

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

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937**

**WP(C).No. 17857 of 2014 (F)**  
-----

**PETITIONER:**  
-----

**DEEPA T. PILLAI,  
HIGH SCHOOL ASSISTANT (PHYSICAL SCIENCE)  
HIGH SCHOOL, ARKANNOOR P.O., AYUR  
KOLLAM.**

**BY ADV. SRI.P.N.MOHANAN**

**RESPONDENTS:**  
-----

- 1. DISTRICT EDUCATIONAL OFFICER  
KOTTARAKKARA-691506, KOLLAM.**
- 2. DEPUTY DIRECTOR OF EDUCATION  
KOLLAM-691001.**
- 3. THE MANAGER  
HIGH SCHOOL, ARKANNOOR P.O., AYUR  
KOLLAM-691533.**

**R1 & R2 BY GOVERNMENT PLEADER SMT. A. LOUSY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-09-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

**PETITIONER'S EXHIBITS**  
-----

- EXHIBIT P1: A TRUE COPY OF THE APPOINTMENT ORDER DATED 14.7.2008 OF THE PETITIONER.**
- EXHIBIT P2: A TRUE COPY OF THE REJECTION ORDER DATED 12.12.08 OF THE DISTRICT EDUCATIONAL OFFICER.**
- EXHIBIT P3: A TRUE COPY OF THE G.O.(P)NO.104/2008 DATED 10.6.2008.**
- EXHIBIT P4: A TRUE COPY OF THE G.O.(P)NO.144/2013 DATED 22.4.2013.**
- EXHIBIT P5: A TRUE COPY OF THE JUDGMENT IN WPC NO.17893/2013 DATED 1.11.2013.**
- EXHIBIT P6: A TRUE COPY OF THE JUDGMENT DATED 6.12.2013 IN WPC NO.1112/2013.**
- EXHIBIT P7: A TRUE COPY OF THE APPOINTMENT ORDER AND THE APPROVAL W.E.F. 1.6.2009**

**RESPONDENTS' EXHIBITS**  
-----

**NIL**

**//TRUE COPY//**

**P.A. TO JUDGE**

**JJJ**

**K. VINOD CHANDRAN, J.**

-----  
W.P.(C) No. 17857 of 2014 (F)  
-----

Dated this the 2<sup>nd</sup> day of September, 2015

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

The petitioner was appointed as H.S.A. (Physical Science) in the 3<sup>rd</sup> respondent school on 14.7.2008, in a retirement vacancy, which occurred on 30.6.2008. However, no approval was granted on the strength of G.O. (P) No.104/2008/G.Edn dated 10.6.2008, since according to the State the said Government Order prohibited any regular appointments to be made in the course of the academic year and any vacancy arising after the commencement of the academic year had to be filled up only by daily wage employees.

2. The issue is no longer res integra. The G.O.(P) No.104/2008/G.Edn dated 10.6.2008 was elaborately considered in **State of Kerala v. Sneha Cheriyan - 2013 (1) KLT 755 (SC)**. On the basis of the aforesaid decision

the Government brought out a subsequent Government Order bearing number G.O.(P)No.144/2013/G.Edn dated 22.4.2013. The said Government Order cancelled the clarificatory Government Order issued on 26.2.2011, which clarified the 2008 Government Order. The effect of the aforesaid Government Orders were considered in Ext.P5 judgment. The 2013 Government Order was set aside. The 2008 Government Order, as clarified in 2011, was upheld. The prohibition in appointing persons in the course of the academic year was held to be applicable only to leave vacancies and the same was intended at ensuring that no multiple claimants under Rule 51A of the Kerala Education Rules are created. As for the regular vacancies no such prohibition was applicable and the Government Order of 2008, as clarified by the Government Order of 2011, was held to be applicable insofar as appointment to regular vacancies are concerned.

3. In such circumstance, the petitioner's appointment with effect from 14.7.2008, has to be considered on the basis of the authoritative pronouncement of this Court in W.P.(C) Nos. 17893 & 21035 of 2013 dated 1.11.2013. Ext.P2, hence, shall stand set aside. The Government is directed to consider the issue afresh in accordance with the aforesaid judgment.

Writ Petition is allowed. No costs.

Sd/-  
K.VINOD CHANDRAN,  
JUDGE