

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 11826 of 2009 (W)

PETITIONER :

MRS.DANI KURIEN,D/O.KURIEN,
HSA, ST.MARY'S HIGH SCHOOL, PARIYAPURAM
ANGADIPPURAM VIA, MALAPPURAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENTS :

1. STATE OF KERALA,
REP.BY SECRETARY, MINISTRY OF EDUCATION, TRIVANDRUM.
2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
STATE OF KERALA, TRIVANDRUM.
3. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.
4. THE DISTRICT EDUCATIONAL OFFICER,
MALAPPURAM.
5. THE MANAGER,ST.MARY'S HIGH SCHOOL,
PARIYAPURAM, ANGADIPPURAM VIA, MALAPPURAM.

R5 BY ADVS. SRI.SIBY MATHEW
SRI.PHILIP J.VETTICKATTU
SRI.N. PREMNATH
R BY GOVERNMENT PLEADER SRI.S.JAMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF COMMUNICATION RECEIVED FROM THE 5TH RESPONDENT

EXT.P2 : COPY OF THE ORDER DATED 16.07.2007 ISSUED BY THE 5TH RESPONDENT

EXT.P3 : COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER TO THE 4TH RESPONDENT ON 25.09.2007

EXT.P4 : COPY OF ACKNOWLEDGMENT CARD SIGNED BY THE 4TH RESPONDENT

EXT.P5 : COPY OF JUDGMENT DATED 26.11.2007 IN WP(C).NO.34852/2007 PASSED BY THIS HONOURABLE COURT

EXT.P6 : COPY OF THE ORDER NO.K-DIS/B5/9839/2007 DATED 10.01.2008 PASSED BY THE 4TH RESPONDENT

EXT.P7 : COPY OF THE JUDGMENT DATED 07.04.2008 PASSED IN WP(C).NO.11834/2008 PASSED BY THIS HONOURABLE COURT

EXT.P8 : COPY OF ORDER DATED 24.06.2008 PASSED BY THE 3RD RESPONDENT

EXT.P9 : COPY OF REVISION PETITION DATED 10.07.2008 BEFORE THE 1ST RESPONDENT AS WELL AS BEFORE THE 2ND RESPONDENT

EXT.P10 : COPY OF JUDGMENT DATED 24.9.2008 IN WP(C)NO.28412/2008 PASSED BY THIS HONOURABLE COURT

EXT.P11 : COPY OF ORDER DATED 21.03.1999 ISSUED BY THE 1ST RESPONDENT

RESPONDENTS' EXHIBITS :

EXT.R5(a) : COPY OF ORDER NO.K.DISB2/38889/06 DT.9.3.2007 OF THE DEPUTY DIRECTOR OF EDUCATION

EXT.R5(b) : COPY OF ORDER NO.EM(4)26229/07/DPI/D.DIS,DT.14.5.2007 OF THE DIRECTOR OF PUBLIC INSTRUCTIONS

EXT.R5(c) : COPY OF LETTER NO.B3/33651/2007 DT.24.3.2008 OF THE ASST.EDUCATIONAL OFFICER, MALAPPURAM

EXT.R5(d) : COPY OF LETTER NO.B3/33651/2007 DT.31.5.2008 OF THE ASST.EDUCATIONAL OFFICER, MALAPPURAM

/TRUE COPY/

P.A TO JUDGE

K.VINOD CHANDRAN, J.

W.P.(C) No.11826 of 2009

Dated this the 17th day of November, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that, the petitioner's appointment was withdrawn by the Manager. Essentially this is a dispute between the petitioner and the Manager and the petitioner's appointment was never informed to the educational authorities nor was her appointment, even sent for approval to the educational authorities. The records disclose the quite unfortunate but prevalent practise of the managements taking money for appointments made, to aided schools. The liability of pay and allowances as also pension to such appointees are with the Government.

2. The specific contention of the petitioner before the various educational authorities was that, the petitioner had paid around ₹8 lakhs for the particular appointment, to the post of HSA (Malayalam) and that, though she was appointed, later the Manager withdrew the same. A reading of the impugned orders show that, the appointment of the petitioner was never put to the educational authorities for approval. The withdrawal of the proposal was also for reason that the Management being

obliged to appoint a protected hand as per the undertaking given on the establishment of new schools under which category the respondent school falls.

3. In fact Ext.P11 order in revision of the Government indicates that, the petitioner herself had undertaken before the Manager by a consent letter that, when a protected hand is appointed, she would resign. The Manager definitely could not have continued the petitioner on such undertaking because, then the liability for pay and allowances would be on the Government and a valid appointment could be made only as per the provisions of the KER. Any appointment made in violation of the same would not be approved by the authorities as per the KER. In the context of such rejection of approval, there was also no liability on the Government to disburse pay and allowances.

4. The petitioner has also filed I.A.No.10759 of 2013 wherein a direction is sought to the educational authority not to approve any subsequent appointments to the post of HSA (Malayalam) in the school of the 5th respondent without adjusting the petitioner in one of the said post. The petitioner cannot raise such a claim on the basis of the alleged payment

made by her to the Management. The petitioner gets no legal right by way of the alleged payment made to the Management, which on the face of it is illegal and unethical.

For all the above reasons, this writ petition is devoid of merit and the same stands dismissed. Parties to suffer their respective costs.

Sd/-
K.VINOD CHANDRAN, JUDGE