

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 24405 of 2015 (A)

PETITIONER(S):

**P.B.RAJALAKSHMI, AGED 49 YEARS
W/O. DR. H. RAVIKUMAR KAMMATH, HEADMISTRESS
T.D. TEACHERS TRAINING INSTITUTE, MATTANCHERY
KOCHI - 682 002.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.V.RAJASEKHARAN NAIR**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM- 695 001.**
- 2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
JAGATHY, THIRUVANANTHAPURAM - 695 014.**
- 3. THE DEPUTY DIRECTOR OF EDUCATION,
ERNAKULAM AT KAKKANAD - 682 030.**
- 4. THE DISTRICT EDUCATIONAL OFFICER,
ERNAKULAM - 682 011.**
- 5. THE MANAGER,
T.D. CORPORATE EDUCATIONAL AGENCY, MATTANCHERY
KOCHI - 682 002.**
- 6. N.C. UNNIKRIISHNAN,
T.S.A (MALAYALAM), T.D TEACHERS TRAINING INSTITUTE
MATTANCHERYM, COCHIN -682 002.**

**R6 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM (SR.)
R6 BY ADV. SRI.TONY GEORGE KANNANTHANAM
R BY GOVERNMENT PLEADER SMT. A. LOWSY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 01/04/2014.
- EXHIBIT-P2- TRUE COPY OF THE ORDER NO. B6/1957/14/K.DIS DATED 29/10/2014 OF THE 4TH RESPONDENT.
- EXHIBIT-P3- TRUE COPY OF THE APPEAL FILED BY THE MANAGER BEFORE THE 3RD RESPONDENT DATED 12/11/2014 WITHOUT ANNEXURES
- EXHIBIT-P4- TRUE COPY OF THE ORDER NO. B2/5773/15/K.DIS DATED 12/05/2015 OF THE DEPUTY DIRECTOR
- EXHIBIT-P5- TRUE COPY OF THE G.O(RT) NO. 254/2014/G.EDN. DATED 17/01/2014 OF THE GOVERNMENT.
- EXHIBIT-P6- TRUE COPY OF THE REVISION PETITION FILED BEFORE THE GOVERNMENT DATED 28/05/2015 WITHOUT EXHIBITS.
- EXHIBIT-P7- TRUE COPY OF THE G.O(RT) 3157/2015/G.EDN. DATED 01/08/2015.
- EXHIBIT-P8- TRUE COPY OF THE NORMS OF THE NCTE 2009
- EXHIBIT-P9- TRUE COPY OF THE LETTER UNDER RTI ACT DATED 04/07/2015.
- EXHIBIT-P10 TRUE COPY OF THE INFORMATION FURNISHED UNDER RTI ACT DATED 08/07/2015.
- EXHIBIT-P11- TRUE COPY OF THE NORMS AND STANDARDS FOR DIPLOMA IN ELEMENTARY TEACHER EDUCATION PROGRAMME.

RESPONDENT(S)' EXHIBITS

- EXT.R6(A) COPY OF THE NOTIFICATION DTD. 31.3.010 OF MINISTRY OF HUMAN RESOURCE DEVELOPMENT.
- EXT.R6(B) COPY OF THE NOTIFICATION DTD. 5.8.13 OF THE GENERAL EDUCATION (D) DEPT.
- EXT.R6(C) COPY OF THE NOTIFICATION DTD. 31.8.09 OF THE NATIONAL COUNCIL FOR TEACHER EDUCATION.
- EXT.R6(D) COPY OF THE ANNEXURE-2 NORMS AND STANDARDS FOR DIPLOMA IN ELEMENTARY TEACHER EDUCATION PROGRAMME.

// TRUE COPY //

P.A TO JUDGE

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.24405 of 2015 - A

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Dated this the 08th day of December, 2015

J U D G M E N T

The petitioner asserts her right to be appointed as the Headmistress, which appointment was made by the 5th respondent in a Teachers' Training Institute, under the Corporate Management. However, the educational authority refused to approve the same by Ext.P2, which was affirmed in appeal by Ext.P4 and in revision by Ext.P7. The petitioner's contention is that in Ext.P5, a Government Order passed in the case of the another teacher, the Government had clearly found that the National Council for Teacher Education (N.C.T.E) norms were not adopted in the Kerala Education Rules (K.E.R). The petitioner also relies on the reply to the query under the Right to Information Act, which is produced at Ext.P10 to the very same effect.

2. At the out set, it has to be noticed that the mere fact that an illegality had been perpetrated once or a mistake

was committed, when the Public Information Officer replied to a query under the Right to Information Act, does not confer any right on the person, unless, the right could be sustained under law.

3. The 6th respondent appears through the learned Senior Counsel and refutes the contention of the petitioner. The 6th respondent has a Doctorate in Malayalam and a Master's degree in Malayalam with 55% marks and B.Ed with 55% marks. The 6th respondent was also appointed in the school, a teachers training institute (TTI) in 2004. The petitioner has a Post graduation with third class and a B.Ed again with third class. The petitioner was transferred to the T.T.I only on the day on which the vacancy arose, from a high school of the Corporate agency.

4. By Ext.R6(a), the Government of India in exercise of the powers conferred under sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (for brevity, 'the RTE Act) authorised the N.C.T.E, as the academic authority to lay down the minimum qualification for a person to

be eligible for appointment as a teacher. The Kerala Education Act and the Rules though had obtained the assent of the President Of India, when a subsequent legislation is made by the Union Parliament, any provision in the state legislation, which is repugnant to the subsequent central legislation, whether expressly or impliedly, has to be considered to have been rendered void. In such circumstance, there cannot be any dispute that the N.C.T.E norms with respect to the qualifications to be appointed in a school, coming under the N.C.T.E has to be scrupulously followed.

5. The N.C.T.E norms has been produced at Ext.R6(c) and appendix at Ext.R6(d) refers to the qualification of a Principal, which is extracted as follows:

(II) Qualifications

(i) Principal

(a) Academic and professional qualification will be as prescribed for the post of lecturer; and

(b) Fiver years' experience of teaching in primary or elementary teacher education institution.

A. Essential

Master's degree in any school teaching subject with Fifty five percent marks and Diploma/Degree in Education/Primary Education with fifty five percent marks.

6. The T.T.I, in which the petitioner and the 6th respondent are working is also said to be carrying on Methodology courses, where the essential qualification is a Master's degree in any school teaching subject with 55% marks and Diploma/Degree in Education/Primary Education again with 55% marks. The 6th respondent satisfies all these qualifications. The petitioner however, does not satisfy either on qualification or on experience, since the petitioner's transfer to the T.T.I was on the date of occurrence of vacancy.

In such circumstance, the writ petition is found to be devoid of merit and the same is dismissed. Exts.P2, P4 and P7 are upheld. No Costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/ 08/12/2015

// true copy //
P.A to Judge.