EXHIBIT P11:** A TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT DATED 6.1.2015.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R5(a)** TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 11.06.2008 AND APPROVAL THEREOF.
- EXHIBIT R5(b)** TRUE COPY OF THE LETTER OF THE MANAGER DATED 01.01.2013.
- EXHIBIT R5(c)** TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 01.01.2013.
- EXHIBIT R5(d)** TRUE COPY OF THE REPRESENTATIONN SUBMITTED BEFORE THE GOVERNMENT DATED 22.01.2013.
- EXHIBIT R5(e)** TRUE COPY OF THE GO(MS)No.275/99/G.EDN. DATED 09.11.1999.
- EXHIBIT R5(f)** TRUE COPY OF THE ORDER OF THE ASSISTANT EDUCATIONAL OFFICER DATED 10.10.2014.
- EXHIBIT R5(g)** TRUE COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT DATED 31.12.2014.
- EXHIBIT R5(h)** TRUE COPY OF THE JUDGMENT IN WP(C) 3005/2015 DATED 30.01.2015.
- EXHIBIT R5(i)** TRUE COPY OF THE SENIORITY LIST.

//True copy //

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 2033 of 2015

Dated this the 18th day of June, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P10 order, that was passed by the 1st respondent, setting aside Ext.P8 order that was passed in favour of the petitioner. The main ground of challenge in the writ petition against Ext.P10 is that the petitioner was not heard prior to the passing of the said order.

2. Heard the learned counsel for the petitioner, learned Government Pleader for respondents 1 to 4 and also the learned counsel appearing for the 5th respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar and taking note of the fact that Ext.P10 order, which had the effect of cancelling Ext.P8 order, that was passed in favour of the petitioner, was passed without hearing the petitioner, I am of the view that Ext.P10 order cannot be legally sustained, inasmuch as it is vitiated by a non-compliance with the rules of natural justice. Accordingly, I quash Ext.P10, and Ext.P11 consequential order passed by the 3rd respondent, and direct the 1st respondent to pass fresh orders in the matter after hearing the petitioner and the 5th respondent. The

1st respondent shall pass orders as directed, within a period of two months from the date of receipt of a copy of this judgment. The respondents are also directed to ensure that the petitioner is paid the salary and other emoluments that are due to her on account of the quashing of Ext.P10 order by this judgment.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE