

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 24233 of 2005 (I)

PETITIONER(S):

1. SUSANNA P.P. WORKING AS SENIOR ASST.
BELMP SCHOOL, PANAYUR.
2. V.INDIRA, NOW WORKING AS TEACHER,
AT BEMLP SCHOOL, SHORNUR.
3. SUDHA RATNAM, NOW WORKING AS TEACHER,
BEMLP SCHOOL, KANNUR.
4. M.I.LILLY, NOW WORKING AS TEACHER,
BEMLP SCHOOL, VANIYAMBALAM.
5. CLARA.G. NOW WORKING AS ASSISTANT
TEACHER, BEMHS, PALAKKAD.

**BY ADVS.SRI.RENJITH THAMPAN
SMT.P.A.ANITHA**

RESPONDENT(S):

1. THE STATE OF KERALA, REPRESENTED BY THE
PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF
FINANCE, SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DEPUTY DIRECTOR, PALAKKAD.
3. THE ASSISTANT EDUCATIONAL OFFICER,
CHITTUR.
4. THE SUB TREASURY OFFICER,
PALAKKAD.

R1 TO 4 BY ADV. GOVERNMENT PLEADER SRI.P.V.LONACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE PWD
EXECUTIVE ENGINEER, PALGHAT DATED 27.11.2000.**

**EXHIBIT P2 : TRUE COPY OF THE CIRCULAR DATED 8.5.2001 ISSUED
BY THE GOVERNMENT**

**EXHIBIT P3 : TRUE COPY OF THE ORDER DATED 3.1.2001 OF THE
ASSISTANT EDUCATIONAL OFFICER**

**EXHIBIT P4 : TRUE COPY OF THE LETTER ISSUED BY THE 2ND
RESPONDENT'S**

**EXHIBIT P5 : TRUE COPY OF THE LETTER DATED 7.9.2004 ISSUED BY
THE HEAD MASTER BEMLP SCHOOL PANAYUR**

**EXHIBIT P6 : TRUE COPY OF THE ORDER DATED 1.11.2004 PASSED IN
W.P(C). 31885/04**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

A.M.SHAFFIQUE, J.

W.P.(C)No.24233 of 2005

Dated this the 23rd day of June, 2015

JUDGMENT

The petitioner challenges Ext.P4 by which recovery was sought from the petitioners on the allegation that on the basis of an audit enquiry it was found that the higher rate of house rent allowance had been paid to the petitioners as they were residing in the Municipality which was not declared as 'C' Class city.

2. Counter affidavit has been filed by the respondent supporting the stand taken in Ext.P4. It is inter alia contended that the matter came to be noticed only after an audit enquiry and therefore the Government is entitled to recover the amount which was paid in excess of what has already been permitted.

3. On a perusal of Ext.P3, it is indicated that it is after verifying all the records submitted by the petitioners that the rent had been fixed and paid. If at a later stage, it is recovered

from the petitioners, that will amount to an unfair act on the part of the respondent authorities. Ext.P4 is therefore arbitrary and cannot be a reason for recovering any amount from the petitioners. The respondents have no case that the HRA was fixed on any misrepresentation on the part of the petitioners.

4. Having regard to the aforesaid factual situation, I am of the view that Ext.P4 is liable to be set aside and accordingly Ext.P4 is quashed, allowing the writ petition.

Sd/-
A.M.SHAFIQUE
JUDGE

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//TRUE COPY//

P.A. TO JUDGE