

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 28602 of 2014 (A)

PETITIONER :

**SUMA JOSE
U.P.S.A., ST.SEBASTIANS HSS, KADANADU
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.DINNY THOMAS
SRI.JAISHANKAR V. NAIR
SMT.ROSHNI MANUEL
SRI.ALBERT V. JOHN**

RESPONDENT(S) :

- 1. STATE OF KERALA
REP. BY THE SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT
THIRUVANANTHAPURAM - 695 001.**
- 2. DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM - 695 001.**
- 3. DISTRICT EDUCATIONAL OFFICER
PALA - 686 575.**
- 4. ASST. EDUCATIONAL OFFICER
ERATTUPETTA - 686 121.**
- 5. CORPORATE EDUCATIONAL AGENCY
DIOCESE OF PALA,
REPRESENTED BY ITS MANAGER- 686 575.**

***ADDL. R6 & R7 IMPEADED**

***ADDL.R6. DEPUTY DIRECTOR OF EDUCATION
KOTTAYAM.**

***ADDL. R6 IS IMPEADED AS PER ORDER IN IA NO. 17310/2014 DATED
10/2/2015.**

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***ADDL.R7. DISTRICT EDUCATIONAL OFFICER
KANJIRAPALLY.**

***ADDL. R7 IS IMPEADED AS PER ORDER IN IA NO. 1886/2015 DATED
10/2/2015.**

R1 TO R4, ADDL.R6 & ADDL.R7 BY SR. GOVT. PLEADER SRI. V. VIJULAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 28602 of 2014 (A)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P-1: TRUE COPY OF APPOINTMENT ORDER DATED 3.6.2013.
- EXT.P-2: TRUE COPY OF GOVERNMENT ORDER DATED 1.10.2011.
- EXT.P-3: TRUE COPY OF GOVERNMENT ORDER DATED 29.11.2013
- EXT.P-4: TRUE COPY OF THE INTERIM ORDER DATED 10.3.2014 IN WPC NO.30789 OF 2013.
- EXT.P-5: TRUE COPY OF THE INTERIM ORDER DATED 10.3.2014 IN WPC NO.5270 OF 2014.
- EXT.P-6: TRUE COPY OF GOVERNMENT ORDER DATED 4.7.14.
- EXT.P-7: TRUE COPY OF CIRCULAR DATED 10.7.2014.
- EXT.P-8: TRUE COPY OF INTERIM ORDER DATED 25.7.2014 IN WPC NO.19279 OF 2014.
- EXT.P-9: TRUE COPY OF COMMUNICATION BEARING NO.47002/J2/14/ G.EDN DATED 26.8.2014.
- EXT.P-10: COPY OF ORDER BEARING NO.B3/3089/2013 DATED 8/10/2014.
- EXT.P-11: COPY OF APPEAL TO THE DEPUTY DIRECTOR OF EDUCATION, KOTTAYAM.
- EXT.P-12: COPY OF REPRESENTATION DATED 5/10/2014.
- EXT.P-13: COPY OF COMMUNICATION DATED 10/11/2014 BEARING NO. D/4191/14 AND TRANSLATION.
- EXT.P-14: COPY OF REPRESENTATION DATED 5/10/2014.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.28602 of 2014**  
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Dated this the 3rd day of March, 2015

J U D G M E N T

The petitioner is presently working as an Upper Primary School Assistant (for short, "UPSA") in St.Sebastians Higher Secondary School, Kadanadu with effect from 03/06/2013 in a permanent vacancy that arose due to the transfer of Smt.Shino Abraham, UPSA to St.Marys Higher Secondary School, Kuravilangadu. That appointment is yet to be approved.

2. The petitioner had worked from June 2010 to March 2011 at St.Pauls HS, Valiyakumaramangalam for 9¹/₂ months and for another 9¹/₂ months from June 2012 to March 2013 in St Marys Higher Secondary School, Kuravilangadu. Petitioner claims that those vacancies are for one year. However, those vacancies were approved only on daily wages even though she is entitled for regular appointment.

3. Petitioner submits that by Ext.P3 Government Order dated 29/11/2013 directions were issued to fix staff strength in 1:45 ratio and also to fill leave vacancies only on daily wage basis. Petitioner further submits that this was the subject matter of W.P.(C). No.30107/2013 before this Court and this Court had interfered with the government order above. She relies on the judgment dated 15/01/2015 in W.P.(C). No.30107/2013 in this regard. It is also submitted that her appointment as UPSA in St.Sebastian's HSS, Kadanadu is based on the staff strength during 2010-11 and in view of the interference with the government order, she is entitled for regularisation.

4. Petitioner seeks for a direction to the respondents to approve various spells of appointment of the petitioner as regular.

5. Considering the facts and circumstances, the writ petition is disposed of with the following directions:

i. The fourth respondent shall consider the approval of appointment of petitioner as UPSA in

W.P.(C).No.28602/2014

-:3:-

St.Sebastian's Higher Secondary School, Kadanadu from 03/06/2013 onwards after adverting to the judgment referred as above.

ii. The second and the third respondents shall consider the approval of appointment of the petitioner in regular scale of pay as HSA in St.Mary's Higher Secondary School, Kurvilangad in the light of the judgment of this Court in **Unni Narayanan K. and others v. State of Kerala and others [2009 (2) KLT 604]** and the judgment of the Hon'ble Supreme Court in **State of Kerala and others v. Sneha Cheriyan [2013 (1) KLT 755 (SC)]**.

iii. Needful shall be done by the authorities within a period of three months from the date of receipt of a copy of this judgment. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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