

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936**

**WP(C).No. 15735 of 2010 (N)**  
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**PETITIONER(S):**  
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1. UNNIKRISHNAN.S., LECTURER IN MALAYALAM,  
ZAMORIN'S GURUVAYURAPPAN COLLEGE, CALICUT.
2. RADHAKRISHNAN.E., LECTURER IN MALAYALAM,  
ZAMORIN'S GURUVAYURAPPAN COLLEGE, CALICUT.
3. SREERANJINI.G., LECTURER IN MALAYALAM,  
ZAMORIN'S GURUVAYURAPPAN COLLEGE, CALICUT.
4. SUNEETHA T.V, LECTURER IN MALAYALAM,  
ZAMORIN'S GURUVAYURAPPAN COLLEGE, CALICUT.

**BY SRI.BABU VARGHESE (SENIOR ADVOCATE)**  
**ADV. SRI.JOHNSON T. JOHN**

**RESPONDENT(S):**  
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1. THE MANAGER,  
ZAMORIN'S GURUVAYURAPPAN COLLEGE,  
CALICUT - 673 014.
2. THE UNIVERSITY OF CALICUT,  
REPRESENTED BY ITS REGISTRAR  
CALICUT UNIVERSITY P.O. - 673 635.
3. THE STATE OF KERALA, REPRESENTED  
BY ITS PRINCIPAL SECRETARY  
DEPARTMENT OF HIGHER EDUCATION,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -1.
4. THE DIRECTOR OF COLLEGIATE EDUCATION,  
VIKAS BHAVAN, P.M.G.JUNCTION, THIRUVANANTHAPURAM -1.
5. THE DEPUTY DIRECTOR OF COLLEGIATE EDUCATION,  
CALICUT - 673 001.

**R1 BY ADV. SMT.SHAHANA KARTHIKEYAN**  
**R2 BY SRI.SANTHOSH MATHEW,SC**  
**BY SRI.P.C.SASIDHARAN, SC**  
**R3 TO R5 BY SENIOR GOVT. PLEADER SRI.S.JAMAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD**  
**ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED**  
**THE FOLLOWING:**

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**APPENDIX**

**PETITION'S EXHIBITS:**

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- EXHIBIT P1 :** TRUE COPY OF THE GO.(MS)NO.134/98 H.EDN. DATED 9.11.1998.
- EXT. P1(A) :** TRUE COPY OF THE UNIVERSITY ORDER GRANTING PERMANENT AFFILIATION TO THE COURSE VIDE ORDER DATED 3.10.2005.
- EXHIBIT P2 :** TRUE COPY OF THE STATEMENT FOR RE-ASSESSMENT OF WORK LOAD ISSUED BY THE ADALATH MEETING HELD ON 18.12.2002.
- EXT. P2(A) :** TRUE COPY OF THE STATEMENT OF WORKLOAD FOR THE YEAR 2005-2006 SUBMITTED BEFORE THE UNIVERSITY FOR THE SUBJECT MALAYALAM.
- EXHIBIT P3 :** TRUE COPY OF THE JUDGMENT DATED 1.6.2005 IN W.P(C)NO.35693/04.
- EXT. P3(A) :** TRUE COPY OF THE REQUEST DATED 30.11.2005 SUBMITTED BEFORE THE REGISTRAR OF THE UNIVERSITY.
- EXHIBIT P4 :** TRUE COPY OF THE MINUTES OF THE STATUTORY SELECTION COMMITTEE HELD ON 22ND, 23RD AND 24TH NOVEMBER, 2005.
- EXT. P4(A) :** TRUE COPY OF THE NOTICE PUBLISHED IN THE NOTICE BOARD SHOWING THE LIST OF SELECTED CANDIDATES.
- EXT. P(B) :** TRUE COPY OF THE PUBLIC NOTIFICATION APPEARED IN "MALAYALA MANORAMA" ON 3.12.2004.
- EXHIBIT P5 :** TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER IN FAVOUR OF 1ST PETITIONER.
- EXT. P5(A) :** TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER IN FAVOUR OF 2ND PETITIONER.
- EXT. P5(B) :** TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER IN FAVOUR OF 3RD PETITIONER.
- EXT. P5(C) :** TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER IN FAVOUR OF 4TH PETITIONER.
- EXHIBIT P6 :** TRUE COPY OF THE PROPOSAL DATED 20.5.2006.
- EXT. P6(A) :** TRUE COPY OF THE PROPOSAL DATED 10.8.2006.
- EXT. P6(B) :** TRUE COPY OF THE STATEMENT SHOWING THE DETAILS OF STAFF REQUIREMENT DURING THE YEAR 2005-2006.
- EXT. P6(C) :** TRUE COPY OF THE CERTIFICATE DATED 19.5.2010 ISSUED BY THE PRINCIPAL SHOWING THE PRESENT STAFF POSITION.
- EXT. P6(D) :** TRUE COPY OF THE LETTER DATED 8.6.2006 SENT BY THE REGISTRAR TO THE PRINCIPAL.

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**EXHIBIT P7 : TRUE COPY OF THE ORDER OF APPROVAL DATED 19.2.2007.**

**EXHIBIT P8 : TRUE COPY OF THE ORDER PASSED IN W.P.(C)NO.33552 OF 2009.**

**EXHIBIT P9 : TRUE COPY OF THE UNIVERSITY ORDER DATED 27.10.2010.**

**EXHIBIT P10 : TRUE COPY OF THE GOVERNMENT ORDER DATED 20.8.2010 WITH  
RELEVANT EXTRACT OF THE ANNEXURE.**

**EXHIBIT P11 : TRUE COPY OF THE LETTER DATED 10.1.2011.**

**EXHIBIT P12: TRUE COPY OF THE LETTER DATED 26.4.2011.**

**EXHIBIT P13 : TRUE COPY OF THE DECLARATION FILED BY THE 1ST PETITIONER.**

**EXHIBIT P14 : TRUE COPY OF THE JUDGMENT IN CIVIL APPEAL  
NOS.8459 - 8461/2010 DATED 14.1.2015 OF THE HON'BLE SUPREME  
COURT.**

**RESPONDENT'S EXHIBITS: - NIL**  
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**/TRUE COPY/**

**P.S. TO JUDGE**

**mbr/**

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C).No.15735 of 2010**  
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Dated this the 4<sup>th</sup> day of March, 2015

**J U D G M E N T**

The petitioners were appointed as Lecturers in the Department of Malayalam under the first respondent's College in the year 2006 subsequent to the starting of the M.A. Malayalam course in the College. The petitioner's College is an aided College which had entered a direct payment agreement with the Government. In the agreement, a rider was put while sanctioning the course that there shall not be any additional financial commitment on the part of the State. Based on the above, the University was not prepared to reckon the workload of the courses for staff fixation and hence did not grant approval of appointment to the petitioners. Similar agreement made by the Government with many aided colleges was subject matter of

challenge before this Court. This Court held that in aided colleges such restriction cannot be placed. The matter went upto the Supreme Court. The Hon'ble Supreme Court also declined to interfere with the decision of this Court as per Ext.P14. During the pendency of the matter, the Government issued Ext.P10 order dated 20/08/2010 recognising all the conditionally sanctioned courses as aided courses and the appointments made and approval granted to those posts shall be concurred ratified by Government with effect from the date of Ext.P10 order. Accordingly, the petitioners were given approval with effect from 20/08/2010. The petitioners' grievance in this writ petition is that they are entitled for approval with effect from the date of appointment and therefore, restricting the approval of appointment with effect from the date of Ext.P10 is illegal and unsustainable.

2. The issue before this Court earlier was in regard to restriction placed by the Government for claiming an additional financial commitment on account of sanctioning courses. That restriction has been

interfered with by this Court. In that view of the matter, sanctioning the post in aided colleges would have a relation with the sanctioning of courses. Now the question that remains is whether there was sufficient workload in the year 2006 for giving approval of appointment to the petitioners. The Government cannot restrict approval with effect from a prospective date when they have sanctioned the courses. When appointments are made the only thing to be considered, whether there exist sufficient workload to appoint the petitioners. Therefore, the restriction that Ext.P10 has only a prospective application is set aside. The petitioners are all entitled to be considered with effect from the date of appointment provided the University is satisfied that there was sufficient workload to appoint the petitioners.

3. Therefore, the first respondent shall make a proposal to consider the approval of the petitioners with effect from the year 2006. This shall be done within a period of four weeks from the date of receipt of a copy of this Judgment. Thereupon, the University

shall fix the workload in the year 2006 and take appropriate decision for approval within a further period of two months from the date of receipt of the proposal. If the University approves the appointment of the petitioners, the fifth respondent shall disburse salary and entire arrears to the petitioners within a period of three months from the date of approval.

The writ petition is disposed of as above. No costs.

**Sd/-**

**A.MUHAMED MUSTAQUE, JUDGE**

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