

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 19358 of 2013 (T)

PETITIONER(S):

**SABU G.GOPINADHAN,
LIBRARIAN GRADE IV (HG), S.N. POLYTECHNIC COLLEGE,
KOTTIYAM P.O., KOLLAM-691 571, RESIDING AT GOPI BHAVAN,
KOTTATHALA P.O., KOTTARAKKARA, KOLLAM-691 566.**

BY ADV. SRI.B.SURESH KUMAR

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REP BY ITS SECRETARY TO THE HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, FORT P.O.,
THIRUVANANTHAPURAM - 695 023**
- 2. THE DIRECTOR OF TECHNICAL EDUCATION,
OFFICE OF THE DIRECTOR OF TECHNICAL EDUCATION,
FORT P.O., THIRUVANANTHAPURAM - 695 023.**
- 3. THE SENIOR JOINT DIRECTOR OF TECHNICAL EDUCATION (PS),
OFFICE OF THE DIRECTOR OF TECHNICAL EDUCATION,
FORT P.O., THIRUVANANTHAPURAM - 695 023.**
- 4. THE MANAGER,
S. N. POLYTECHNIC COLLEGE, KOTTYAM P.O., KOLLAM-691 571.**
- 5. THE PRINCIPAL,
S. N. POLYTECHNIC COLLEGE, KOTTYAM P.O., KOLLAM-691 571.**

**R1-R3 BY SENIOR GOVERNMENT PLEADER SRI.S.JAMAL
R4 & R5 BY ADV. SRI.A.N.RAJAN BABU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1- A TRUE COPY OF THE GO (RT) NO.534/2004/H.EDN DATED 07/04/2004 ISSUED BY THE GOVERNMENT.

EXT. P2- A TRUE COPY OF THE GO (RT) NO.658/2005/H.EDN DATED 16/04/2005 ISSUED BY THE GOVERNMENT.

EXT. P3- A TRUE COPY OF THE GO (RT) NO.1722/2007/H.EDN DATED 29/09/2007 ISSUED BY THE GOVERNMENT.

EXT. P4- A TRUE COPY OF THE COMMUNICATION DATED 02/11/2012 ISSUED BY THE STATE PUBLIC INFORMATION OFFICER.

EXT. P5- A TRUE COPY OF THE REPRESENTATION DATED 01/04/2011 SUBMITTED BY THE PETITIONER TO THE PRINCIPAL OF THE SN POLYTECHNIC COLLEGE.

EXT. P6- A TRUE COPY OF THE COMMUNICATION NO. DP6/108517/11/DTE 04/08/2011 SUBMITTED BY THE SENIOR JOINT DIRECTOR (PS) TO THE PRINCIPAL SECRETARY TO THE GOVERNMENT HIGHER EDUCATION DEPARTMENT.

EXT. P7- A TRUE COPY OF THE JUDGMENT DATED 27/05/2013 IN WPC NO. 13139/2013 PASSED BY THIS HONOURABLE COURT.

EXT. P8- A TRUE COPY OF THE GOVERNMENT ORDER GO(RT) NO. 1290/2013/H.EDN DATED 25/06/2013 PASSED BY THE GOVERNMENT.

EXT. P9- A TRUE COPY OF THE GO(RT)NO.2065/10/ H.EDN DATED 25/10/2010 ISSUED BY THE GOVERNMENT.

EXT. P10- A TRUE COPY OF THE REPORT DATED NIL OF THE COMMITTEE CONSTITUTED FOR GRADING OF LIBRARIES UNDER THE COMMON POOL LIBRARY SERVICE.

EXT. P11- A TRUE COPY OF THE KERALA COMMON POOL LIBRARY SERVICE RULES, 2003 DATED NIL.

EXT.P12-A TRUE COPY OF THE GOVERNMENT ORDER DTED.23.3.1971 ISSUED BY THE GOVERNMENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 19358 of 2013

Dated this the 6th day of February, 2015

J U D G M E N T

This writ petition is filed by a Librarian Grade-IV (HG) working in the S.N. Polytechnic College, Kottiyam. This writ petition is filed seeking for a direction commanding the Government to upgrade the library of S.N.Polytechnic College, Kottiyam from IVth Grade to IIInd Grade and the post of Librarian from IVth Grade to IIInd Grade, based on Ext.P6 recommendation made by the Senior Joint Director.

2. Among six aided polytechnic Colleges in Kerala, except S.N. Polytechnic College, Kottiyam, all other colleges have upgraded the Library to Grade-II. The request for upgradation was considered by the Government pursuant to the direction of this Court in W.P.(C) No. 13139 of 2013. Ext.P8 is the order rejecting the request of the petitioner for upgradation. In Ext.P8, it is stated that without taking a policy decision on the subject as per the existing rules, the petitioner is not eligible for promotion as Library

Grade-II. According to the Government, upgradation of existing polytechnics involves additional financial commitments. Therefore, it cannot be done without assessing all factors in the matter.

3. The rule referred in Ext.P8 is essentially related to the Kerala Common Pool Library Service Rules, 2003. This Rule refers to libraries in Departments under the Government. Therefore, the stand of Government is that these rules could not be applied to aided colleges.

4. The Government Order dated 23.3.1971 refers the manner in which Library will have to be graded. The grading of Library is based on the number of books issued per annum. If the books in stock in the library is between 10001 and 15000, and issuance is between 20001 and 30000, the library can be graded as IInd Grade. In this case admittedly the petitioner's institution satisfies those criteria to become eligible for upgradation. The only question is whether Ext.P2 is extended to petitioner's institution. The stand of the Government is that a policy decision has to be

taken for and it involves financial commitment.

5. This Court, in the normal circumstances, cannot direct the Government to take a policy decision in favour of the petitioner. It is purely the wisdom of the Government to formulate their own policy for granting benefit. There is no dispute in this case except this college in which the petitioner is working, all other aided polytechnics have upgraded library post. The petitioner relies on Ext.P4, the information obtained under Right to Information Act. This would clearly indicate that all aided polytechnic colleges in the State of Kerala have upgraded the Library except S.N. Polytechnic College. In this matter, the 4th respondent also supports the stand of the petitioner and submits that they are entitled for upgradation. The policy decision would equally apply to all similarly situated institutions. The Government by choosing a method to recognise upgradation in certain aided colleges by allowing their upgradation, cannot deny similarly situated polytechnic colleges stating that policy decision is required

for upgradation. The policy has to be understood in relation to institution or in respect of individuals in the State interest. The petitioner refers to the upgradation of Carmel Polytechnic College, Alappuzha, NSS Polytechnic College, Pandalam and S.N Polytechnic, Kanhangad as per Exts.P1 to P3. It cannot be said that the policy is not in existence. The policy is a matter referable to action resulted on exercise of executive power. The material before this Court to show that the policy is in existence. It is stated in the counter affidavit that it also involves financial implication. However, Ext.P6 categorically states that there is no additional financial implication on account of the upgradation. Since there is no dispute as to the petitioners eligibility for upgradation as revealed from the counter affidavit filed before this court. I am of the view the petitioner is entitled to succeed.

Accordingly this writ petition is allowed. The impugned order is set aside. There shall be a direction to 1st respondent to issue necessary order for upgradation of the Library of SN Polytechnic

College, Kottiyam from VIth Grade to IInd Grade as well as the post of Librarian in conformity with the relevant procedure within a period of two months from the date of receipt of a copy of this judgment.

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/

The words “VIth” occurring in the first line at page 5 of the judgment dated 6/2/2015 in W.P.(C) No. 19358/2013 are suo motu corrected as “IVth Grade, vide order dated 03/03/2015 in W.P.(C) No.19358/2013.