

**The Manager Vs. the Director of Public Instructions**

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**SooperKanoon Citation :** [sooperkanoon.com/1119441](http://sooperkanoon.com/1119441)

**Court :** Kerala

**Decided On :** Jan-01-2014

**Judge :** Honourable Mr.Justice C.T.Ravikumar

**Appellant :** The Manager

**Respondent :** The Director of Public Instructions

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR WEDNESDAY, THE 11TH DAY OF JANUARY 2014 11TH POUSHA, 1935 WP(C).No. 31223 of 2013 (C) ----- PETITIONER(S): ----- THE MANAGER ST.CLARE ORAL SCHOOL FOR THE DEAF MANICKAMANGALAM P.O.(VIA) KALADY ERNAKULAM DISTRICT - 683 574 BY ADVS.SRI.K.JAJU BABU (SR.) SMT.M.U.VIJAYALAKSHMI SRI.BRIJESH MOHAN RESPONDENTS: ----- 1. THE DIRECTOR OF PUBLIC INSTRUCTIONS THIRUVANANTHAPURAM - 695 033 2. THE DISTRICT EDUCATIONAL OFFICER ALUVA - 683 101 3. SMT.NISHA RANJAN `NISHUS, POLICODU, VAYAKKAL P.O. VALAKOM, KOTTARAKKARA, KOLLAM - 691 548 R1 & R2 BY GOVERNMENT PLEADER SMT.A.LOWSY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 31223 of 2013 (C) ----- APPENDIX PETITIONER'S EXHIBITS ----- EXT.P-1: TRUE COPY OF THE

## ORDER

NO.B5-3878/11/K.DIS DATED 8.2.2012 ISSUED BY THE 2D RESPONDENT TO THE PETITIONER  
EXT.P-2: TRUE COPY OF THE COMMUNICATION NO.B5/7628/12 DATED 30.4.2012 ISSUED BY THE 2D RESPONDENT TO THE UNIVERSITY.  
EXT.P-3: TRUE COPY OF THE APPLICATION DATED 17.6.2013 SUBMITTED BY THE PETITIONER TO THE 2D RESPONDENT  
EXT.P-4: TRUE COPY OF THE COMMUNICATION NO.B5-4134/2013 DATED 27.6.2013 BY THE 2D RESPONDENT TO THE PETITIONER  
EXT.P-5: TRUE COPY OF THE APPLICATION NO.A2-2013 DATED 12.7.2013 BY THE PETITIONER TO THE 1T RESPONDENT  
EXT.P-6: TRUE COPY OF THE COMMUNICATION NO.B5/4415/2013/K.DIS DATED 18.10.2013 ISSUED BY THE 2D RESPONDENT  
EXT.P-7: TRUE COPY OF THE HEARING NOTICE NO.M5/55945/13/DPI DATED 22.11.2013 ISSUED BY THE 1T RESPONDENT  
EXT.P-8: TRUE COPY OF THE REPLY NO.7/2013 DATED 7.12.2013 TO THE 2D RESPONDENT BY THE PETITIONER  
RESPONDENTS' EXHIBITS : NIL ----- // TRUE COPY // TKS P.S. TO JUDGE C.T.RAVIKUMAR, J.

----- W.P.(C)No.31223 of 2013 ----- Dated  
1st January, 2014

## JUDGMENT

The short prayer of the petitioner in this writ petition is for a direction to the first respondent to consider and pass appropriate orders on Ext.P5 application submitted by him seeking permission to withdraw the appointment already granted to the third respondent. The petitioner is the Manager of St.Clarie Oral School for the Deaf, Manikkamangalam. The petitioner appointed the third respondent as Assistant Teacher on daily wage basis from 1.7.2010 to 31.3.2011 and that appointment was approved by the second respondent on 20.12.2010 against a newly sanctioned post. Subsequently, she was given reappointment as against that post on 1.6.2011. It is the contention of the petitioner that though the order of appointment was forwarded for approval it was rejected. In other words, according to the petitioner, the appointment of the third respondent as against the newly sanctioned post is yet to be approved. In fact, aggrieved by the refusal to approve

the appointment of the third respondent the matter was taken up before the first respondent by the petitioner himself. Subsequently, the first respondent remitted the question of approval to the second respondent and in the meanwhile, the petitioner took up the decision to withdraw the appointment of the third respondent and WP(C).No.31223/2013 2 submitted Ext.P5 application in that regard. It is the contention of the petitioner that such request will lie in the light of the decision of this Court in Vijayamma v. State of Kerala (ILR1982(1) Kerala 795). In other words, according to the petitioner, it is legally permissible to seek for withdrawal of appointment prior to the approval of appointment and therefore, according to the petitioner, there is no reason for not entertaining Ext.P5 by the first respondent. It is in these circumstances that this writ petition has been filed with the aforementioned prayer.

2. I have heard the learned counsel for the petitioner and also the learned Government Pleader.

3. Taking into account the fact that Ext.P5 application is still pending before the first respondent and in view of the nature of the order I propose to pass in this writ petition I do not think it necessary to issue notice to the third respondent in this proceedings. I am of the view that this writ petition can be disposed of without making any observation as to the merits of the contentions of the petitioner and reserving all rights to the third respondent to raise all her objections before the first respondent against Ext.P5. In the said circumstances, this writ petition WP(C).No.31223/2013 3 is disposed of with a direction to the first respondent to consider Ext.P5 application submitted by the petitioner expeditiously and in accordance with law. The learned Government Pleader, on instructions, submitted that Ext.P5 application is posted for hearing on 3.1.2014. In the said circumstances, it will only be appropriate for the first respondent to conduct the hearing after affording an opportunity of being heard to the the third respondent as well, if not already offered, and pass appropriate orders thereon after such hearing in accordance with law, within four weeks from the date of hearing. Sd/-  
C.T.RAVIKUMAR Judge TKS