

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 8325 of 2015 (M)

PETITIONERS:

1. JUSTINA GEORGE, ASSISTANT PROFESSOR
DEPARTMENT OF ENGLISH, MAR ATHANASIOUS COLLEGE
KOTHAMANGALAM- 686 666.
2. SINI.K.S, ASSISTANT PROFESSOR
DEPARTMENT OF ENGLISH, MAR ATHANASIOUS COLLEGE,
KOTHAMANGALAM- 686 666.
3. REEBA THOMAS, ASSISTANT PROFESSOR
DEPARTMENT OF ENGLISH, MAR ATHANASIOUS COLLEGE,
KOTHAMANGALAM- 686 666.

BY ADVS.SRI.BABU VARGHESE (SR.)
SRI.C.V.ALEXANDER
SRI.V.NARAYANA SWAMI

RESPONDENTS:

1. THE MANAGER, MAR ATHANASIOUS COLLEGE,
KOTHAMANGALAM. (SECRETARY MAR ATHANASIOUS COLLEGE
ASSOCIATION, KOTHAMANGALAM), KOTHAMANGALAM- 686 666.
2. THE MAHATMA GANDHI UNIVERSITY, REPRESENTED BY ITS
REGISTRAR, PRIYADARSHINI HILLS P.O, KOTTAYAM-686 560.
3. THE STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY TO GOVERNMENT, DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
4. THE DIRECTOR OF COLLEGIATE EDUCATION, VIKAS BHAVAN, PMG
JUNCTION, THIRUVANANTHAPURAM-695 033.
5. THE DEPUTY DIRECTOR OF COLLEGEIATE EDUCATION
MARKET FED BUILDING, GANDHI NAGAR, KADAVANTHARA,
ERNAKULAM, PIN-682 020.

R BY SRI.VARUGHESE M.EASO, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) 'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE NOTIFICATION DATED 7.4.2011 THAT APPEARED IN 'HINDU' DAILY ON 13.4.2011.

EXHIBIT P1(A): TRUE COPY OF THE NOTIFICATION DATED 3RD AUGUST, 2012 WHICH APPEARED IN 'HINDU' DATED 8.8.2012.

EXHIBIT P2: TRUE COPY OF THE MINUTES OF THE MEETING OF THE SELECTION COMMITTEE HELD ON 14.7.2012 FOR THE SELECTION OF ASST. PROFESSOR IN ENGLISH.

EXHIBIT P2(A): MINUTES OF THE MEETING OF THE SELECTION COMMITTEE HELD ON 21.10.2012 FOR THE SELECTION OF ASST. PROFESSOR IN ENGLISH.

EXHIBIT P4: TRUE COPY OF THE WORKLOAD STATEMENT OF THE DEPARTMENT OF ENGLISH OF THE COLLEGE AS ON 1.11.2011.

EXHIBIT P4(A): TRUE COPY OF THE UNIVERSITY ORDER NO.6179/BII/2010/ACAD DATED 9.12.2010 FIXING THE STAFF STRENGTH IN DIFFERENT SUBJECTS/DEPARTMENTS OF THE COLLEGE DURING 2010-11.

EXHIBIT P5: TRUE COPY OF THE LIST OF STAFF MEMEBERS IN THE DEPARTMENT OF ENGLISH AS ON 16.7.2012.

EXHIBIT P6: TRUE COPY OF THE LIST OF STAFF MEMEBERS IN THE DEPARTMENT OF ENGLISH AS ON 24.10.2012.

EXHIBIT P7: TRUE COPY OF THE LETTER NO.D4/6078/2014 DATED 26.11.2014 SENT BY THE 5TH RESPONDENT TO THE PRINCIPAL OF THE COLLEGE.

EXHIBIT P8: TRUE COPY OF THE ORDER DATED 16.1.2012 IN W.P. (C) NO.33150/2011.

EXHIBIT P9: TRUE COPY OF THE PETITION DATED FEBRUARY 9, 2015 SUBMITTED BY THE 1ST PETITIONER TO THE RESPONDENTS 3 TO 5.

EXHIBIT P10: TRUE COPY OF THE LETTER NO.16472/D2/12/H.EDN., DATED 10.6.2012 SENT BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT.

EXHIBIT P11: TRUE COPY OF THE SALARY BILL NO.7632/09 DTD. 30.10.2009 FOR THE MONTH OF OCTOBER, 2009.

EXHIBIT P12: TRUE COPY OF THE SENIORITY LIST OF TEACHERS IN ENGLISH DEPARTMENT.

EXHIBIT P13: TRUE COPY OF THE ORDER DATED 10.12.2014 AS CORRECTED BY ORDER DATED 16TH DECEMBER 2014 IN WP(C) NO.24384/2014.

EXHIBIT P13(A): TRUE COPY OF THE ORDER DATED 12TH FEBRUARY, 2015 IN WP(C) NO.17762/2014.

EXHIBIT P14: TRUE COPY OF THE JUDGMENT DATED 10.12.2010 IN WP. (C) NO.19082/2010.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 8325 of 2015

Dated this the 8th day of April, 2015.

JUDGMENT

The petitioners are the Assistant Professor appointed in the first respondent College affiliated to Mahatma Gandhi University. The objections have been raised by the Deputy Director of Collegiate Education to the effect that two teachers were deployed pursuant to delinking of pre-degree were not absorbed and instead fresh appointments have been made.

2. The petitioners have a case that those deployed teachers were not qualified. The petitioners' appointments are approved by the university.

3. The Deputy Director of Collegiate Education is free to conduct an enquiry as the validity of approval granted. Therefore, safeguarding the right of the Director of Collegiate Education to conduct enquiry, this writ petition is disposed of with the following directions:

1) The petitioners shall be paid currently monthly salary onwards subject to satisfaction of approval granted by the

university.

2) The Director of Collegiate Education, the fourth respondent shall conduct an enquiry as to the regularity of the appointment of the petitioners and complete the enquiry within a period of four months.

3) The Principal and the University official concerned shall co-operate with such enquiry being initiated by the Director of Collegiate Education.

4) If it is found on such enquiry, approval is in order and legal, the entire arrears shall be disbursed to the petitioners within further period of three months from the date of outcome of the decision of the Director of Collegiate Education.

5) Payment of salary will be subject to the outcome of such enquiry be conducted by the fourth respondent.

**Sd/-
A.MUHAMED MUSTAQUE
JUDGE**

Scl.