

Manager, vs State of Kerala

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Court : Kerala

Decided On : Mar-07-2024

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : WP(C)/21541/2023

Appellant : Manager,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
THURSDAY, THE 7TH DAY OF MARCH 2024 / 17TH PHALGUNA,
1945 PETITIONER :- MANAGER, V.V.M. H.S.S., MARAKKARA,
KAREKKAD P.O., (VIA) KADAMPUZHA, MALAPPURAM, PIN - 676553
BY ADVS. S.M.PREM H.NARAYANAN RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO
GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2
DIRECTOR OF GENERAL EDUCATION, JAGATHY, THYCAUD P.O.,
THIRUVANANTHAPURAM, PIN - 3 DEPUTY DIRECTOR OF

EDUCATION MALAPPURAM, KOTTAPADI, DOWNHILL,
MALAPPURAM, PIN - 4 DISTRICT EDUCATIONAL OFFICER, NEAR
MINI CIVIL STATION, TIRUR P.O., MALAPPURAM, PIN - 676101 5
SURESH KUMAR KADAVATH HST (MATHS), V.V.M. H.S.S.,
MARAKKARA, KAREKKAD P.O.,

(VIA) KADAMPUZHA, MALAPPURAM, PIN - 676553

6 R.V. SASI HSST (SOCIAL SCIENCE), V.V.M. H.S.S., MARAKKARA,
KAREKKAD P.O., (VIA) KADAMPUZHA, MALAPPURAM, PIN - BY
ADVS. J.G.SYAMNATH K.RAJEEV SRI.PREMCHAND R NAIR, SR.GP
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.03.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner, who is the Manager of an aided Higher Secondary School has approached this Court challenging the orders passed, refusing to approve the appointment of the 6th respondent as the Head Master of the School. By Ext.P10 order dated 12.08.2021, the 5th respondent was given the charge as Head Master. The rejection of approval was challenged and was rejected on the ground that the application seeking approval of the appointment as HM was belated. This was done as per the order dated 05.05.2023, Ext.P20. It was also stated that the 6th respondent was not present on 10.09.2021 and that nobody had taken charge till 31.03.2023. Accordingly, finding that the 6th respondent has not taken charge, the proposal dated 10.09.2021 was not approved as the application was belated.

2. Later, by Ext.P21 order dated 11.05.2023 it was found that the

6th respondent was not qualified and that the only qualified teacher available was the 5th respondent. It is also a ground that the Manager did not make an appointment for the vacancy that arose on 01.06.2021 and that it was postponed.

3. The learned counsel for the petitioner - Manager, and the

learned counsel for the 6th respondent submit that the 6th respondent is qualified to be appointed as Head Master and the school being a Minority Institution, they were entitled to appoint the 6th respondent based on the qualification. It is also pointed out that the 6th respondent is due to retire on 31.05.2024.

4. In the above circumstances, the entitlement of the 6th

respondent to be appointed as H.M. has to be reconsidered by the 4th respondent - DEO. In case the 6th respondent is found to be qualified, the impact of the school being a Minority Institution shall also be reckoned. Orders in this regard shall be passed within three weeks from today with notice to the petitioner, the 5th and 6th respondents and after affording them the opportunity to be heard. A hearing shall be conducted within two weeks' time, and orders shall be passed within a week thereafter. The orders impugned are accordingly quashed. Till a decision is taken as directed above, the 5th respondent is permitted to be in charge as directed in Ext.P10. The writ petition is allowed as above. Sd/- MOHAMMED NIAS C.P. JUDGE SMA APPENDIX OF WP(C) 21541/2023 PETITIONER EXHIBITS :- Exhibit P1 TRUE COPY OF ORDER NO. B1/2725/21 DATED 30-06- 2021 ISSUED BY THE 4TH RESPONDENT - DEO Exhibit P2 TRUE COPY OF THE ORDER NO. B1/2588/2021 DATED 04-08-2021 DIRECTING THE PETITIONER TO APPOINT THE 5TH RESPONDENT Exhibit P3 TRUE COPY OF THE ORDER NO.B1/24631/2021 DATED 06-08-2021 ISSUED BY THE THEN 4TH RESPONDENT - DEO Exhibit P4 TRUE COPY OF ORDER NO. B1/2588/2021 DATED 09- 08-2021 ISSUED BY THE THEN 4TH RESPONDENT - DEO Exhibit P5 TRUE COPY OF THE ORDER NO. B1/2588/2021 (1) DATED 11-08-2021 Exhibit P6 TRUE COPY OF THE ORDER NO. B1/2588/2021(2) DATED 11-08-2021 Exhibit P7 TRUE COPY OF THE ORDER NO. B1/2588/2021(3) Exhibit P8 TRUE COPY OF THE ORDER NO. B1/2588/2021(4) Exhibit P9 TRUE COPY OF THE ORDER NO. B1/2588/2021(5) Exhibit P10 TRUE COPY OF THE ORDER NO. B1/2588/2021(6) DATED 12-08-2021, Exhibit P11 TRUE COPY OF THE COMMON JUDGMENT DATED 23-08- 2022, PASSED IN W.P. (C) NOS. 17757 & 17812 OF Exhibit P12 TRUE COPY OF THE NOTICE NO.B1/2588/2021 DATED 16-09-2022 Exhibit P13 TRUE COPY OF THE JUDGMENT DATED 23-08-2022 PASSED IN W.P. (C) NO. 16731 OF 2021 Exhibit P14 TRUE COPY OF NOTICE

NO. B4/12285/2021 DATED 06-

10-2022 ISSUED BY THE 3RD RESPONDENT - DDE TO THE PETITIONER TO ATTEND THE HEARING FIXED ON 13-10-2022

Exhibit P15 TRUE COPY OF ORDER DATED 18-10-2022 PASSED IN W.P. (C) NO. 33056 OF 2022 Exhibit P16 TRUE COPY OF ORDER DATED 07-11-2022 PASSED IN W.P. (C) NO. 33056 OF 2022 Exhibit P17 RUE COPY OF THE JUDGMENT DATED 06-12-2022 PASSED IN W.P. (C) NO. 33056 OF 2022 Exhibit P18 TRUE COPY OF APPOINTMENT ORDER DATED 10-09-2021 ISSUED BY THE PETITIONER APPOINTING THE 6TH RESPONDENT Exhibit P19 RUE COPY OF ORDER NO. B1/2588/21 DATED 19-10- 2022 ISSUED BY THE 4TH RESPONDENT - DEO REJECTING THE APPROVAL OF EXHIBIT P18 APPOINTMENT Exhibit P20 TRUE COPY OF THE ORDER NO. EM2/13229/2022/D.G.E. DATED 05-05-2023 Exhibit P21 TRUE COPY OF THE ORDER NO. EM2/14430/2022/D.G.E. DATED 11-05-2023 RESPONDENT EXHIBITS :- Exhibit R5(1) A true copy of the order dated 17-10-2022 passed by the 3rd respondent Exhibit R5 (2) A true copy of the revision petition dated 24- 03- 2023 submitted by the 5th respondent before the 1st respondent Exhibit R5 (3) A true copy of the order of the 2nd respondent dated 11-05-2023 Exhibit R5(4) A true copy of the revision petition dated 26- 05-2023 submitted by the 5th respondent before the 1st respondent Exhibit R5 (5) A true copy of the order of the 2nd respondent dated 05-05-2023 Exhibit R5 (6) A true copy of the RTI application dated 28-03- 2023 submitted by the 5th respondent Exhibit R5 (7) A true copy of the reply to the RTI application dated 24-04-2023 submitted by the 5th respondent

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