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Sissy Koshy Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1128421

Court : Kerala

Decided On : Jan-29-2014

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Sissy Koshy

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM WEDNESDAY, THE29H DAY OF JANUARY20149TH MAGHA, 1935 WP(C).No. 28513 of 2013 (L) ---------- PETITIONER(S): ---------- SISSY KOSHY W/O.BIJU MATHEW, HEADMISTRESS-IN-CHARGE ST.THOMAS HIGH SCHOOL, KADAMPANAD, ADOOR PATHANAMTHITTA DISTRICT, RESIDING AT POIKAYIL HOUSE KADAMPANAD.P.O., ADOOR, PATHANAMTHITTA DISTRICT. BY ADV. SRI.B.MOHANLAL RESPONDENTS: ---------- 1. STATE OF KERALA REPRESENTED BY THE SECRETARY GENERAL EDUCATION DEPARTMENT, SECRETARIAT THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION PATHANAMTHITTA, THIRUVALLA.P.O. PATHANAMTHITTA DISTRICT.

3. THE DISTRICT EDUCATIONAL OFFICER PATHANAMTHITTA, PATHANAMTHITTA.P.O. PATHANAMTHITTA DISTRICT.

4. THE MANAGER ST.THOMAS HIGH SCHOOL, KADAMPANAD.P.O. PATHANAMTHITTA DISTRICT, PIN-691 552.

5. SRI.MAMMEN VARGHESE PHYSICAL EDUCATION TEACHER, ST.THOMAS HIGH SCHOOL KADAMPANAD, PATHANAMTHITTA RESIDING AT PALAVILA PUTHEN VEEDU, KADAMPANAD.P.O. PATHANAMTHITTA-691 552. R5 BY ADV. SRI.THOMAS ABRAHAM R5 BY ADV. SMT.MERCIAMMA MATHEW R5 BY ADV. SRI.V.RENJITH KUMAR R5 BY ADV. SRI.ASWIN.P.JOHN R BY GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2901-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 28513 of 2013 (L) ---------- APPENDIX PETITIONER(S)' EXHIBITS ---------- P1- THE TRUE COPY OF THE APPOINTMENT

ORDER
DATED0106.2012 ISSUED BY THE4H RESPONDENT TO THE PETITIONER. P2- THE TRUE COPY OF THE PROPOSAL OF THE PETITIONER AND RECORDS SUBMITTED BY THE4H RESPONDENT TO THE3D RESPONDENT. P3- THE TRUE COPY OF THE

ORDER
NO.B5/5443/12 DATED1209.2012 ISSUED BY THE3D RESPONDENT TO THE PETITIONER. P4- THE TRUE COPY OF THE

ORDER
NO.12/10 DATED1110.2010 ISSUED BY THE4H RESPONDENT TO THE5H RESPONDENT. P5- THE TRUE COPY OF THE

ORDER
NO.76640/K3/2010/G.EDN. DATED1710.2011 ISSUED BY THE IST RESPONDENT TO THE5H RESPONDENT. P6- THE TRUE COPY OF THE

ORDER
NO.B5-5030/2012/K.DIS. DATED0201.2013 ISSUED BY THE3D RESPONDENT TO THE PETITIONER. P7- THE TRUE COPY OF THE APPEAL SUBMITTED BY

THE4H RESPONDENT BEFORE THE2D RESPONDENT DATED1802.2013. P8- THE TRUE COPY OF THE COMMUNICATION NO.B4/2059/13 DATED1303.2013 ISSUED BY THE2D RESPONDENT TO THE4H RESPONDENT. P9- THE TRUE COPY OF THE

ORDER
NO.B5/13127/13 DATED0805.2013 ISSUED BY THE3D RESPONDENT TO THE4H RESPONDENT. P10- THE TRUE COPY OF THE MEMORANDUM OF APPEAL SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT. RESPONDENT(S)' EXHIBITS ---------- C.K.ABDUL REHIM, J.

..... WPC No.28513 of 2013 ..... Dated this the 29th day of January 2014 Judgment Aggrieved by denial of approval of appointment of the petitioner as Headmistress of the 4th respondent's school, the petitioner had preferred Ext.P10 statutory revision before the first respondent. Since the said revision petition is not disposed of, this Writ Petition is filed seeking appropriate directions. Inter alia, the petitioner seeks a declaration that her appointment to the post of Headmistress is entitled to be approved. The denial of approval was on the basis that the 5th respondent herein had challenged the seniority list of 'High School Assistants' in the 4th respondent's school, in a Writ Petition filed before this Court as WP(C) No.4500/12.

2. In the counter affidavit filed by the 5th respondent, it is mentioned that there is a proposal to amend the relevant provisions of the K.E.R. enabling promotions to Specialist Teachers by granting the benefits which are available in the matter WPC No.28513 of 2013 2 of promotion to 'Craft Teachers' and 'Language Teachers', to 'Specialist Teachers' also. The 5th respondent claimed that he was appointed in the High School Section, prior to the appointment of the petitioner. Therefore he claims seniority over the petitioner. The 5th respondent had produced various communications between the 1st respondent and the Director of Public Instructions with respect to bringing of amendment to the relevant provisions of the K.E.R. in this regard. Under such circumstances, it is contended

that finalisation of approval of appointment, if any granted to the petitioner, before disposal of WP(C) No.4500/12, will cause prejudice to the 5th respondent.

3. On a perusal of WP(C) No.4500/12, which is posted along with this Writ Petition, it is evident that one among the prayers is to make a declaration that the 'Physical Education Teachers' working in the High School Section, who are otherwise qualified, are also entitled to be appointed as Headmaster. Inter alia, the 5th respondent is also seeking to quash the seniority list of the HSAs. WPC No.28513 of 2013 3 4. From the facts enumerated it is clear that, existing provisions contained in the K.E.R. do not enable a 'Physical Education Teacher' to be considered for promotion as Headmaster. It is evident that the 5th respondent can be considered for promotion only if necessary amendment is brought in the relevant provisions of K.E.R. That being so, there is no justification to keep in abeyance approval of appointment of the petitioner for the reason that WP(C) No.4500/12 is pending disposal.

5. However, since the petitioner had already approached the statutory revisional authority, the first respondent herein in Ext.P10 petition, this Court is of the opinion that the writ petition can be disposed of directing the first respondent to consider and to take an appropriate decision on Ext.P10 revision petition.

6. Hence, this writ petition is disposed of directing the first respondent to consider Ext.P10 revision petition, after affording an opportunity of personal hearing to all parties concerned, and to dispose of the same in accordance with law at the earliest possible, at any rate within two months from the date WPC No.28513 of 2013 4 of receipt of a copy of this judgment. C.K.ABDUL REHIM, JUDGE sta WPC No.28513 of 2013 5

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