

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. 20717 of 2011 (L)

PETITIONER:

**JINCY V.D.,W/O.JOSHY VALLOORAN,
AGED 24 YEARS, UPPER PRIMARY SCHOOL ASSISTANT,
P.S.HIGH SCHOOL, THIRUMUDIKUNNU.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMZA**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETRIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DIRECTOR OF PULIC INSTRUCTION,
JAGATHY, THIRUVANANTHAPURAM-695 014.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
THRISSUR AT AYYANTHOLE-680 003.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
IRINJALAKKUDA, THRISSUR DISTRICT - 680 121.**
- 5. THE CORPORATE MANAGER,
L.F.CHURCH SCHOOLS, THIRUMUDIKUNNU,
KORATTY EAST, THRISSUR DISTRICT-680 308.**

**R1 TO R4 BY GOVERNMENT PLEADER SMT.LOWSY.A
R5 BY ADVS. SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS**

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

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APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DATED 3.7.2007.
- EXHIBIT P2 : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DATED 16.7.2007.
- EXHIBIT P3 : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DATED 1.12.2008.
- EXHIBIT P4 : TRUE COPY OF THE ORDER OF APPOINTMENT OF THE PETITIONER
DATED 1.6.2009.
- EXHIBIT P5 : TRUE COPY OF THE ORDER NO.L.DIS.B5/6419/07 OF THE DISTRICT
EDUCATIONAL OFFICER DATED 8.2.2008.
- EXHIBIT P6 : TRUE COPY OF THE ORDER NO.B5 - 6288/08/L.DIS. OF THE DISTRICT
EDUCATIONAL OFFICER DATED 26.5.2009.
- EXHIBIT P7 : TRUE COPY OF THE ORDER NO.B-10795/08/L.DIS. OF THE DISTRICT
EDUCATIONAL OFFICER DATED 26.5.2009.
- EXHIBIT P8 : TRUE COPY OF THE ORDER NO.B5-4599/09/L.DIS. OF THE DISTRICT
EDUCATIONAL OFFICER DATED 27.2.2010.
- EXHIBIT P9 : TRUE COPY OF THE ORDER NO.B2-527/08/L.DIS. OF THE DEPUTY
DIRECTOR DATED 3.9.2008.
- EXHIBIT P10 : TRUE COPY OF THE ORDER NO.45345/B2/07/GE OF THE
GOVERNMENT DATED 26.5.2009.
- EXHIBIT P11 : TRUE COPY OF THE STAFF FIXATION ORDER 2007-2008
DATED 31.8.2007.
- EXHIBIT P12 : TRUE COPY OF THE STAFF FIXATION ORDER 2009-2010
DATED 24.12.2009.
- EXHIBIT P13 : TRUE COPY OF THE G.O.(P)NO.10/2010/G.EDN. OF THE GOVERNMENT
DATED 12.1.2010.
- EXHIBIT P14 : TRUE COPY OF THE ORDER OF THE DEPUTY DIRECTOR OF
EDUCATION DATED 12.7.2010.

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.20717 of 2011**  
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Dated this the 6th day of February, 2015

J U D G M E N T

The petitioner had different spells of appointments in P.S.High School, Thirumudikunnu. The appointment from 03/07/2007 to 15/7/2008 was against additional division vacancy; the appointment from 16/07/2008 to 30/09/2008 was against leave vacancy on daily wages; the appointment from 01/12/2008 to 12/02/2009 was against leave vacancy on daily wages; and the appointment from 01/06/2009 to 15/07/2010 against additional division vacancy. The approval against these appointments has been rejected by the authority stating that the appointments were during ban period and the Manager failed to execute bond.

2. This Court in number of cases held that if Manager refuses to execute bond, that shall not preclude the authority from approving the teacher

W.P.(C).No.20717/2011

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appointed in admissible vacancies and treating that Manager has executed bond approval shall be granted. See judgment in W.P.(C).No.16337/2009 dated 09/07/2010.

3. The Manager cannot shirk his responsibility in executing the bond. The ratification of the appointment by approval cannot be left to the whims and fancies of the Manager. When the Manager fails to own up his own action by executing a bond, it creates right on the teacher to call upon the Manager to perform his obligations. Therefore, treating that the Manager has executed a bond, approval shall be granted to the petitioner, if other conditions are satisfied. Necessary steps shall be taken to consider the approval within two months. On being approved, the entire salary payable to the petitioner shall be released within a period of three months thereafter.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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