IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 01ST DAY OF DECEMBER 2020 / 10TH AGRAHAYANA, 1942

WP(C).No.26547 OF 2020(P)

PETITIONER:

SHANAVAS.A., AGED 31 YEARS, SON OF ABDUL SALIM, LOWER PRIMARY SCHOOL ASSISTANT, N V U P SCHOOL, VAYALA, ANCHAL, KOLLAM DISTRICT 691 306.

BY ADVS.
SRI.V.A.MUHAMMED
SRI.M.SAJJAD

RESPONDENTS:

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

2 **THE DIRECTOR OF GENERAL EDUCATION, JAGATHY, THIRUVANANTHAPURAM 695 014.**

3 **THE DEPUTY DIRECTOR OF EDUCATION, KOLLAM AT THEVALLY 691 009.**

4 **THE ASSISTANT EDUCATIONAL OFFICER, ANCHAL, KOLLAM DISTRICT 691 306.**

5 **THE MANAGER, N V U P SCHOOL, VAYALA, ANCHAL, KOLLAM DISTRICT 691 306.**

SMT. NISHA BOSE - SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of December 2020

The petitioner, who is stated to be working as a Lower Primary School Teacher in the NVUP School, Anchal, managed by the fifth respondent – Manager, has approached this Court seeking that Ext.P2 be set aside and the respondents be directed to grant approval of his appointment with effect from 01.06.2010. The petitioner, however, concedes that he has already preferred Ext.P5 statutory Revision before the Government of Kerala under the provisions of Rule 92 Chapter XIV A of the KER; and alternatively prays that the same be directed to be taken up and disposed of at the earliest.

2. In response, the learned Senior Government Pleader, Smt.Nisha Bose, submitted that though the petitioner has prayed in Ext.P5 that the deeming provision in G.O.(P) No.10/10/G.Edn. dated 12.01.2010 be invoked, the fact remains that it is not the petitioner's appointment which requires to be regularised in such manner, but that of a senior claimant. The learned Senior Government Pleader, however, submitted that there is no legal impediment in Exhibit P5 Revision being taken up and disposed of; but prayed that this Court may not make

any affirmative declarations as to the entitlement of the petitioner to any relief and leave it to the competent Authority to take a decision on it in terms of law.

3. When I consider the afore submissions, it is indubitable that the petitioner says that he has been appointed to a retirement vacancy; while the learned Government Pleader maintains that approval to his appointment has been stuck only on account of the lack of approval to the senior claimant. I am, therefore, of the view that Ext.P5 will require to be considered by the competent Authority of the Government taking note of these aspects also.

Resultantly, this writ petition is allowed directing the competent Secretary of the Government of Kerala to take up Ext.P5 revision and dispose it of, after affording an opportunity of being heard to the petitioner as well as to the Manager of the School – either physically or through video conferencing – leading to an appropriate decision thereon, as expeditiously as is possible, but not later than three months from the date of receipt of a copy of this judgment.

Needless to say, the competent Authority will be entitled to deem that the Manager has executed a bond in terms of the

aforementioned Government Order, subject to his version at the time of hearing, if it is found so warranted.

Sd/- DEVAN RAMACHANDRAN

stu **JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 01.06.2010 AND APPROVAL RECORDED THEREON.**
EXHIBIT P2	**TRUE COPY OF THE LETTER NO. C/2244/2010/K. DIS. DATED 02.06.2011 OF THE AEO.**
EXHIBIT P3	**TRUE COPY OF THE JUDGMENT IN W.A. NO. 2290/2015 DATED 25.07.2017.**
EXHIBIT P4	**TRUE COPY OF THE JUDGMENT IN W.A. NO. 2091/2018 DATED 28.06.2019.**
EXHIBIT P5	**TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE GOVERNMENT DATED 31.10.2020.**