

Kripa U.a. vs State of Kerala

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Court : Kerala

Decided On : May-22-2024

Judge : Honourable Mr. Justice Sathish Ninan

Appeal No. : WP(C)/36999/2017

Appellant : Kripa U.a.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SATHISH NINAN
WEDNESDAY, THE 22ND DAY OF MAY 2024 / 1ST JYAISHTA, 1946
WP(C) NO. 36999 OF 2017 PETITIONERS:

1 KRIPA U.A. AGED 46 YEARS HINDI PUNDIT, (PT) KIZHUTHALLY
EAST UP SCHOOL,KANNUR. 2 RAJISHA E.M. LPSA CHALA DEVI
VILASAM LP SCHOOL, KANNUR NORTH. 3 VIJI KAVUNKAL LPSA,
CHALADEVI VILASAM LP SCHOOL, KANNUR NORTH. 4 LIVINA E.
LPSA, KIZHUTHALLY EAST LP SCHOOL,KANNUR. 5 SHAMNA P.P.
LPSA, CHELORA NORTH LP SCHOOL, KANNUR. 6 SREEHARI P.
LPSA, CHUNDANGAPOIL CENTRAL LP SCHOOL, THALASSERY

NORTH. 7 SREE NITHYA P. LPSA, PANUNDA LP SCHOOL, THALASSERY NORTH. 8 SREESHMA KRISHNAN K.B. LPSA, KURICHIYIL LP SCHOOL, THALASSERY SOUTH. BY ADVS. SRI.SURESH KUMAR KODOTH SRI.K.P.ANTONY BINU

RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM-695001. 2 DIRECTOR OF PUBLIC INSTRUCTIONS THIRUVANANTHAPURAM-695001. 3 ASSISTANT EDUCATIONAL OFFICER KANNUR NORTH, KANNUR DISTRICT-670621. 4 ASSISTANT EDUCATIONAL OFFICER THALASSERY NORTH, KANNUR DISTRICT-670101. WP(C) NO. 36999 OF 2017 -: 2 :-

5 ASSISTANT EDUCATIONAL OFFICER THALASSERY NORTH, KANNUR DISTRICT-670101. 6 MANAGER KIZHUTHALLY EAST UP SCHOOL PO THAZHE CHOWA, KANNUR-670118. 7 MANAGER CHALA DEVI VILASAM LP SCHOOL KANNUR NORTH, KANNUR DISTRICT-670621. 8 MANAGER CHELORA NORTH LP SCHOOL KANNUR-670001. 9 MANAGER CHUNDANGAPOIL CENTRAL LP SCHOOL THALASSERY NORTH, KANNUR DISTRICT-670101. 10 MANAGER PANUNDA LP SCHOOL PO ERUVATTY, THALASSERY NORTH, KANNUR DISTRICT. 11 MANAGER KURICHIYIL LP SCHOOL THALASSERY SOUTH, KANNUR DISTRICT-670101.

OTHER PRESENT: SRI. BIJOY CHANDRAN, SR.GP. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Sathish Ninan, J.

----- Dated this the 22nd day of May,
2024

JUDGMENT

The petitioners were appointed as LPSAs in different schools under respondents 6 to 11 during the period 2007-2010. The appointments were against permanent vacancies. However, in the light of the ban imposed by the Government in GO (P) 317/05/GEd dated G.O.(P) No.10/10 G Edn dated 12/01/2010, their appointments were approved only with effect from granted, the petitioners preferred Revision before the Government. The Revision Petitions were rejected as per Ext.P23 order. It is challenging the same, that this writ petition is filed.

2. Heard Sri.Suresh Kumar Kodoth, the learned counsel for the petitioners and Sri.Bijoy Chandran, the -: 2 :- learned Senior Government Pleader.

3. It is not in dispute that the schools in question were 'uneconomic' schools. In the light of G.O.

(P) No.259/06/G.Edn dated 12/10/2006, protected teachers

are to be appointed to the regular vacancies in such schools. Circular No.4545/J2/2007/G.Edn dated 18/05/2007 clarify that, if protected teachers are not available, then appointments can be made on daily wage basis.

4. The Government Order and Circular referred to

above were relied on by this Court in W.P. (C).No.37603/2016, wherein also a similar issue regarding the date of regularization from the date of appointment of teacher in an 'uneconomic school' arose. Therein this Court held that, since there were no protected teachers available when the petitioner therein was appointed, the appointment of the petitioner was ordered to be approved on daily wage basis from the date -: 3 :- on which the petitioner therein became qualified (petitioner therein though appointed earlier got qualified only subsequently).

5. In the light of the above, it needs to be

considered whether protected teachers were available as on the date of appointment of the respective petitioners. If protected teachers were not available, then going by the judgment of this Court referred to supra, the appointment of the petitioners are liable to be approved on daily wage basis from the respective date

of their appointment. The Revision Petitions are thus liable to be reconsidered.

6. The learned counsel for the petitioners would

contend that, mere availability of protected teachers alone may not suffice, but there has to be a list of protected teachers forwarded to the concerned Managers. All those are matters to be urged before the Authority :- 4 :- while reconsidering the Revision Petitions. Resultantly, Ext.P23 order is quashed. The 1st respondent shall re-hear the Revision Petitions and pass fresh orders, having due consideration to the observations made above. Let orders be passed within a period of three months from the date of receipt of a copy of this judgment. Writ Petition is allowed as above. Sd/- Sathish Ninan, Judge rsr :- 5 :-

APPENDIX OF
WP(C) 36999/2017 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER DATED 1.07.2008 OF THE 1ST PETITIONER. EXHIBIT P2 TRUE COPY OF APPOINTMENT ORDER DATED 2.06.2008 OF THE 2ND PETITIONER. EXHIBIT P3 TRUE COPY OF APPOINTMENT ORDER DATED 9.06.2008 OF THE 3RD PETITIONER. EXHIBIT P4 TRUE COPY OF APPOINTMENT ORDER DATED 1.06.2010 OF THE 4TH PETITIONER. EXHIBIT P5 TRUE COPY OF APPOINTMENT ORDER DATED 1.06.2008 OF THE 5TH PETITIONER. EXHIBIT P6 TRUE COPY OF APPOINTMENT ORDER DATED 1.03.2007 OF THE 6TH PETITIONER. EXHIBIT P7 TRUE COPY OF APPOINTMENT ORDER DATED 1.06.2009 OF THE 7TH PETITIONER. EXHIBIT P8 TRUE COPY OF APPOINTMENT ORDER DATED 1.06.2010 OF THE 8TH PETITIONER. EXHIBIT P9 TRUE COPY OF G.O. (P) NO.10/10 G. EDN. DATED 12.01.2010. EXHIBIT P10 TRUE COPY OF ORDER NO.H2/35920/2011/DPI DATED 13.12.2011. EXHIBIT P11 TRUE COPY OF REPRESENTATION DATED 14.07.2016 SUBMITTED BY 1ST PETITIONER. EXHIBIT P12 TRUE COPY OF REPRESENTATION DATED 14.07.2016 SUBMITTED BY 2ND PETITIONER. EXHIBIT P13 TRUE COPY OF REPRESENTATION DATED 18.07.2016 SUBMITTED BY 3RD PETITIONER. EXHIBIT P14 TRUE COPY OF REPRESENTATION DATED 18.07.2016 SUBMITTED BY 4TH TRUE COPY OF REPRESENTATION DATED PETITIONER. EXHIBIT P15 TRUE COPY OF REPRESENTATION DATED 29.07.2016 SUBMITTED BY 5TH PETITIONER. EXHIBIT P16 TRUE COPY OF REPRESENTATION DATED 18.07.2016

SUBMITTED BY 6TH PETITIONER. -: 6 :- EXHIBIT P17 TRUE COPY OF REPRESENTATION DATED 18.07.2016 SUBMITTED BY 7TH PETITIONER. EXHIBIT P18 TRUE COPY OF REPRESENTATION DATED 18.07.2016 SUBMITTED BY 8TH PETITIONER. EXHIBIT P19 TRUE COPY OF JUDGMENT DATED 9.02.2015 IN WP(C) NO.7832/2014. EXHIBIT P20 TRUE COPY OF JUDGMENT DATED 26.07.2017 IN WA NO.2592/2017. EXHIBIT P21 TRUE COPY OF JUDGMENT DATED 04.11.2016 IN WP(C) NO.35449/2016 (E). EXHIBIT P22 TRUE COPY OF HEARING NOTES SUBMITTED BY FIRST PETITIONER. EXHIBIT P23 TRUE COPY OF ORDER NO.1517/2017 G.EDN. DATED 24.05.2017.

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