

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 27672 of 2015 (H)

PETITIONERS:

- 1. MINU THOMAS, AGED 32 YEARS
D/O.D.A. THOMAS, ORAPOOZHICKAL HOUSE, VALLAPPAD
PALA P.O., KOTTAYAM - 686 575.**
- 2. NEENA ELIZABETH GEORGE, AGED 33 YEARS
D/O. GEORGE SEBASTIAN, PUNCHAKUNNEL HOUSE, PALA P.O.
KOTTAYAM - 686 575.**

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

RESPONDENTS:

- 1. THE 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 BUILDINGS, SANTHI NAGAR
THIRUVANANTHAPURAM -695 001.**
- 3. THE REGIONAL DEPUTY DIRECTOR OF HIGHER SECONDARY EDUCATION,
KOTTAYAM - 686 019**
- 4. THE CORPORATE MANAGER,
CORPORATE EDUCATIONAL AGENCY, DIOCESE OF PALAI
SHALOM PASTORAL CENTRE, PALA P.O., KOTTAYAM - 686 575.**

**BY ADV. SRI.BABU VARGHESE, ADDL. ADVOCATE GENERAL
BY GOVERNMENT PLEADER SRI. VIJU ABRAHAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS:-

- EXHIBIT-P1 - COPY OF THE APPOINTMENT ORDER ISSUED TO THE 1ST PETITIONER.
- EXHIBIT-P2 - COPY OF THE APPOINTMENT ORDER ISSUED TO THE 2ND PETITIONER.
- EXHIBIT-P3 - COPY OF G.O(MS) 211/2013/G.EDN. DATED 15/07/2013.
- EXHIBIT-P4 - COPY OF THE G.O(MS) NO. 229/2014/G.EDN. DATED 06/11/2014 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT-P5 - COPY OF THE JUDGMENT DATED 02/03/2015 IN W.P(C) NO.6476/2015.
- EXHIBIT-P6 - COPY OF THE JUDGMENT DATED 05/05/2015 IN W.P(C) NO.12640/2015.
- EXHIBIT-P7 - COPY OF THE G.O(RT)NO. 3575/2015/G.EDN. DATED 24/08/2015.
- EXHIBIT-P8 - COPY OF THE G.O(MS) NO.223/15/G.EDN. DATED 24/08/2015.
- EXHIBIT-P9 - COPY OF THE JUDGMENT DATED 27/03/2015 IN R.P. NO.304/2015 IN W.P(C) 19017/2013.
- EXT.P10 - COPY OF THE LIST OF HIGHER SECONDARY SCHOOLS WHERE ADDITIONAL BATCHES WERE SANCTIONED VIDE G.O.(MS) NO.167/2011/G.DN. DATED 03.08.2011.
- EXT.P11 - COPY OF GO(MS) NO.211/2013/G.EDN. DATED 15.07.2013.
- EXT.P12 - COPY OF THE STAFF FIXATION ORDER NO.B1/9008/2014/RDD/ HSE/KTM DATED 17.11.2014.
- EXT.P13 - COPY OF THE MINUTES OF THE COMMITTEE FOR SELECTION WHEREBY THE 1ST PETITIONER WAS APPOINTED.
- EXT.P14 - COPY OF THE MINUTES OF THE COMMITTEE FOR SELECTION WHEREBY THE 2ND PETITIONER WAS APPOINTED.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.27672 of 2015

Dated this the 12th day of November, 2015.

JUDGMENT

The petitioners herein were appointed as HSSTs by Exts.P1 and P2, respectively in Commerce and Economics. The appointments were made on the basis of the sanction of a batch of Higher Secondary courses in Humanities in the 4th respondent, in the academic year 2011-2012. The creation of post is also by way of Ext.P3 dated 15.07.2013. The petitioners' appointment was also on 15.07.2013, when the post was created.

2. The two posts in which the petitioners have been appointed as HSST (Junior) is sanctioned by the Staff Fixation Order for the year 2011-2012, which is produced as Ext.P12. However, no appointments were made and the appointment was made in the year 2012-2013, that too co-incidentally on the date on which the posts were created by Ext.P11. The Government

has declined approval from the date of appointment, on the ground that the selection has been made prior to the date of creation of post. However, the sanction itself has been accorded by the Staff Fixation Order of 2011-2012. The creation of post was only a formality as has been held in WP(C) No.19141 of 2013 by judgment dated 04.11.2015.

In such circumstance, the instant writ petition also has to be allowed and the petitioners' appointment are to be approved and salary disbursed from 15.07.2013 onwards. The second respondent shall comply with the directions in the judgment within a period of three months from the date of receipt of the certified copy of this judgment.

The writ petition is allowed.

Sd/-

**K. VINOD CHANDRAN,
JUDGE.**

//True Copy//

P.A. to Judge.

sp/13/11/15