

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 8740 of 2014 (N)

PETITIONER:

**G. SREEKUMAR
TRAINING SCHOOL ASSISTANT (SOCIAL SCIENCE)
SREE NARAYANA TEACHERS TRAINING INSTITUTE
KALLELIBHAGOM, KALLELIBHAGOM P.O.
KARUNAGAPPALLY, KOLLAM-690 519.**

**BY ADVS.SRI.ELVIN PETER P.J.
SRI.T.G.SUNIL (PRANAVAM)
SRI.K.R.GANESH**

RESPONDENTS:

- 1. THE DEPUTY DIRECTOR OF EDUCATION
KOLLAM, PIN - 691 001.**
- 2. THE DISTRICT EDUCATIONAL OFFICER
KOLLAM, PIN - 691 001.**
- 3. THE MANAGER
SREE NARAYANA TEACHERS TRAINING INSTITUTE
KALLELIBHAGOM, KALLELIBHAGOM P.O., KARUNAGAPPALLY
KOLLAM - 690 519.**
- 4. T.P.MADHU
TRAINING SCHOOL ASSISTANT (SCIENCE)
SREE NARAYANA TEACHERS TRAINING INSTITUTE KALLELIBHAGOM
KALLELIBHAGOM P.O, KARUNAGAPPALLY, KOLLAM - 690 519.**

**Addl.5. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**

**[ADDL.R5 IMPEADED AS PER ORDER DATED 21.10.2014 IN IA
NO.14272/2014]**

**BY ADVD. SRI.V.A.MUHAMMED
SRI.M.SAJJAD
BY GOVERNMENT PLEADER SRI. S. JAMAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P-1 : COPY OF THE ORDER DATED 05.06.1992 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT.P-2 : COPY OF THE M.A. DEGREE CERTIFICATE OF THE PETITIONER.
- EXT.P-3 : COPY OF THE B.ED, DEGREE CERTIFICATE OF THE PETITIONER.
- EXT.P-4 : COPY OF THE M.ED. DEGREE CERTIFICATE OF THE PETITIONER.
- EXT.P-5 : COPY OF THE S.E.T CERTIFICATE OF THE PETITIONER.
- EXT.P-6 : COPY OF THE M.PHIL CERTIFICATE OF THE PETITIONER.
- EXT.P-7 : COPY OF THE JUDGEMENT DATED 21.05.2009 IN O.P NO.16111/99 OF THIS COURT.
- EXT.P-8 : COPY OF THE JUDGEMENT DATED 12.11.2009 IN W.A.NO. 1901/2009 OF THIS COURT.
- EXT.P-9 : COPY OF THE REPRESENTATION DATED 22.03.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P-10 : COPY OF G.O.(RT) NO.3256/2014/G.EDN. DATED 13.08.2014 ISSUED BY THE GOVERNMENT.
- EXT.P-11 : COPY OF THE REPRESENTATION DATED 20.10.2014 SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT.
- EXT.P-12 : COPY OF THE RELEVANT EXTRACT OF NOTIFICATION DATED 31.08.2009 ISSUED BY THE NATIONAL COUNCIL FOR TEACHER EDUCATION.
- EXT.P-13 : COPY OF THE APPOINTMENT ORDER DATED 01.04.2004 ISSUED BY THE D.E.O., KOLLAM.

RESPONDENTS' EXHIBITS:-

- EXT.R-4(A) : COPY OF THE PROSPECTUS OF M.ED COURSE FOR TEACHERS.
- EXT.R-4(B) : COPY OF THE TEACHERS ATTENDANCE REGISTER FOR THE MONTHS SEPTEMBER TO DECEMBER, 1996.
- EXT.R-4(C) : COPY OF THE RELEVANT PAGES OF THE SERVICE BOOK OF SRI.G. SREEKUMAR.

[CONTD..]

- EXT.R-4(D) : COPY OF THE MASTER OF DEGREE CERTIFICATE DATED 12TH MARCH, 1990.
- EXT.R-4(E) : COPY OF THE B.ED. CERTIFICATE OF THE 4TH RESPONDENT DATED 21ST JANUARY, 1991.
- EXT.R-4(F) : COPY OF THE ACCOUNT TEST (LOWER) CERTIFICATE OF THE 4TH RESPONDENT DATED 14.05.2002.
- EXT.R-4(G) : COPY OF THE KER CERTIFICATE OF THE 4TH RESPONDENT DATED 14.05.2002.
- EXT.R-4(H) : COPY OF THE CURRICULUM-2013 OF ELEMENTARY TEACHER EDUCATION.
- EXT.R-4(I) : COPY OF THE TTC MARK LIST OF SRI. B. RAJI RAJ.
- EXT.R-4(J) : COPY OF THE STAFF FIXATION FOR THE YEAR 1991-1992 DATED 21.08.1991.

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.8740 of 2014-N

Dated this the 1st day of December, 2015.

JUDGMENT

The petitioner is aggrieved with the promotion granted to the 4th respondent as Principal, for reason of no selection having been conducted. A selection is mandatory as per the 'Norms and Standards for Diploma in Elementary Teacher Education Program leading to Diploma in Elementary Education', argues Learned Counsel, producing a copy of the norms across the bar.

2. The petitioner has the qualification of M.A., B.Ed., S.E.T. and M.Phil. The petitioner is a Training School Assistant , working in the 3rd respondent's Institute. The 4th respondent also is working in the very same Institute. The 4th respondent is having M.Sc. in Botany with B.Ed. Qualification. The dispute is with respect to the appointment to the vacancy of Principal, which arose on 01.04.2014. The petitioner did not have the test

qualification provided in the KER, at that point of time, but obtained the Certificate on 19.04.2014. For that short reason, the petitioner is dis-entitled from challenging the selection of the 4th respondent.

3. In any event, the writ petition having been admitted, the contention raised with respect to the absence of a selection proceeding, has to be considered. The petitioner contends that in conducting a promotion; a selection, as per the norms as indicated herein above; brought out by the National Council of Teachers' Education (NCTE) is mandatory. Specific reference to the norms is made to contend that as per Clause IV(a), the following is stipulated:

"(a) The appointment shall be made on the basis of recommendations of the Selection Committee constituted as per the policy of the Central/concerned State Government/Board whichever is applicable".

No selection procedure having been attempted, petitioner contends that the 4th respondent's appointment is bad.

4. There could be no dispute that the 4th respondent is qualified as per the norms of the NCTE as also that prescribed by

the Kerala Education Rules, 1959. The qualification prescribed for the post of Principal, as per the norms of the NCTE, is as prescribed for the Lecturer. For the post of Lecturer, three categorisations are made, the first one is Foundation courses, the second one, Methodology courses and the last one, Lecturer in Fine Arts/Performing Arts course. The petitioner is said to be a Training School Assistant. The petitioner would be entitled to be considered under the foundation courses and the 4th respondent under the Methodology course. As to the qualifications under the KER, it is an admitted position that the KER prescribes an additional requirement of test qualification, which has been affirmed by a Division Bench judgment produced at Ext.P8 in W.A. No.1901 of 2009. Admittedly, the petitioner did not have the test qualification as on the date of arising of the vacancy. The petitioner hence could not have challenged the selection of the 4th respondent. In the context of the 4th respondent alone being qualified, there was also no requirement for the selection procedure to be adopted as per the norms. The petitioner contends that there were other persons qualified to be appointed,

but none of the details have been stated. In any event, if there were other persons, it was incumbent upon them to challenge the appointment of the 4th respondent. The petitioner, not being qualified as on the date of arising of the vacancy, cannot challenge the promotion of the 4th respondent as Principal.

The writ petition hence would stand dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

//True Copy//

P.A. to Judge.

sp/03/12/15