

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 23798 of 2010 (Y)

PETITIONER(S):

**REENA S.
W/O.PRASANTH P., UPSA, SNV GIRLS HIGH SCHOOL
PARAVOOR, KOLLAM DISTRICT.**

**BY ADVS.SRI.M.V.THAMBAN
SRI.R.REJI
SRI.B.BIPIN
SMT.REVATHY P.NAIR
SMT.THARA THAMBAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REP.BY THE SECRETARY
TO THE GOVERNMENT, DEPARTMENT OF GENERAL, EDUCATION
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM - 695001.**
- 3. DEPUTY DIRECTOR (EDCUATION)
KOLLAM-691001.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
KOLLAM-691001.**
- 5. THE MANAGER,
SNV GIRLS HIGH SCHOOL, PARAVOOR
KOLLAM DISTRICT-691301.**
- 6. SHEEBA S.,
U.P.S.A., S.N.V.GIRLS HIGH SCHOOL, PARAVOOR
KOLLAM DISTRICT-691301.**

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**7. SMITHA S.,
U.P.S.A., S.N.V.GIRLS HIGH SCHOOL, PARAVOOR
KOLLAM DISTRICT-691301.**

**8. PRAFEETHA B.,
U.P.S.A., S.N.V.GIRLS HIGH SCHOOL, PARAVOOR
KOLLAM DISTRICT-691301.**

R1-4 BY GOVERNMENT PLEADER SRI.S.JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 23798 of 2010 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1	TRUE COPY OF THE APPOINTMENT ORDER DATED 17.11.2000
EXT.P2	TRUE COPY OF THE ORDER NO.B5/4595/07/K.DIS DATED 15.06.2009
EXT.P3	TRUE COPY OF THE APPEAL DATED 01.07.20009
EXT.P4	TRUE COPY OF THE ORDER NO.B5/8054/07/K.DIS DATED 19.06.2008
EXT.P5	TRUE COPY OF THE APPEAL FILED BY THE MANAGER BEFORE THE 3RD RESPONDENT DATED 16.06.2008
EXT.P6	TRUE COPY OF THE ORDER NO.B5/4548/08/K.DIS DATED 27.10.2009
EXT.P7	TRUE COPY OF THE ORDER AN APPEAL WAS FILED BY THE MANAGER BEFORE THE 3RD RESPONDENT DATED 05.12.2009
EXT.P8	TRUE COPY OF THE ORDER NO.B5/3911/09/K.DIS DATED 07.11.2009
EXT.P9	TRUE COPY OF THE APPEAL FILED BY THE MANAGER BEFORE THE 3RD RESPONDENT DATED 19.12.2009
EXT.P10	TRUE COPY OF THE ORDER NO.B6/12247/08/K.DIS DATED 28.12.2009
EXT.P11	TRUE COPY OF THE REVISION FILED BY THE MANAGER BEFORE THE DIRECTOR OF PUBLIC INSTRUCTION
EXT.P12	TRUE COPY OF THE ORDER NO.D.DIS-58067/09/RA(4) DPI DATED 21.04.2010
EXT.P13	TRUE COPY OF THE GO(P) NO.10/10/G.EDN. DATED 12.01.2010
EXT.P14	TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT, DEO, KOLLAM DATED 12.07.2010
EXT.P15	TRUE COPY OF THE STAFF FIXATION ORDER FOR 2007-08
EXT.P16	TRUE COPY OF THE STAFF FIXATION ORDER FOR 2008-09
EXT.P17	TRUE COPY OF THE STAFF FIXATION ORDERS FOR 2009-10
EXT.P18	TRUE COPY OF THE PETITION FILED BY THE PETITIONER TO THE 4TH RESPONDENT, DEO, KOLLAM DATED 19.06.2010

RESPONDENT(S)' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J.

W.P.(C).No.23798 of 2010

Dated this the 6th day of November, 2015

JUDGMENT

The petitioner has approached this Court for considering the approval of her appointment in different spells, commencing respectively on 04.09.2007, 02.06.2008, and 01.06.2009, in the light of Ext.P13 Government Order. The petitioner also has a contention that if the same is approved, the petitioner would have seniority above the respondents 6 to 8. Though the writ petition was filed in the year 2010 and the matter was posted before this Court on 29.07.2010, the order passed at that point of time is 'post when moved again'. The writ petition is neither moved nor has been posted for admission.

2. Hence for the last 5 years the writ petition is pending without admission and no notice has been issued to the affected parties. In such circumstance, the petitioner cannot claim to unsettle the rights of the party

respondents which had become settled by sheer passage of time.

3. The facts to be noticed are that the petitioner was first appointed on 17.11.2001 in a vacancy created by the leave of one HSA, to which post a UPSA was promoted. In the resultant vacancy, the petitioner was appointed as LPSA. Ext.P1 is the said appointment order. However, the promotion of the UPSA as HSA has not been approved and the same was rejected as per Ext.P2. The petitioner does not have any claim, since Ext.P2 has acquired finality.

4. The petitioner is then said to have been appointed again in a promotion vacancy on 04.09.2007, which stood rejected as per Ext.P4. The Manager filed an appeal which was rejected by Ext.P10 dated 28.12.2009. Again no further proceedings were taken from Ext.P10, the same has also acquired finality.

5. Later on, in another alleged promotion vacancy, the petitioner was appointed on 02.06.2008, which also stood rejected by Ext.P6 and that was also not challenged, either by the petitioner or by the Manager.

6. Eventually, the last spell of appointment was on 01.06.2009 in an additional vacancy. The same was rejected by Ext.P8, on the ground that no such vacancy has been established. This also was not appealed against.

7. Subsequently, the staff fixation orders of the 5th respondent School was revised as per the order of the Joint Director of the Public Instructions, produced as Ext.P12 and there was also a Government order at Ext.P13, which has issued some directions to the Educational authorities to consider the claim of the persons appointed during the ban period; for approval, on the specific conditions noticed therein. The petitioner claims to have filed representation at Ext.P14, which is said to be not been considered till today. The petitioner is also said to have approved service from 2011 onwards.

8. Essentially it is to be noticed that the petitioner's appointments in various spells were not approved, not because of the ban but because there was no vacancy existing, as is indicated by the specific finding

in the various orders of rejection passed. The contention of the petitioner that the appointment was not granted for reason of no protected hands being appointed, is not evident from the various orders referred to herein above. All the orders of rejection are specifically for the reason that there is no established vacancy.

In such circumstance, the petitioner's claim is unsustainable. This Court considered the claim on merits , only since the matter has been pending all these years before this Court. Hence this writ petition would stand dismissed. No costs.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS