

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

**PRESENT:**

**THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

**WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936**

**WP(C).No. 22308 of 2013 (K)**  
-----

**PETITIONER(S):**  
-----

1. JOJO THOMAS,  
HIGH SCHOOL ASSISTANT (HINDI),  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN - 680 311.
2. SAJEEV DAVIS K.,  
HIGH SCHOOL ASSISTANT (MATHS),  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN - 680 311.
3. SHIVY JOHN,  
HIGH SCHOOL ASSISTANT (MALAYALAM),  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN - 680 311.

**BY ADV. SRI.P.NANDAKUMAR**

**RESPONDENT(S):**  
-----

1. STATE OF KERALA, REPRESENTED BY  
SECRETARY TO GOVERNMENT,  
GENERAL EDUCATION DEPARTMENT,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,  
HOUSING BOARD BUILDINGS, SANTHI NAGAR,  
THIRUVANANTHAPURAM - 695 001.
3. THE REGIONAL DEPUTY DIRECTOR OF  
HIGHER SECONDARY EDUCATION,  
EDAPPALLY, KOCHI - 682 024.
4. THE MANAGER  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN-680 311.

WP(C).No. 22308 of 2013 (K)

-----

5. THE CORPORATE, MANAGER,  
ARCHDIOCESAN CORPORATE EDUCATIONAL AGENCY,  
ARCHDIOCESE OF ERNAKULAM - ANGAMALY,  
RENEWAL CENTRE, KALOOR, KOCHI - 682 017.
6. SMT JASMIN MARY P.J.,  
HIGHER SECONDARY SCHOOL TEACHER (HINDI),  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN - 680 311.
7. SMT. SOUMYA VARGHESE,  
HIGHER SECONDARY SCHOOL TEACHER (MATHS),  
ST.JOSEPH'S HIGHER SECONDARY SCHOOL,  
MELOOR, THRISSUR DIST., PIN - 680 311.

R1 TO R3 BY SENIOR GOVT. PLEADER SRI.P.K.ABDUL RAHAMAN  
R4 & R5 BY ADV. SRI.V.M.KURIAN  
R6 BY ADVS. SMT.M.R.SREELATHA  
SRI.ARUN MATHEW VADAKKAN  
R7 BY ADV. SRI.C.V.MILTON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

-----

- EXT.P1 - TRUE COPY OF THE NEWS PAPER NOTIFICATION ISSUED BY THE 4TH RESPONDENT IN DEEPIKA DAILY DATED 19-11-2011.
- EXT.P2 - TRUE COPY OF PETITION DATED 26-6-2012 FILED BY THE 1ST PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P3 - TRUE COPY OF PETITION DATED 10-12-2012 FILED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P4 - TRUE COPY OF PETITION DATED 17-9-2012 FILED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P5 - TRUE COPY OF PETITION DATED 10-12-2012 FILED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P6 - TRUE COPY OF PETITION DATED 6-11-2012 FILED BY THE 3RD PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P7 - TRUE COPY OF PETITION DATED 10-12-2012 FILED BY THE 3RD PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P8 - TRUE COPY OF THE PETITION DATED 12-6-2013 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.
- EXT.P9 - TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 7-8-2013.
- EXT.P10 - TRUE COPY OF ORDER OF THE DIRECTOR OF PUBLIC INSTRUCTION, DATED 11.10.2010.
- EXT.P11 - TRUE COPY OF ORDER D.P.J. DATED 25.1.2011.
- EXT.P12 - TRUE COPY OF B.ED. CERTIFICATE ISSUED TO THE 1ST PETITIONER FROM SREE SANKARA UNIVERSITY OF SANSKRIT, KALADY.
- EXT.P13 - TRUE COPY OF M A CERTIFICATE ISSUED TO THE 1ST PETITIONER FROM MADURAI KAMARAJ UNIVERSITY.
- EXT.P14 - TRUE COPY OF ELIGIBILITY CERTIFICATE DATED 1.10.2012 ISSUED BY THE UNIVERSITY OF KERALA.
- EXT.P15 - TRUE COPY OF B ED CERTIFICATE ISSUED TO THE 2ND PETITIONER FROM MAHATMA GANDHI UNIVERSITY.
- EXT.P16 - TRUE COPY OF M SC CERTIFICATE ISSUED TO THE 2ND PETITIONER FROM MADURAI KAMARAJ UNIVERSITY.

WP(C).No. 22308 of 2013 (K)  
-----

- EXT.P17 - TRUE COPY OF EQUIVALENCY CERTIFICATE DATED 19.2.2013 ISSUED BY MG UNIVERSITY.
- EXT.P18 - TRUE COPY OF B ED CERTIFICATE ISSUED TO THE 3RD PETITIONER FROM UNIVERSITY OF CALICUT.
- EXT.P19 - TRUE COPY OF M A CERTIFICATE ISSUED TO THE 3RD PETITIONER BY THE M G UNIVERSITY.
- EXT.P20 - TRUE COPY OF REPLY DATED 23.9.2013 RECEIVED UNDER R.T.I ACT FROM THE 2ND PETITIONER.

RESPONDENT(S)' EXHIBITS:  
-----

- EXT.R4(A) : TRUE COPY OF THE REPORT OF THE SELECTION COMMITTEE DATED 27.12.2011 IN RESPECT OF THE POST OF MATHEMATICS.
- EXT.R4(B) : TRUE COPY OF THE APPOINTMENT ORDER ISSUED IN RESPECT OF THE POST OF MATHEMATICS DATED 4.1.2012.
- EXT.R6(A) : TRUE COPY OF THE APPOINTMENT ORDER DATED 4.1.2012 OF 6TH RESPONDENT.
- EXT.R6(B) : TRUE COPY OF THE APPOINTMENT ORDER DATED 4.1.2012 OF 7TH RESPONDENT.
- EXT.R6(C) : TRUE COPIES OF THE QUALIFYING CERTIFICATES OF DEGREE, PG, B.ED & NET OF 6TH RESPONDENT.
- EXT.R6(D) : TRUE COPIES OF THE QUALIFYING CERTIFICATES OF DEGREE, PG, B.ED & NET OF 7TH RESPONDENT.
- EXT.R6(E) : TRUE COPY OF LETTER DATED 30.10.12.
- EXT.R6(F) : TRUE COPY OF LETTER DATED 19.11.12 OF THE DEO.
- EXT.R6(G) : TRUE COPY OF LETTER DATED 29.11.12 OF THE DEO.

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.M. Shaffique, J.

=====

W.P (C) No. 22308 of 2013

=====

Dated this, the 25<sup>th</sup> day of February, 2015.

### J U D G M E N T

Petitioners have challenged Ext. P9 and seek for a direction to respondents 4 and 6 to conduct fresh selection to the post of Higher Secondary School teachers in accordance with Rule 4(3) of Chapter XXXII of K.E.R.

2. The facts involved in the writ petition would disclose that the petitioners, who are working as High School Assistants in Hindi, Mathematics and Malayalam respectively in St. Joseph's Higher Secondary School, Meloor, claim to be qualified to be appointed as Higher Secondary School Teachers in the concerned subjects. It is inter alia stated that St. Joseph's Higher Secondary School, Meloor, was allowed Higher Secondary status and 12 posts of Higher Secondary School Teachers were notified for appointment as per notification dated 19.11.2009. It is stated that though the petitioners were qualified, they were not considered for appointment and the management had appointed persons of their choice. It is contended that as per Rule 4, Chapter XXXII of K.E.R., 25% of the vacancies are to be filled up by transfer from qualified High School Assistants under the Educational Agency. In the said circumstances, the petitioners claim that they being qualified, they were wrongfully denied appointments.

Ultimately, their claims had been rejected in terms of Ext. P9.

3. Counter affidavit has been filed by respondents 4 and 5 inter alia stating that the petitioners were not qualified at the relevant time and therefore they were not liable to be considered for appointment at the time when the notification was issued. Similar contention had been raised by respondents 6 and 7 who were appointed pursuant to the notification issued by the Manager.

4. The petitioners had produced certain documents in which it is stated that they have the required qualification. A perusal of the documents indicate that they obtained the qualification only after the date of notification. In the above circumstances, in the absence of any materials to indicate that the petitioners were qualified during the relevant time, it is not possible for this Court to issue a mandamus as prayed for.

In the result, the writ petition is dismissed.

Sd/-

A.M. Shaffique, Judge.

Tds/