

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 36167 of 2008 (E)

PETITIONER(S):

- 1. S.ABDUL RAHIMAN, MANAGER, P.M.S.A.P.T.S.V.H.S.S.
KAIKOTTUKADAVU, P.O. ELAMBACHI, KASARGOD DIST.**
- 2. RASHID T.M., S/O. K.P. BRAHIMKUTTY,
LPSA, P.M.S.A.P.T.S.V.H.S.S. KAIKOTTUKADAVU
P.O. ELAMBACHI, KASARGOD DIST.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

- 1. STATE OF KERAL, REP BY SECRETARY TO
GOVERNMENT DEPARTMENT OF GENERAL EDUCATION
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.**
- 3. DEPUTY DIRECTOR OF EDUCATION,
KASARGOD.**
- 4. DISTRICT EDUCATIONAL OFFICER,
KANHANGAD.**

R,R1-4 BY ADV. GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS EXHIBITS

EXHIBIT P1 - TRUE COPY OF THE APPOINTMENT ORDER DATED 22.06.2006 OF THE 2ND PETITIONER.

EXHIBIT P2 - TRUE COPY OF THE ORDER DATED 21.05.2007 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P3 - TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT.

EXHIBIT P4 - TRUE COPY OF THE ORDER DATED 23.08.2007 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P5 - TRUE COPY OF THE APPEAL FILED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P6 - TRUE COPY OF THE ORDER DATED 1.03.2008 ISSUED BY THE ADDL. DIRECTOR OF PUBLIC INSTRUCTION (GENERAL)

EXHIBIT P7 - TRUE COPY OF THE REVISION DATED 22.04.2008 FILED BY THE 1ST PETITIONER MANAGER BEFORE THE 1ST RESPONDENT.

EXHIBIT P8 - TRUE COPY OF THE ORDER DATED 5.08.2008.

EXHIBIT P9 - TRUE COPY OF G.O.(MS) NO.148/03/G.EDN. DATED 5.06.2003.

EXHIBIT P10 - TRUE COPY OF THE ORDER DATED 1.09.2005 ISSUED BY THE 4TH RESPONDENT.

EXHIBIT P11 - TRUE COPY OF THE STAFF FIXATION ORDER FOR THE YEAR 2005-2006.

EXHIBIT P12 - TRUE COPY OF THE STAFF FIXATION ORDER FOR THE YEAR 2006-2007.

EXHIBIT P13 - TRUE COPY OF THE STAFF FIXATION ORDER FOR THE YEAR 2007-2008.

EXHIBIT P14 - TRUE COPY OF G.O.(P) 317/05/G.EDN. DATED 17.08.2005.

RESPONDENTS EXHIBITS - NIL

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PA TO JUDGE

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K.SURENDRA MOHAN, J.

W.P.(C) No.36167 of 2008

Dated this the 12th day of March, 2008

JUDGMENT

The first petitioner is the Manager and the second petitioner is a Lower Primary School Assistant (LPSA for short). The second petitioner's appointment as an LPSA was made on 22.06.2006, as evidenced by Exhibit P1. The appointment has not been approved by the authorities for the reason that, as per Exhibit P14 Government Order there was a ban in force against making fresh appointments in aided schools. Consequently it is stated that the second petitioner's appointment made in violation of the provisions of the said Government Order could not be approved. Successive appeals as well as revision filed by the petitioners have been rejected. The petitioners have therefore filed this writ petition challenging the said proceedings.

2. The limited relief sought for by the second

petitioner is the benefit of G.O.(P) No.10/10/G.Edn dated 12.1.2010, by which the Government have directed grant of approval to appointments made in violation of the order banning fresh appointments, subject to the terms of the said Government Order. The petitioners seek the benefit of the said Government Order. The Government Pleader appears for the respondents.

3. Heard. It is true that the second petitioner was appointed at a time during which, as per Exhibit P14 Government Order a ban against fresh appointments was in force. Therefore, refusal to grant approval to the second petitioner's appointment on the said basis cannot be found fault with. However, as per G.O.(P) No.10/10/G.Edn. dated 12.1.2010, the Government have ordered that legal appointments by first petitioner be regularised subject to the conditions stipulated in the Government Order G.O.(P) No.10/10/G.Edn dated 12.1.2010. In view of the above, the second petitioner is also entitled to the said benefit.

This writ petition is accordingly disposed of

directing the first respondent to consider afresh the question of granting approval to the second petitioner in the light of and subject to the terms of G.O.(P) No.10/10/G.Edn dated 12.1.2010. Appropriate orders in this regard shall be issued after affording an opportunity of being heard to the petitioners also, as expeditiously as possible and at any rate within a period of two months of the date of receipt of a copy of this judgment.

**K.SURENDRA MOHAN,
JUDGE**

lmp

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PA TO JUDGE

