

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 21295 of 2006 (I)

PETITIONER :

**A.B.SOBHANA, FULL TIME HINDI TEACHER,
B.T.M.A.M.U.P.SCHOOL, PENGAD, P.O.PUTHUCODE,
PIN-673 633, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE ASSISTANT EDUCATIONAL OFFICER,
KONDOTTY, MALAPPURAM DISTRICT.**
- 3. THE MANAGER,
B.T.M.A.M.U.P.SCHOOL, PENGAD, P.O.PUTHUCODE,
PIN-673 633, MALAPPURAM DISTRICT.**

R1 & R2 BY SR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER NO.K.DIS/C2/32316/99/DPI DATED 14/6/99 ISSUED BY THE ADDL.DIRECTOR OF PUBLIC INSTRUCTION.**
- P2 COPY OF THE ORDER NO.K.DIS.D-4583/99 DATED 9/8/99 ISSUED BY THE 2ND RESPONDENT.**
- P3 COPY OF THE REVISION PETITION SUBMITTED BY THE 3RD RESPONDENT BEFORE THE HON'BLE MINISTER FOR EDUCATION, TVM IN MAY 2005.**
- P4 COPY OF THE G.O.(P) NO.46/2006/G.EDN DATED 01/2/2006 ISSUED BY THE 1ST RESPONDENT**
- P5 COPY OF THE ORDER NO.K.DIS.D/8057/05 DATED 25/4/06 ISSUED BY THE 2ND RESPONDENT**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.M.SHAFIQUE, J

W.P.C.No.21295 of 2006

Dated this the 12th day of October 2015

J U D G M E N T

Petitioner, who was a 51A claimant, was appointed by the Manager on 02/06/2003. However, the Department officials did not approve her appointment on the ground that protected teachers have not been appointed. However, subsequently her appointment was regularised with effect from 01/02/2006. This writ petition has been filed seeking for regularisation of her appointment from 02/06/2003. The learned counsel for the petitioner relied upon the judgment of this Court in **State of Kerala v. Ciji P.Jose** [2015(1) KLT 458] wherein the Division Bench held that 51A claimant has a better claim than a protected teacher.

2. Counter affidavit has been filed inter alia stating that the petitioner's appointment with effect from 02/06/2003 has not been approved since the protected teachers have not been appointed by the Manager.

3. The learned counsel for the petitioner, further brought to the notice of this Court that no details of the protected teachers

was made available to the Manager at the relevant point of time. That apart, as held by this court in **Ciji P.Jose's** case (supra) when a 51A claimant is appointed, even assuming that there was a protected teacher, still the 51A claimant has to be given preference of appointment. When the Manager has adopted such a method, the said reason can never be stated as a reason for not regularising her appointment from 02/06/2003.

Hence this writ petition is allowed directing the 2nd respondent to approve the appointment of the petitioner from 02/06/2003 and to provide all consequential benefits which she was entitled to on account of such approval. This may be done within a period of two months from the date of receipt of a copy of this judgment.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

//True Copy//

PA to Judge

