

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 35021 of 2015 (C)

PETITIONER(S):

**RASHMI A.M, AGED 40 YEARS
L.P.S.A., ULIYIL SOUTH LOWER PRIMARY SCHOOL, IRITTY
KANNUR DISTRICT.**

**BY ADVS.DR.GEORGE ABRAHAM
SRI.DOMINIC JOSE**

RESPONDENT(S):

- 1. THE ASSISTANT EDUCATIONAL OFFICER
IRITTY, KANNUR DISTRICT 670 703.**
- 2. DISTRICT EDUCATIONAL OFFICER
THALASSERI, KANNUR DISTRICT, T 670 101.**
- 3. DIRECTOR OF PUBLIC INSTRUCTION
TRIVANDRUM 695 003.**
- 4. SECRETARY TO GOVERNMENT
GENERAL EDUCATION DEPARTMENT, TRIVANDRUM 695 001.**

R BY GOVERNMENT PLEADER SMT. A. LOWSY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 35021 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1- TRUE COPY OF THE APPOINTMENT ISSUED TO THE
 PETITIOENR DATED 1.6.2011**
- EXT.P2- TRUE COPY OF THE ORDER ISSUED BY THE MANAGER DATED
 16.7.2012**
- EXT.P3- TRUE COPY OF THE ORDER DATED 12.7.2012**
- EXT.P4- TRUE COPY OF THE ORDER OF THE A.E.O DATED 14.4.2015**
- EXT.P5- TRUE COPY OF THE PROCEEDINGS DATED 15.9.2015**
- EXT.P6- TRUE COPY OF THE JUDGMENT DATED 5.3.2015**
- EXT.P7- TRUE COPY OF THE GOVERNMENT ORDER DATED 13.8.2015**
- EXT.P8- TRUE COPY OF THE ORDER OF THE AEO DATED 23.9.2015**
- EXT.P9- TRUE COPY OF THE APPEAL PREFERRED BY THE MANAGER
 DATED 13.10.2015**

RESPONDENT(S)' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.35021 of 2015 - C

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Dated this the 03rd day of December, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P8 order allegedly declining the approval of appointment as per Ext.P5 order of the Manager. The petitioner was appointed in the Uliyil South Lower Primary School on 01.06.2011 and approval was sought for. The same was declined for reason of there being other senior claimants, who have to be accommodated in the same school. Eventually, the entire issue was considered by the A.E.O and the same was stayed as per Ext.P4.

2. Specifically with respect to the petitioner, the petitioner was directed to be adjusted in the vacancy arising on promotion of one Sri. T.P.Raghavan w.e.f 01.06.2012. The Manager having not acted on the said orders, the petitioner was before the Government with a representation, in which Ext.P7

order was passed, affirming the orders of the A.E.O at Ext.P4 and also directing the Manager to carry out the appointments as directed in Ext.P4 and if not, the A.E.O was directed to disqualify the Manger. Again, when Ext.P5 order was issued in compliance with Ext.P4, the A.E.O is said to have rejected it as per Ext.P8.

3. The learned Government Pleader however on instructions submits that it was not Ext.P5, that the A.E.O considered at Ext.P5. Though the proposal dated 15.09.2015, is read as Item No.1 in Ext.P5, the Manger had in fact submitted the appointment letter of the petitioner, dated 01.06.2011 along with a covering letter dated 15.09.2015, which was declined approval as per Ext.P8. Even Ext.P4 only sanctions approval of the petitioner in the vacancy of one Sri. T.P.Raghavan, who was promoted on 01.06.2012.

4. In any circumstance, since Ext.P5 is said to have been not considered by the A.E.O, it is only proper that the A.E.O consider the same. The learned Government Pleader would point out that the A.E.O having passedd Ext.P8, an appeal is

pending before the appellate authority and there is a legal impediment in the A.E.O reviewing Ext.P8 and considering it afresh. In such circumstance, to facilitate re-consideration, Ext.P8 shall be set aside and it is directed that Ext.P5 shall be considered in accordance with the directions in Exts.P4 and P7. The appeal filed against Ext.P8, in such circumstance is of no consequence.

The writ petition would stand allowed with the above directions. The consideration shall be made, at any rate, within a period of three months from the date of receipt of a certified copy of this judgment.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/03/12/2015

// true copy //

P.A to Judge