

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).NO. 23852 OF 2015 (F)

PETITIONER(S) :

THOMAS K. GEORGE, S/O.GEORGE JOHN, KOLLAVANAL
HOUSE, MALLAPPALLY EAST PO, PATHANAMTHITTA-689584
(LOWER GRADE FULL TIME HINDI TEACHER, CMS HIGH SCHOOL,
NEDUMGADAPPALLY)

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENT(S) :

1. THE STATE OF KERALA

REPRESENTED BY THE SECRETARY TO GOVERNMENT
DEPARTMENT OF GENERAL EDUCATION
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM PIN-695001

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM PIN-695001

3. THE DEPUTY DIRECTOR(EDUCATION) ,
OFFICE OF THE DEPUTY DIRECTOR(EDUCATION)
PATHANAMTHITTA AT THIRUVALLA-689101

4. DISTRICT EDUCATIONAL OFFICER, OFFICE OF THE DISTRICT
EDUCATIONAL OFFICER, PATHANAMTHITTA-689001

5. CORPORATE MANAGER, CMS SCHOOLS,
DIOCESE OF MADHYA KERALA, DIOCESAN OFFICE,
BISHOP GILL MEMORIAL BUILDING,
CATHEDRAL ROAD, KOTTAYAM-686001

BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 23852 OF 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE APPOINTMENT DATED 6.6.2011 ISSUED BY
RESPONDENT NO.5

EXT.P2: TRUE COPY OF THE ORDER BEARING NO.B4/6021/11 DATED 2/2012
PASSED BY RESPONDENT NO.4

EXT.P3: TRUE COPY OF THE ORDER DATED 26.09.2012 PASSED BY RESPONDENT
NO.3 AND TYPED COPY OF EXT.P3

EXT.P4: TRUE COPY OF THE STATUTORY REVISION PETITION DATED 14.07.2015
SUBMITTED BY RESPONDENT NO.5

EXT.P5: TRUE COPY OF THE ORDER BEARING GO(RT) NO.2907/2015/G.EDN.DATED
17/7/2015

EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 24.07.2015 SUBMITTED
BEFORE RESPONDENT NO.2 (WITHOUT ANNEXURES)

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.23852 OF 2015

Dated this the 6th day of August, 2015

J U D G M E N T

The petitioner was appointed as a Lower Grade Full Time Hindi Teacher by the 5th respondent Manager on scale of pay basis from 06.06.2011 to 31.03.2013. The vacancy to which the petitioner was appointed, was a promotion vacancy that occurred on account of the promotion of Smt.P.Suja Jacob, who was working in the same School as Lower Grade Full Time Hindi Teacher for the period from 01.06.2011 to 31.05.2013. The appointment of the petitioner was not approved by the educational authority, on the ground that, the appointment of Smt.P.Suja Jacob itself was not approved, and therefore, there was no established vacancy of Lower Grade Full Time Hindi Teacher to which the petitioner could be accommodated. Aggrieved by the decision of the lower authority, the 5th respondent Manager has preferred Ext.P4 revision petition before the 2nd respondent. While so by Ext.P5 order , the 1st respondent disposed a revision petition filed by Smt.P.Suja Jacob by remanding the matter for consideration by the 2nd respondent and the said issue is pending consideration before the 2nd respondent. Under such circumstances, the limited prayer of the petitioner in the writ petition is for a

direction to the 2nd respondent to consider and pass orders on the revision petition submitted by Smt.P.Suja Jacob, as also Ext.P4 revision petition filed by the 5th respondent Manager in relation to the petitioner's appointment, together, so that a common order can be passed by the 2nd respondent in the said revision petitions. It is also the case of the petitioner that in the interregnum, the 5th respondent ought to be interdicted from making appointments to regular vacancies that have arisen in the post of Lower Grade Full Time Hindi Teacher since, going by the decision of this Court in **Geetha v. Geo Thomas [2009 (4) KLT 514]**, the mere non-approval of the appointment of a teacher cannot be a reason for not considering her claim for appointment to a subsequent regular vacancy arising in the School.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:

The 2nd respondent shall consider and pass orders on Ext.P4 revision petition filed by the

Manager of the School in relation to the appointment of the petitioner as Lower Grade Full Time Hindi Teacher, together with the revision petition filed by Smt.P.Suja Jacob which was remanded to the 2nd respondent by the 1st respondent. The 2nd respondent shall pass orders in both the revision petitions within a period of two months from the date of receipt of a copy of this judgment after hearing the petitioner, the Manager of the School and Smt.P.Suja Jacob. I make it clear that, till such time as orders are passed by the 2nd respondent as directed, and communicated to the petitioner, the 5th respondent shall not make any appointment to regular vacancies in the post of Lower Grade Full Time Hindi Teacher or Lower Grade Part Time Hindi Teacher arising under the management. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the 2nd respondent for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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