

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 15115 of 2015 (L)

PETITIONER(S):

**SWAPNA K L AGED 37 YEARS
W/O.MADHUSOODHANAN K, KADAYIL VEEDU,
ELAMPA PO, ATTINGAL, THIRUVANANTHAPURAM 695103
(HIGH SCHOOL ASSISTANT (SOCIAL STUDIES)
DEVASWOM BOARD HIGH SCHOOL, ERUMELI)**

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENT(S):

**1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIT, THIRUVNANTHAPURAM 695001**

**2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANTHAPURAM 695001**

**3. THE DISTRICT EDUCATIONAL OFFICER
OFFICE OF THE DISTRICT EDUCATIONAL OFFICE
KANJIRAPPALLY.**

**4. THE CORPORATE MANAGER/SECRETARY,
TRAVANCORE DEVASWOM BOARD SCHOOLS
DEVASWOM BUILDINGS, NANTHANCODE, THIRUVANANTHAPURAM**

**R4 BY ADV. SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD
R1-R3 BY ADV. GOVERNMENT PLEADER, SMT. M.J. RAJASREE
R BY SRI.M.V.S.NAMBOOTHIRI, SC, TRAVANCORE DEVASWOM BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE COPY OF THE APPROVED APPOINTMENT ORDER PASSED BY RESPONDENT NO.4 AND APPROVED BY THE COMPETENT EDUCATIONAL OFFICER
- EXT.P2:** TRUE COPY OF THE PROVISIONAL LIST OF RULE 51 A CLAIMANTS UNDER RESPONDENT NO.4 AS ON 01.06.2008
- EXT.P3:** TRUE COPY OF THE REGULAR APPOINTMENT ORDER DATED 03.06.2013 ISSUED BY RESPONDENT NO4
- EXT.P3 A:** TRUE COPY OF THE STATEMENT OF CHANGE OF STAFF
- EXT.P3 B:** TRUE COPY OF FORM 51 B DECLARATION
- EXT.P3 C:** TRUE COPY OF DECLARATION UNDER GO DATED 15.12.90
- EXT.P3 D:** TRUE COPY OF DECLARATION DATED 03.06.2003
- EXT.P3 E:** TRUE COPY OF DECLARATION DATED 03.06.2003
- EXT.P3 F:** TRUE COPY OF THE JOINING REPORT DATED 07.06.2013
- EXT.P4:** TRUE COPY OF THE GOVERNMENT ORDER DATED 12.10.2006 ISSUED BY THE RESPONDENT NO.1
- EXT.P5:** TRUE COPY OF THE CIRCULAR DATED 18.05.2007 ISSUED BY RESPONDENT NO.1
- EXT.P6:** TRUE COPY OF THE CIRCULAR BEARING NO.58604/J2/12/G. EDN. DATED 06.11.2012 ISSUED BY THE RESPONDENT NO.1
- EXT.P7:** TRUE COPY OF THE JUDGMENT DATED 24/2/2015 IN WPC.NO.30984/2014 (W)
- EXT.P8:** TRUE COPY OF THE ORDER BEARING NO.B3/4199/2013 K.DIS DATED 07.01.2015 PASSED BY THE RESPONDENT NO.3
- EXT.P9:** TRUE COPY OF THE GOVERNMENT ORDER BEARING GO (P) NO.278/2014/G. EDN. DATED 23.12.2014
- EXT.P9 A:** TRUE COPY OF THE JUDGMENT DATED 15.01.2015 IN WPC.NO.30107/2013

EXT.P10: TRUE COPY OF JUDGMENT DATED 20.08.2014 IN WPC.NO.3740/2014
EXT.P11: TRUE COPY OF JUDGMENT DATED 09.07.2014 IN WPC.NO.22377/2013
EXT.P12: TRUE COPY OF JUDGMENT DATED 07.07.2014 IN WPC.NO.13689/2014
EXT.P13: TRUE COPY OF JUDGMENT DATED 04.07.2014 IN WPC.NO.13167/2014
EXT.P14: TRUE COPY OF JUDGMENT DATED 12.03.2015 IN WPC.NO.3391/2015(Y)
EXT.P15: TRUE COPY OF THE REPRESENTATION DATED 06.02.2015 BEFORE
RESPONDENT NO.4

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 15115 of 2015

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner, is a Rule 51A claimant for appointment to a teaching post under the 4th respondent educational agency. It is not in dispute that she has got approved service, as evidenced by Ext.P1 appointment order, that has been approved by the educational authority. The petitioner was appointed as a High School Assistant (SS) with effect from 03.06.2013 in the school in question. The 3rd respondent, however, refused to approve the said appointment on the ground that the school in question being an uneconomic school, the appointments of teachers to regular vacancies had to be from among the protected teachers and not by permitting a Rule 51A claimant to take up the appointment. It is the said decision of the 3rd respondent (Ext.P8), that is impugned in the writ petition.

2. I have heard Sri.Subhash Chand, the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the official respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, and taking note of the

decision of this Court in **Ciji.P.Jose v. State of Kerala and Others** [2012 (1) KLT 867], that was affirmed by the Division Bench in **State of Kerala and Others v. Ciji.P.Jose** [2015 (1) KHC 232], I dispose the writ petition by directing the 3rd respondent to approve the appointment of the petitioner to the vacancy arising in the school, with effect from 03.06.2013 and disburse all consequential benefits flowing from the said approval, to the petitioner. The respondents shall do the needful in ensuring compliance with the directions in this judgment, within a period of three months from the date of receipt of a copy of this judgment. I make it clear that, nothing in this judgment shall be construed as having decided any right of the petitioner to appointment to a vacancy arising prior to 03.06.2013 in the school and the petitioner may agitate the same before the appropriate forum.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE