

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(C).NO. 15487 OF 2015 (I)

PETITIONER(S) :

VIVEK. V AGED 26 YEARS
S/O. KUNHIRAMAN
U.P.S.A AIDED MAPPILA UPPER PRIMARY SCHOOL
IRAVIMANGALAM, (VIA) PERINTHALMANNA.

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S) :

1. ASSISTANT EDUCATIONAL OFFICER
PERINTHALMANNA.

2. DISTRICT EDUCATIONAL OFFICER
MALAPPURAM.

3. DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM.

4. STATE OF KERALA
REPRESENTED BY THE SECRETARY
GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM.

5. THE MANAGER
AIDED MAPPILA UPPER PRIMARY SCHOOL, IRAVIMANGALAM
PERINTHALMANNA.

BY GOVERNMENT PLEADER SMT.LOWSY.A

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 15487 OF 2015 (I)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 - TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE MANAGER DT. 01.6.10.

P2 - TRUE COPY OF THE ORDER OF THE A.E.O DT. 20.12.10.

P3 - TRUE COPY OF THE ORDER OF D.E.O DT. 06.4.11.

P4 - TRUE COPY OF THE ORDER OF APPROVAL ISSUED BY A.E.O DT. 20.12.11.

P5 - TRUE COPY OF APPEAL FILED BY THE MANAGER BEFORE THE D.P.I AGAINST THE REJECTION ORDER ISSUED BY D.E.O DT. 05.5.11.

P6 - TRUE COPY OF GOVERNMENT ORDER GO(P) 10/10/GEN.EDN DT. 12.1.10.

P7 - TRUE COPY OF THE STAFF FIXATION ORDER DT. 12.6.06, FOR THE ACADEMIC YEAR 2009-10.

P8 - TRUE COPY OF THE STAFF FIXATION ORDER FOR THE ACADEMIC YEAR 2009-10 DT. 28.7.09.

P9 - TRUE COPY OF THE STAFF FIXATION ORDER FOR THE ACADEMIC YEAR 2010-11.

P10 - TRUE COPY OF THE REVISION PREFERRED BY THE PETITIONER TO THE SECRETARY, GENERAL EDUCATION DT. 27.11.13.

P11 - TRUE COPY OF THE COMMUNICATION ISSUED BY THE 4TH RESPONDENT DT. 07.12.13.

P12 - TRUE COPY OF THE REQUEST MADE BY THE PETITIONER DT. 01.9.12.

P13 - TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT AFTER TWO YEARS DT. 09.11.14.

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.15487 of 2015

.....
Dated this the 8th day of June, 2015

J U D G M E N T

The petitioner was appointed as a UPSA in a retirement vacancy in the 5th respondent's School with effect from 01.06.2010. The approval to the appointment of the petitioner was however rejected by the educational authority. In an appeal preferred before the District Educational Officer, the District Educational Officer also agreed with the findings of the Assistant Educational Officer and rejected the appeal. Thereafter, the petitioner preferred a representation before the Hon'ble Minister for Education, which representation was forwarded from the Minister's Office to the 4th respondent for consideration. By Ext.P13 communication, the petitioner was informed that the request for approval could not be considered. It is challenging Ext.P13 communication, that the petitioner has come up in this writ petition aggrieved by the decision of the 4th respondent. The learned Government Pleader on instructions would submit that Ext.P13 cannot be viewed as an order passed in a statutory revision preferred by the petitioner, against the order of the District Educational Officer rejecting the approval to his appointment. It is

pointed out that if the petitioner prefers a statutory revision within a specified time, then the same can be considered by the 4th respondent in accordance with law, and appropriate orders passed thereon.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that Ext.P13 communication, that is impugned in the writ petition, was not passed in any statutory proceedings that were pending before the 4th respondent. The remedy of the petitioner, against an order of rejection of approval to his appointment by the District Educational Officer, lies in a statutory revision before the 4th respondent. Accordingly, I dispose the writ petition with the following directions:

If the petitioner prefers a statutory revision against the order of the District Educational Officer, within a period of two weeks from today, the 4th respondent shall consider the same as a revision petition filed in terms of the provisions of the Kerala Education Rules, and pass an order thereon after hearing

the petitioner within a period of two months from the date of receipt of a copy of this judgment. To enable the 4th respondent to do so, I quash Ext.P13 so that the 4th respondent may consider the revision petition untrammelled by the observations therein.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**

mns