

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 5114 of 2015 (L)

PETITIONER :

**SARATH S.R.,
L.P.S.A. L.M.L.P.S, MUHAMMA, ALAPPUZHA.**

BY ADV. SRI.P.K.MANOJKUMAR

RESPONDENT(S):

- 1. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM-695 001.**
- 2. THE ASSISTANT EDUCATION OFFICER,
CHERTHALA, ALAPPUZHA DISTRICT-688 524.**
- 3. THE MANAGER,
CORPORATE MANAGEMENT OF LUTHERAN SCHOOLS I.E.L. CHURCH,
CONCORDIA H.S. COMPOUND, THIRUVANANTHAPURAM SYNOD,
PERURKADA P.O., THIRUVANANTHAPURAM-695 005.**

**R1 & R2 BY SR GOVERNMENT PLEADER SRI.V.VIJULAL
R3 BY ADV. SRI.D.KISHORE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 5114 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE APPOINTMENT ORDER NO.315/2013-2014 DTD. 3.6.2013 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
- P2 : COPY OF THE CIRCULAR NO.31894/H2/13/G.EDN. DTD. 13.6.2014 ISSUED BY THE GOVERNMENT.**
- P3 : COPY OF THE COMMUNICATION NO.D/1581/13 DTD. 19.9.2014 ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.**
- P4 : COPY OF THE GOVERNMENT ORDER G.O(P)NO.278/2014 G.EDN. DTD. 23.12.2014 ISSUED BY THE GOVERNMENT.**
- P5 : COPY OF THE REPRESENTATION DTD. 3.1.2015 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.5114 of 2015

Dated this the 17th day of March, 2015

JUDGMENT

The petitioner has been appointed as L.P.SA. in the L.M.L.P.S. Muhamma, with effect from 3.6.2013 in a retirement vacancy. Ext.P3 communication issued by the second respondent shows that there is an admissible vacancy to approve the appointment of the petitioner. However, the appointment of the petitioner has not been approved for the reason that in the light of Circular issued by the Director of Public Instructions dated 13.6.2014 that the prior permission has to be obtained from the Director of Public Instructions for granting any approval in the Schools under the Corporate Management of Lutheran Schools.

2. Normally, a Circular would not deter exercise of a statutory power by the authorities under the law. Ignoring

the Circular, nevertheless to find out whether any excess teacher available under the Management, the Circular can only be construed for granting approval after ascertaining whether any excess teacher is working in any of the Schools.

In that view of the matter, this writ petition is disposed of directing the Assistant Educational Officer to take a decision in Ext.P1 within a period of six weeks from the date of receipt of a copy of this judgment. If the Assistant Educational Officer does not receive any response from the Director of Public Instructions within the above period, the approval shall be granted without any delay and shall take steps to disburse the salary with effect from the date of appointment within a period of three months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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