

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 32139 of 2011 (N)

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PETITIONER(S):

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SHYJA JOSEPH, W/O. DOMINIC MATHEW,  
MADATHIPARAMBIL HOUSE, PANATHUR P.O.  
KASARAGOD DISTRICT, PIN-671 532.

BY ADVS.SRI.M.SASINDRAN  
SRI.V.VENUGOPAL

RESPONDENT(S):

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1. THE MANAGER, CORPORATE EDUCATIONAL AGENCY  
AGENCY, ARCH DIOCESE OF THALASSERY, THALASSERY-670 101  
KANNUR DISTRICT.

2. THE REGIONAL DEPUTY DIRECTOR,  
HIGHER SECONDARY EDUCATION, KOZHIKODE-673 001.

3. STATE OF KERALA, REPRESENTED BY ITS  
SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL  
EDUCATION (HSE), THIRUVANANTHAPURAM-695 001.

R, R1 BY ADV. SRI.BENNY GERVACIS  
R BY GOVERNMENT PLEADER M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (C) NO.32139/2011

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE APPOINTMENT OF THE PETITIONER AS HIGHER SECONDARY SCHOOL TEACHER (MALAYALAM) UNDER THE MANAGEMENT OF 1ST RESPONDENT.

EXT.P2: COPY OF THE ORDER OF 2ND RESPONDENT DATED 14/7/2008.

EXT.P3: COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 30/3/2006 SANCTIONING LEAVE WITHOUT ALLOWANCE FOR THE PERIOD FROM 14/1/2006 TO 31/1/2007 TO ONE RINCY ABRAHAM.

EXT.P4: COPY OF THE APPOINTMENT ORDER OF PETITIONER AS HIGHER SECONDARY SCHOOL TEACHER (MALAYALAM) IN ST. THOMAS HIGHER SECONDARY SCHOOL, THOMAPURAM FROM 2/11/2009 TO 19/3/2010.

EXT.P5: COPY OF THE APPROVAL OF THE APPOINTMENT OF THE PETITIONER DATED 30/4/2010

/TRUE COPY/ P.S. TO JUDGE.

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C) No.32139 OF 2011**  
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Dated this the 26<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioner has approached this Court feeling aggrieved by non approval of her appointment in the post of HSST. The petitioner claims that she, being a Guest Lecturer, is entitled for approval. The issue similar to this case, has been adverted to by this Court in the decision in **State of Kerala and Others v. Manager, St. Roch's High School, Tvm and others 2014 ( 3) ILR 123** . Paragraph 24 of the above decision reads as follows:

“24. Primarily, if one looks at the classification of schools coming under Chapter II of KER, Plus Two courses are not provided. Therefore, in the absence of any other interpretation being given to the meaning of word school in KER as including Plus Two courses, it may not be possible to arrive at a conclusion that the school, as classified in Chapter II included Plus Two course as well.

Even if the Division Bench judgment of this Court in Krishnankutty's case (supra), need not be considered as a proposition, in the light of the judgment in Sam Joseph's case (supra), Jayasrees case(supra), Varghese case(supra), Aided Higher Secondary School Teachers Association's case (supra), it is all the more clear that other than Chap. 32 of KER no other provisions applies to HSS. In Sam Joseph's case (supra) the issue involved was regarding the claim for seniority. It was contended that provisions of various chapters of KER does not apply to HSS unless expressly made applicable by the Government. It is further held that provisions like R.51B coming under Chap.14A of KER is made applicable to Higher Secondary wing by specific order of the Government. It is also held that in so far as R.51A has not been made applicable as evident from the Division Bench judgment in

Jayasree's case (supra) and since there is no Government order extending R. 35 of Chap. 14A of KER to HSS a claim based on R.35 will not apply to the Higher Secondary classes. Taking into consideration the overwhelming judicial opinion on this point we are unable to agree that all the provisions of KER mutatis mutandis applies to HSS as well."

This writ petition is dismissed in the light of the above judgment.

**Sd/-  
A.MUHAMED MUSTAQUE,  
Judge.**

dpk

**/true copy/ PS to Judge.**













