

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 27508 of 2015 (K)

PETITIONER:

**GENERAL MANAGER, CORPORATE EDUCATIONAL AGENCY
DIOCESE OF COCHIN, CATHOLIC CENTRE, THOPPUMPADY,
COCHIN - 682 005.**

**BY ADVS.SRI.P.K.GEORGE
SMT.SMITHA GEORGE**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695 001.**
- 2. THE DIRECTOR OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM 695 001.**
- 3. THE REGIONAL DEPUTY DIRECTOR OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM 695 033.**

**BY ADDITIONAL ADVOCATE GENERAL SRI. BABU VARGHESE
(INSTRUCING COUNSEL- GOVERNMENT PLEADER SRI.VIJU ABRAHAM)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE APPOINTMENT ORDER ISSUED TO SMT. MARY SIMI K.P.**
- P2 : TRUE COPY OF THE APPOINTMENT ORDER ISSUED TO SRI. SHAN CHANDRABOSE**
- P3 : TRUE COPY OF THE APPOINTMENT ORDER ISSUED TO SMT. MAREENA JACOB**
- P4 : TRUE COPY OF G.O.(MS) NO.211/2013/G.EDN DATED 15.07.2013**
- P5 : TRUE COPY OF THE G.O.(MS) NO.229/2014/G.EDN DATED 6.11.2014 ISSUED BY THE FIRST RESPONDENT**
- P6 : TRUE COPY OF THE REPRESENTATION DATED 13.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT**
- P7 : TRUE COPY OF THE JUDGMENT DATED 2.3.2015 IN W.P.(C) NO.6476/2015**
- P8 : TRUE COPY OF THE JUDGMENT DATED 27.03.2015 IN RP NO.304/2015 IN W.P.(C) NO. 19017/2013**
- P9 : TRUE COPY OF THE G.O.(RT) NO.3573/2015/G.EDN DATED 24.08.2015**
- P10 : TRUE COPY OF THE G.O.(MS) NO.22315/G.EDN DATED 24.8.2015**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 27508 of 2015 (K)

Dated this the 4th day of November, 2015

J U D G M E N T

The Manager, the petitioner herein, is concerned with the sanction of the additional batch in Humanities in the Higher Secondary section of his aided school, for the year 2011-2012 and the non sanction of post of HSST (Junior).

2. The Manager, in anticipation of the sanction of three posts in Economics, Gandhian Studies and Communicative English, appointed three persons from the open market; the orders of which are seen at Exts. P1 to P3. The Manager contends that the selection was made by the Committee constituted under Chapter XXXII of the Kerala Education Rules, 1959, with the Government nominee in the interview board.

3. The Government, while sanctioning the creation of posts by Ext.P4 dated 15.7.2013, granted all the three posts, but, however, the order was stated to have only

prospective effect. In identical situation when sanction was made prospective, this Court had, in Ext.P8, directed that the same shall be retrospective and have effect from the date of sanctioning of the batches or from the date of appointment whichever is later.

4. An identical situation has been considered by this Court and the Government's contentions addressed before this Court by the learned Additional Advocate General was also noticed and the Government's arguments negated in W.P.(C) No.19141/2013. The question being identical, the very same reasoning would apply here.

5. The persons appointed by the petitioner herein would be entitled to be approved from the date of their appointments, but, however, after verifying whether the selection was made by a properly constituted selection committee and after verifying the staff fixation orders for the year in which they were appointed. If the selection is proper and the staff fixation orders disclose the

requirement of these posts, then definitely the appointment of the persons appointed by the petitioner have to be approved from the date of their appointment. The Government is directed to pass appropriate orders, approving the appointment of the persons appointed by the petitioner, and also disbursing the arrears of salary within a period of four months from the date of receipt of the certified copy of this judgment.

Writ petition is disposed of with the above observation.

Sd/-
K.VINOD CHANDRAN,
JUDGE