

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C) .No. 13029 of 2013 (C)

PETITIONER(S) :-

ANSARUL ISLAM SANGHAM UPPER PRIMARY SCHOOL (AISUPS)
MANJALI, MANNAM P.O., NORTH PARUR, PIN-683520
REPRESENTED BY ITS MANAGER P.M.ANSARI.

BY ADVS.SRI.M.A.ABDUL HAKHIM
SRI.M.G.ANON

RESPONDENT(S) :-

1. STATE OF KERALA
REPRESENTED BY SECRETARY, EDUCATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.
2. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM, PIN-695001.
3. ASSISTANT EDUCATIONAL OFFICER
NORTH PARUR, PIN-683520.
- Addl.4. SALIHAMOLE.P.M.
D/O.P.V.MUHAMMED, PULLATH PARAMBIL HOUSE
EAST VELIYATHUNADU, U.C.COLLEGE.P.O.,
ALUVA.

ADDL. R4 IS IMPEADED AS PER ORDER DATED 12/03/2014 IN
IA 2843/2014.

R1-R3 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
ADDL.R4 BY ADV. SRI.S.SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

jvt

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXHIBIT P1 : TRUE COPY OF THE STAFF FIXATION ORDER ISSUED BY R3.

EXHIBIT P2 : TRUE COPY OF THE STAFF FIXATION ORDER ISSUED BY R3.

EXHIBIT P3 : TRUE COPY OF THE PROPOSAL FOR APPROVAL OF APPOINTMENT ALONG WITH ITS ANNEXURES SUBMITTED BY THE PETITIONER TO R3.

EXHIBIT P4 : TRUE COPY OF THE LETTER ISSUED BY R3.

EXHIBIT P5 : TRUE COPY OF THE STATEMENT SHOWING DETAILS OF THE DIVISIONS SIBMITTED BY THE PETITIONER TO R3.

EXHIBIT P6 : TRUE COPY OF THE ORDER ISSUED BY R3.

EXHIBIT P7 : TRUE COPY OF THE ORDER ISSUED BY R3.

EXHIBIT P8 : TRUE COPY OF THE ORDER ISSUED BY R3.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

A.M. SHAFFIQUE, J.

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**W.P.(C). No.13029 of 2013**  
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Dated this the 15th day of January 2015

J U D G M E N T

The petitioner has approached this Court challenging Exts.P6, P7 and P8 and for a direction to the 3rd respondent to dispose of Ext.P3 on merits.

2. The facts involved in the writ petition would disclose that the petitioner appointed the 4th respondent anticipating staff fixation order during the period 2012-'2013. During the relevant time, no staff fixation was done by the Educational authorities and directions were issued to fill up only those posts which were remaining unfilled during the period 2010-'2011.

3. Though the matter was taken up at different levels, approval was denied and the petitioner has approached this Court impugning the orders issued by the educational authorities.

4. A counter affidavit has been filed by the 3rd respondent inter alia stating that as per Government Order dated 1.10.2011 it was indicated that for the academic year

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2011-'2012, the staff fixation order of 2010-'2011 would be applicable and will be fixed as the sanctioned post in each school. Further it is stated that no filling up of additional staff will be allowed after 31.3.2011 except for posts which have not been filled up, though allowed as per staff fixation order of 2010-'2011. Reference is also made to Government Circular dated 6.6.2012 clarifying that staff fixation for 2010-'2011 will be made applicable to 2012-'2013 as well. Therefore, in the absence of any order fixing the staff fixation it was not possible for approving the appointment of the 4th respondent.

5. Learned counsel for the petitioner however relied upon a recent Government Order issued by the General Education Department, G.O.(P) No.313/2013/G.Edn. dated 29.11.2013 wherein, approval has been made to create teachers bank. It is also mentioned therein that if two vacancies are available, one of the vacancies has to be taken up from teachers bank and in the second vacancy, the management will be free to make appointment.

6. If the petitioner has any claim on the basis of above Government Order, it is always open for the petitioner to approach the Government with appropriate representation in

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that regard. So far as the claim of the petitioner to challenge the impugned orders is concerned, I am of the view that the same cannot be disturbed and the Government Order dated 29.11.2013 will not change the situation. In the absence of any staff fixation enabling the petitioner to have appointed the 4th respondent, approval cannot be granted.

In the result, this Writ Petition is dismissed reserving liberty to the petitioner to approach the appropriate authorities with proper representation claiming benefits on the basis of the Government Order dated 29.11.2013.

**Sd/-
A.M. SHAFFIQUE
JUDGE**

Jvt