

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 24946 of 2012 (S)

PETITIONER(S) :-

1. A.C.NADER KOYA
RETIRED TEACHER, ATHANA ILLAM CHETTA HOUSE
AGATI ISLAND, PIN-682553.
2. MOHAMMED NAZER.M.P.
MULLIPURE HOUSE, AGATI ISLAND, LAKSHADWEEP.

BY ADVS..

SRI.K.R.AVINASH (KUNNATH)
SRI.C.H.ABDUL RASAC
SRI.K.K.BALAKRISHNAN (KODIYURA)
SRI.U.P.BALAKRISHNAN

RESPONDENT(S) :-

1. THE UNION OF INDIA
MINISTRU OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF SCHOOL EDUCATIONAL LITERACY
EE 15 SECTION, NEW DELHI, REPRESENTED BY SECRETARY.
2. NATIONAL COUNCIL OF EDUCATIONAL RESEARCH & TRAINING
SRI AUROBINDO MARG, NEW DELHI-110 016
REPRESENTED BY ITS DIRECTOR.
3. THE UNION TERRITORY OF KAVARATI
DEPARTMENT OF EDUCATION, KAVARATI-682555
REPRESENTED BY DIRECTOR OF EDUCATION.
4. THE UNION TERRITORY OF LAKSHADWEEP
KAVARATI-682 555, REPRESENTED BY ADMINISTRATOR.

Addl.5. NASARULLA.D
S/O.PP.AHMED, DARUSSALAM (H), AGATTI ISLAND
LAKSHADWEEP, PIN -682553.

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- Addl.6. ASADULLA.P.
S/O.P.UMMERKOYA, PUTHIYA PATTINIYODA(H), AGATTI ISLAND
LAKSHADWEEP, PIN -682553.
- Addl.7. MOHAMMED ALI.KC
S/O.NADER KOYA.AC, KITTAN CHETTA (H), AGATTI ISLAND
LAKSHADWEEP, PIN - 682553.
- Addl.8. UMMUL KULUSE.B.D.
D/O.ABDUL KADER KOYA (LATE), BAITHUDHEEN (H)
AGATTI ISLAND, LAKSHADWEEP, PIN - 682553.
- Addl.9. UMMER FAROOK.TKP
S/O.KUNHI KOYA MI, THEK KEELAPURA (H), AGATTI ISLAND
LAKSHADWEEP, PIN - 682553.
- Addl.10. SHARAFUDEEN.D.
S/O.MK.UMMERKOYA, DARIVINODA (H), AGATTI ISLAND
LAKSHADWEEP, PIN-682553.
- Addl.11. MOHAMMED AZAHARUDHEEN.KM
S/O.MUTHUKOYA.MP, KOMALAM MAYAPURA (H), ANDROTH ISLAND
LAKSHADWEEP, PIN -682551.
- Addl.12. ALI AKBER.M.
S/O.MUTHKOYA.CH (LATE), MAYDAN(H), CHETHLATH ISLAND
LAKSHADWEEP, PIN -682554.
- Addl.13. NISAMUDHEEN.CN
S/O.MUTHKOYA.MK, CHERIYAN NALLAL (H), KALPENI ISLAND
LAKSHADWEEP, PIN - 682557.
- Addl.14. YAHYA KHAN.M.I.
S/O.SAYED ASHRAF, MELA ILLAM(H), KILTHAN ISLAND
LAKSHADWEEP, PIN-682558.
- Addl.15. HASEENA.KA
S/O.MOHAMMED.M, KARANGOTHI ATHIRIGE (H)
MINICOY ISLAND, LAKSHADWEEP, PIN - 682559.
- Addl.16. MAHSOOM ALI.CH
S/O.MOHAMMED.A., CHEKITHIYODA (H), CHETHLATH ISLAND
LAKSHADWEEP, PIN -682554.
- Addl.17. ASRUDHEEN.P.
S/O.SAYED ALI (LATE), PANDAL (H), KADAMATH ISLAND
LAKSHADWEEP, PIN - 682556.

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Addl.18. RAHEEMABI.P.

D/O.SAYED MOHAMMED KOYA THANGAL , PUTHALAM (H)
ANDROTH ISLAND, LAKSHADWEEP, PIN -682551.

Addl.19. ABDUL JALEEL.PP

S/O.POOKOYA.T., PALlichAPURA (H) , AMINI ISLAND
LAKSHADWEEP, PIN - 682552.

Addl.20. HALEEMA BEEGUM.KI

D/O.ZAMARATH.MK., KADAPURATHA ILLAM, KAVARATTI ISLAND
LAKSHADWEEP, PIN -682555.ADDL.

R5 TO R20 ARE IMPEADED AS PER ORDER DATED 13/02/2013 IN
IA 1446/2013.

Addl.21. THE SECRETARY

MINISTRY OF HOME AFFAIRS, NORTH BLOCK
CENTRAL SECRETARIAT, NEW DELHI - 110 001.

ADDL.R21 IS IMPEADED AS PER ORDER DATED 23.01.2015 IN
IA 16721/14.

R3 & 4 BY ADV. SRI.S.RADHAKRISHNAN, SC,LAKSHADWEEP ADMN
R1, 2 & 21 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADDL R5 TO 20 BY ADV. SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.S.SHIRAZ BAVA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE SPECIMEN OF THE CONTRACT.

EXT.P2 :- TRUE COPY OF THE NOTIFIED RECRUITMENT RULES ISSUED BY 3RD RESPONDENT DATED 1.2.2011.

EXT.P3 :- TRUE COPY OF THE NATIONAL POLICY OF EDUCATION 1986.

EXT.P4 :- TRUE COPY OF THE NATIONAL CURRICULUM FRAMEWORK 2005.

RESPONDENT'S EXHIBITS :-

EXT.R5(a) :- TRUE COPY OF THE COMMUNICATION DATED 19.1.1996 ISSUED BY THE MINISTRY OF HOME AFFAIRS, ADDRESSED TO THE 4TH RESPONDENT.

EXT.R5(b) :- TRUE COPY OF THE ORDER BEARING Nos 18/38/93-Edn DATED 3.7.1996 OF THE 4TH RESPONDENT.

EXT.R5(c) :- TRUE COPY OF ORDER DATED 23.1.1999 OF THE 4TH RESPONDENT.

EXT.R5(d) :- TRUE COPY OF THE REPRESENTATION DATED 6.11.12 SUBMITTED BEFORE THE HON'BLE MINISTER FOR HUMAN RIGHTS DEPARTMENT.

EXT.R5(e) :- TRUE COPY OF THE REPRESENTATION DATED 6.11.12 SUBMITTED BEFORE THE HON'BLE MINISTER FOR HOME AFFAIRS.

EXT.R5(f) :- TRUE COPY OF THE REPRESENTATION DATED 6.11.12 SUBMITTED BEFORE THE HON'BLE SECRETARY GENERAL OF NATIONAL HUMAN RIGHTS COMMISSION.

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.24946 of 2012

Dated this the 26th day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the petitioners, Sri.N.Nagaresh, the learned Assistant Solicitor General appearing for respondents 1, 2 and 21 as well as Sri.S.Radhakrishnan, the learned Standing Counsel appearing for respondents 3 and 4.

2. This writ petition filed in the form of public interest litigation claims to have been filed for the benefit of children of age between 6 to 14 years studying in various schools in Lakshadweep. The petitioners in the writ petition have prayed for the following relief :-

“issue a writ of mandamus or such other writ or order directing 1st respondent to take effective steps for recruiting regular teachers in all permanent vacancies in the Education Department in Lakshadweep either by regular recruitment or by regularizing contract teachers within such time this Hon'ble court deem fit to grant.”

Petitioners' case in the writ petition is that appropriate steps have not been taken by Lakshadweep administration, although large number of post of teachers are lying vacant, the details of posts

lying vacant have been mentioned in paragraph 6 of the writ petition.

4. A counter affidavit has been filed by respondents 3 and 4, wherein, it is stated that the Lakshadweep Administration had already sent a proposal to the Government of India in the year 2008.

5. Learned Assistant Solicitor General, after obtaining instructions would submit that no such proposal was received by the Government, nor was it processed. A statement has been filed by the Assistant Solicitor General, wherein, the following has been stated in paragraph 3 :-

“It is respectfully submitted that the proposal of Union Territory of Lakshadweep Administration for creation of 2 posts of Principals, 59 Post Graduate Teachers (PGT), 2 posts of Librarian and 16 posts of Laboratory Assistant for the newly upgraded Girls Senior Secondary Schools has been received in the Ministry on 01.06.2015 and in ANL Section of the UT Division on 03.06.2015. The matter has been referred to Integrated Finance division (Home) seeking approval of Department of Expenditure, Ministry of Finance. Since the proposal of UT Administration necessitates inter Ministerial consultation and for taking a decision in such kind of proposal normally takes 6 months period of time.”

-: 3 :-

It has been stated by the learned ASG that the time required for completion of entire process is about six months. It is stated that since the proposal has already been received on 1.6.2015, within six months period, the entire process will be completed.

In view of the above statement, which has been made on behalf of respondents 1, 2 and 21, we dispose of the writ petition directing respondent No.21 to ensure that the entire process on the basis of the proposal received on 1.6.2015 from Lakshadweep Administration be completed within six months.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE