IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.8615 OF 2012(B)

PETITIONER:

P. NISHA
W/O. ANIL KUMAR, PATTIYIL HOUSE, ERAVU P.O, THRISSUR DISTRICT-680 620 H.S.A PHYSICAL SCIENCE, HIGH SCHOOL, ARIMPUR.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2 **THE DIRECTOR OF PUBLIC INSTRUCTIONS**
THIRUVANANTHAPURAM-695 001.

3 **THE DEPUTY DIRECTOR OF EDUCATION, THRISSUR-680 020.**

4 **THE DISTRICT EDUCATIONAL OFFICER, THRISSUR-680 020.**

5 **HIGH SCHOOL AMP HIGHER SECONDARY SCHOOL, ARIMPUR, ST. THERASAS SHIP CHURCH, ERAVU P.O., ARIMPUR, THRISSUR, 680 620. REPRESENTED BY ITS MANAGER.**

*R6 **JINCY P.GEORGE,**
D/O.GEORGE P.P, AGED 31 YEARS,
HIGHER SECONDARY SCHOOL TEACHER – CHEMISTRY,
HIGHER SECONDARY SCHOOL, ARIMPUR, THRISSUR DISTRICT

(*R6 IS IMPLEADED AS PER ORDER DATED 29.10.2015 IN I.A NO.12366/2015)
R1 BY GOVERNMENT PLEADER
R1, R5 BY ADV. DR.GEORGE ABRAHAM
R1 BY ADV. SRI.LINDONS C.DAVIS

OTHER PRESENT:

SRI P.M MANOJ GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21.12.2020, ALONG WITH WP(C).8575/2012(V), WP(C).19042/2014(E), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.8575 OF 2012

PETITIONER:

SMITHA.T.F.
W/O. JOBY GEORGE, AGED 31 YEARS, KULANGARA HOUSE, ERAVU.P.O, THRISSUR DISTRICT - 680 620, H.S.A MATHEMATICS, HIGH SCHOOL, ARIMPUR.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2 THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM - 695 001.

3 THE DEPUTY DIRECTOR OF EDUCATION
THRISSUR - 680 020.

4 THE DISTRICT EDUCATIONAL OFFICER
THRISSUR - 680020

5 HIGH SCHOOL AND HIGHER SECONDARY SCHOOL
ARIMPUR, ST. THERASAS SHIP CHURCH, ERAVU.P.O, ARIMPUR, THRISSUR -680 020, REPRESENTED BY ITS MANAGER.

*6 BREEMI THOMAS
AGED 30 YEARS
D/O.THOMAS, HIGHER SECONDARY SCHOOL TEACHER - MATHEMATICS, HIGHER SECONDARY SCHOOL, ARIMBUR, THRISSUR DISTRICT.

*ADDL.R6 IMPLEADED AS PER ORDER DATED 16.09.2015 IN IA-12994/15.

R1 BY GOVERNMENT PLEADER
R1 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM SR.
R1 BY ADV. SRI.LINDONS C.DAVIS
R1 BY ADV. SRI.TONY GEORGE KANNANTHANAM
R5 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM (SR.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21.12.2020, ALONG WITH WP(C).8615/2012(B), WP(C).19042/2014(E), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

WP(C).No.19042 OF 2014

PETITIONER:

SHYNY T.Y.
W/O.P.C.JOY,
AGED 40 YEARS
PUTHUR HOUSE, ARIMPUR - 680 620, H.S.A BIOLOGY (NS), HIGH SCHOOL, ARIMPUR.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

1 THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

2 THE DIRECTOR OF PUBLIC INSTRUCTIONS
THIRUVANANTHAPURAM- 695 001.

3 THE DISTRICT EDUCATIONAL OFFICER
THRISSUR - 680 020.

4 THE MANAGER
HIGH SCHOOL & HIGHER SECONDARY SCHOOL, ARIMPUR,
ST.THERASAS SHIP CHURCH, ERAVU P.O., ARIMPUR,
THRUSSUR - 680 620.

R1 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM SR.
R1 BY ADV. SRI.TONY GEORGE KANNANTHANAM
R4 BY ADV. SRI.KURIAN GEORGE KANNANTHANAM (SR.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21.12.2020, ALONG WITH WP(C).8575/2012(V), WP(C).8615/2012(B), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

These writ petitions are filed seeking approval of appointment of the petitioners herein with effect from the date of their initial appointments.

2. Heard the learned counsel for the petitioners and the learned Government Pleader as well as the learned Senior Counsel appearing for the Manager.

3. It is submitted by the learned counsel for the petitioners that though the petitioners were appointed against regular posts on several dates from 2006 to 2010-11. The appointments have been approved only with effect from 01.06.2011 on the ground that the Manager had not submitted the bond agreeing to appoint protected teachers in half of such vacancies. It is submitted by the learned counsel for the petitioners that the issue now stands covered by judgment of this Court wherein it has been held that deeming that the bond is executed by the Manager, appointments made against additional division vacancies can be approved with effect from the date of effect of such appointments.

4. The learned Senior Counsel appearing for the respondent Manager submits that the Manager has made consequential appointments in other posts including that of HSST and that such appointments also stand approved. It is, therefore, contended that the approval of the appointments of the petitioners with effect from the date of their initial appointments is likely to give rights to claim with regard to posts against which appointments have already been made by the Manager and have been approved. It is further submitted that the Manager has challenged the provision in G.O. (P).No.10/10.G.Edn. Dated 12.1.2010 by which the Manger had been required to make appointments in the additional division vacancies in the ratio of 1:1 and that the issue is pending before the Apex Court.

5. The learned Government Pleader submits that it is on account of non appointment of protected teachers in the ratio of 1:1 and the refusal on the part of the Manager to submit the bond that the appointment has been approved only from 01.06.2011.

6. Having heard the learned counsel on all sides, I am of the opinion that since the petitioners had been appointed against additional division vacancies and since this Court has several decisions held that such appointments can be approved deeming that the Manager has submitted a bond, such directions are liable to be issued in this case as well.

7. There will, accordingly, be a direction to the respondents to approve the appointments of the petitioners with effect from the date of initial appointment deeming that the Manager had submitted the bond to set apart vacancies for appointment of protected teachers. However, this shall be subject to the orders to be passed by the Apex court in the SLP filed by the Manger. Further, it is made clear that the claim of the petitioners with regard to any appointment in any other post is left open to be decided in appropriate proceedings and is not the subject matter of this writ petition. Orders shall be passed by the Educational Authorities approving the appointments of the petitioners from the initial dates of appointment within a period of two months from the date of

receipt of a copy of this judgment. The attendant benefits shall also be calculated and released within a period of two months thereafter.

These writ petitions are disposed of accordingly.

Sd/-

ANU SIVARAMAN

JUDGE

Bng/22.12.2020

APPENDIX OF WP(C) 8615/2012

PETITIONER'S EXHIBITS:

EXHIBIT P1	**A TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER BY THE 5TH RESPONDENT DATED 01.06.2009.**
EXHIBIT P2	**A TRUE COPY OF THE GOVERNMENT ORDER DATED 12.01.2010.**
EXHIBIT P3	**A TRUE COPY OF THE GOVERNMENT ORDER DATED 25.10.2011 ADDRESSED TO THE 2ND RESPONDENT WITH THE RELEVANT PAGES OF TEACHERS INCLUDING PETITIONER'S NAME.**
EXHIBIT P4	**A TRUE COPY OF THE ORDER DATED 12.12.2011 OF THE 2ND RESPONDENT WITH RELEVANT PAGES SHOWING THE NAME OF THE PETITIONER'S.**
EXHIBIT P5	**A TRUE COPY OF THE ORDER DATED 23.01.2012 OF THE 4TH RESPONDENT.**
EXHIBIT P6	**A TRUE COPY OF THE JUDGMENT IN W.A.NO.931/2016 DATED 24.07.2017 OF THIS HON'BLE COURT**
EXHIBIT P7	**A TRUE COPY OF THE RECENT GOVERNMENT ORDER DATED 16.02.2018**
EXHIBIT P8	**A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.6039/2012 DATED 18.02.2015**
EXHIBIT P9	**A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.29689/2016 DATED 14.10.2020 OF THIS HON'BLE**

APPENDIX OF WP(C) 8575/2012

PETITIONER'S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER BY THE 5TH RESPONDENT DATED 01.06.2009.
EXHIBIT P2	A TRUE COPY OF THE GOVERNMENT ORDER DATED 12.01.2010.
EXHIBIT P3	A TRUE COPY OF THE GOVERNMENT ORDER DATED 25.10.2011 ADDRESSED TO THE 2ND RESPONDENT WITH THE RELEVANT PAGES OF TEACHERS INCLUDING PETITIONER'S NAME.
EXHIBIT P4	A TRUE COPY OF THE ORDER DATED 12.12.2011 OF THE 2ND RESPONDENT WITH RELEVANT PAGES SHOWING THE NAME OF THE PETITIONER'S.
EXHIBIT P5	A TRUE COPY OF THE ORDER DATED 23.01.2012 OF THE 4TH RESPONDENT.
EXHIBIT P6	A TRUE COPY OF THE JUDGMENT IN W.A.NO.931/2016 DATED 24.07.2017 OF THIS HON'BLE COURT
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EXHIBIT P8	A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.6039/2012 DATED 18.02.2015
EXHIBIT P9	A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.29689/2016 DATED 14.10.2020 OF THIS HON'BLE

APPENDIX OF WP(C) 19042/2014

PETITIONERS EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER BY THE 4TH RESPONDENT DATED 15/9/06.
EXHIBIT P2	A TRUE COPY OF THE GOVERNMENT ORDER DATED 12/01/2010.
EXHIBIT P3	A TRUE COPY OF THE GOVERNMENT ORDER DATED 25/10/2011 ADDRESSED TO THE 2ND RESPONDENT WITH THE RELEVANT PAGES OF TEACHERS INCLUDING PETITIONER'S NAME.
EXHIBIT P4	A TRUE COPY OF THE ORDER DATED 12/12/2011 OF THE 2ND RESPONDENT WITH RELEVANT PAGES SHOWING THE NAME OF THE PETITIONER'S
EXHIBIT P5	A TRUE COPY OF THE ORDER DATED 23/01/2012 OF THE 3RD RESPONDENT.
EXHIBIT P6	A TRUE COPY OF THE CERTIFICATE DATED 14/8/2008 FOR THE BASIC TRAINING BY THE STATE TRAINING COMMISSIONER (GUIDES) TO THE PETITIONER.
EXHIBIT P7	A TRUE COPY OF THE CERTIFICATE DATED 7/12/2008 FOR THE ADVANCE TRAINING BY THE STATE TRAINING COMMISSIONER (GUIDES) TO THE PETITIONER.
EXHIBIT P8	A TRUE COPY OF THE WARRANT OF APPOINTMENT AS GUIDE CAPTAIN TO THE PETITIONER BY THE STATE COMMISSIONER (G) OF THE KERALA STATE BHARAT SCOUTS AND GUIDES TO THE 4TH RESPONDENT'S SCHOOL DATED 18/6/2009.
EXHIBIT P9	A TRUE COPY OF THE STAFF FIXATION ORDER DATED 17/05/2014 FOR THE YEAR 2013-14 OF THE 3RD RESPONDENT IN RESPECT OF 4TH RESPONDENT'S SCHOOL.
EXHIBIT P10	A TRUE COPY OF THE JUDGMENT IN W.A.NO.931/2016 DATED 24.07.2017 OF THIS HON'BLE COURT

EXHIBIT P11	**A TRUE COPY OF THE RECENT GOVERNMENT ORDER DATED 16.02.2018**
EXHIBIT P12	**A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.6039/2012 DATED 18.02.2015**