

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(C).No. 16807 of 2006 (A)

PETITIONER(S):

**SREELATHA.U.K,
H.S.S.T.(HINDI), MUNICIPAL HIGHER SECONDARY SCHOOL
KANDAGALI, PAYYANNUR, KANNUR DISTRICT.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR,
HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDINGS
THIRUVANANTHAPURAM.**
- 3. THE REGIONAL DEPUTY DIRECTOR,
KOZHIKODE.**
- 4. THE DEPUTY DIRECTOR OF EDUCATION,
KANNUR.**
- 5. THE ASSISTANT EDUCATIONAL OFFICER,
PAYYANNUR.**
- 6. THE SECRETARY,
PAYYANNUR MUNICIPALITY
(AS THE MANAGER OF MUNICIPAL HIGHER SECONDARY
SCHOOL, KANDAGALI, PAYYANNUR).**
- 7. DR.RAJENDRAN PATINHARE KARAMMAL,
S/O.KANNAN, NAVANEETHAN, ADUTHILA EAST
P.O.PAYANGADI, KANNUR DISTRICT.**

R BY GOVERNMENT PLEADER SRI. T.R. RAJESH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 16807 of 2006 (A)

APPENDIX

PETITIONERS EXHIBITS:

- | | |
|----------------|--|
| EXT.P1 | COPY OF THE MEMO DATED 1.8.05 |
| EXT.P2 | COPY OF THE APPOINTMENT ORDER DATED 5.10.05 OF THE PETITIONER. |
| EXT.P3 | COPY OF THE LETTER DATED 18.4.06 ISSUED BY THE 3RD RESPONDENT. |
| EXT.P4 | COPY OF THE LETTER DATED 1.6.06 |
| EXT.P5 | COPY OF THE REPLY DATED 19.6.06 ISSUED BY THE DDE TO THE SECRETARY, PAYYANNUR MUNICIPALITY. |
| EXT.P6 | COPY OF THE APPEAL DATED 2.6.06 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. |
| EXT.P7 | COPY OF THE HEARING NOTICE DATED 20.5.06. |
| EXT.P8 | COPY OF THE SUBMISSION OF FACTS DATED 30.05.06. |
| EXT.P9 | COPY OF THE ORDER NO.ACD.C2/5938/HSE/2006 DATED 14.6.06. |
| EXT.P10 | COPY OF THE REPRESENTATION DATED 24.6.06 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. |

RESPONDENTS EXHIBITS: **NIL**

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.16807 of 2006 - A

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Dated this the 25th day of September, 2015

J U D G M E N T

The petitioner was appointed as an H.S.S.T (Hindi) in the school, in which the 6th respondent was the Secretary. The school was a Municipal Higher Secondary School, in which a selection was conducted and the petitioner was appointed. A call letter was issued to the petitioner produced at Ext.P1 and the petitioners' appointment letter is produced at Ext.P3. The petitioner joined pursuant to an appointment letter on 05.10.2005 and continued till 18.04.2006, when her appointment was cancelled as per Ext.P3. The cancellation of appointment as per Ext.P3 was noticing fact that the A.E.O, Payyannur, one of the members of the selection committee as a representative of the Deputy Director, was not an officer competent to sit in the

committee.

2. An appeal filed also was rejected as per Ext.P9. The extract of which is reproduced hereunder:-

According to Special Rules, appointments to teaching post shall be made on the recommendation of a selection Committee consisting of the Manger or his nominee (chairman). Principal of the school and a Government representative nominated by the Manager from among officers of the Government not below the rank of a Deputy Collector or Officers of Higher Secondary Education Department not below the rank of Deputy Director or Selection Grade Lecturers or Reader in Govt. Colleges or Selection Grade Lecturers or Readers or Professors in University Department.

In this case, the Government nominee is Assistant Educational Officer who is not competent to be the member of the Selection Committee as per Special Rules.

3. In such circumstance, the petitioner's appointment was by a committee, which was not properly constituted as per the Special Rules. The learned Counsel for the petitioner would contend that it was not on account of a mistake committed by her, but a circumstance of the Deputy Director having fallen sick; which is explained in Ext.P5. In any event, the fact of the

committee being not in accordance with the Special Rules, being admitted, the petitioner cannot claim appointment.

4. This Court had earlier disposed of the writ petition finding no illegality or irregularity in the orders passed. However, the said judgment dated 04.07.2006 was reviewed since by that time, the selections were entrusted to the Kerala Public Service Commission. This Court by the earlier judgment had directed a fresh selection to be conducted and allowed the petitioner to participate in that selection.

5. Having found no illegality or irregularity in the cancellation of the appointment of the petitioner, this Court cannot granting relief by way of direction of approval. However, evidently it is not a case of the fault of the petitioner that she was appointed and continued for a period ie., eight months. She was admittedly worked in the school.

6. In such circumstance, it is only proper that the

Municipality, the 6th respondent herein pay the salary during the said period to the petitioner. The same shall be computed and the salary paid within a period of three months from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.