

Julia Jacob vs State of Kerala

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Court : Kerala

Decided On : Mar-08-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/7964/2023

Appellant : Julia Jacob

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 8TH DAY OF MARCH 2023 / 17TH PHALGUNA,
1944 WP(C) NO. 7964 OF 2023 PETITIONER/S: JULIA JACOB AGED
38 YEARS ARACKAL HOUSE COLONY PADI, ALUVA (UPSA, ST.
MARY'S U.P.S , NARAKKAL ERNAKULAM-682505), PIN - 683112 BY
ADVS. T.T.MUHAMOOD V.E.ABDUL GAFOOR A.MOHAMMED SAVAD
NAZEER HUZAIN.H RESPONDENT/S:

1 STATE OF KERALA REP. BY ITS SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE

DIRECTOR OF GENERAL EDUCATION DIRECTORATE OF GENERAL
EDUCATION JAGATHY, THIRUVANANTHAPURAM, PIN - 695014 3
THE DEPUTY DIRECTOR OF EDUCATION OFFICE OF THE DDE,
ERNAKULAM, PIN - 680003 4 THE DISTRICT EDUCATIONAL
OFFICER OFFICE OF THE DEO, ERNAKULAM, PIN - 680003 5 THE
ASSISTANT EDUCATIONAL OFFICER OFFICE OF THE AEO, VYPIN,
EDAVANAKKAD ERNAKULAM, PIN - 6 THE MANAGER ST. MARY'S
U.P.S , NARAKKAL ERNAKULAM, PIN - 682505

OTHER PRESENT: SMT.SURYA BINOY, SR.GP THIS WRIT PETITION
(CIVIL) HAVING COME UP FOR ADMISSION ON 08.03.2023, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).No.7964 of 2023
----- Dated this the 08th day of March,
2023

JUDGMENT

The above writ petition is filed with the following prayers: i) Issue a writ of certiorari or any other appropriate order or direction quashing Exhibit P12. ii) A writ of certiorari or any other appropriate Writ order or direction quashing Ext:P2 and P3 orders iii) Issue a writ of mandamus or any other appropriate writ

order or direction, directing the respondents 1 to 5 to

approve the appointment of the petitioner as UPSA w.e.f 18.12.2006 and grant all consequential benefits. iv. Issue a writ of mandamus or any other appropriate writ,

order or direction, directing the respondents 1 to 5 to draw

and disburse the monetary benefits due to the petitioner, approving her appointment from the date of appointment.

v. A writ of mandamus or any other appropriate Writ order

or direction, directing the respondents 1 to 5 to extend the benefit of protection and other benefits provided in Ext:P14 and P15 GO to the petitioner. And Pass such other order or direction which this Hon'ble Court may deem fit and proper to grant in the circumstances of the case.(SIC)

2. The petitioner was appointed as UPSA in St.

Mary's U.P. School, Njarackal w.e.f 18.12.2006, against the vacancy which arose consequent to the promotion of Sister Ancy as HSA(PS) to Little Flower High School Njarackal. St.Mary's UP School, Njarackal and Little Flower High School Njarackal are under the same management. It the case of the petitioner that, though the manager submitted proposal for approval, the same was rejected by the 5 th respondent as per Ext. P2, stating that the appointment of Sister Ancy as HSA has not been approved and hence the vacancy has not been established to accommodate the petitioner. The appeal and revision petitions preferred were rejected, stating the very same reasons. Aggrieved by the order of rejection, a revision petition was filed before the 1st respondent. The 1st respondent also dismissed the revision as per Ext.P12 Government

order stating that there is no vacancy to accommodate

the petitioner w.e.f. 18.12.2006. However, according to the petitioner, the Government, by Ext.P13 order, directed to approve the promotion of Sister Ancy as HSA (PS) w.e.f. 18.12.2006. As the promotion of Sister Ancy is ordered to be approved w.e.f 18-12-2006, the vacancy have been occurred in St. Mary's UP School Njarakkal to accommodate the petitioner, is the submission. Hence, in the light of a subsequent event, Ext.P12 may be set aside and there may be a direction to consider the revision afresh in the light of Ext.P13.

3. Heard the counsel appearing for the petitioner and the Government pleader.

4. The counsel for the petitioner submitted that,

no notice to the 6th respondent is necessary at this stage, because the 6th respondent is only a formal party. If the 6th respondent is aggrieved by any of the directions issued by this court, 6th respondent can file a review petition before this court, if necessary.

5. The limited prayer of the petitioner is to

reconsider the revision submitted by the petitioner before the 1st respondent in the light of Ext.P13. Admittedly Ext.P13 is an order passed subsequent to Ext.P12. If that is the case, according to me, the Government can reconsider the revision in the light of Ext.P13. Therefore this writ petition is disposed of with following directions:-

1. Ext.P12 is set aside.

2. The 1st respondent is directed to reconsider

the revision submitted by the petitioner in the light of Ext.P13 and pass appropriate orders in it, as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

3. Before passing final orders, the 1 st respondent will give an opportunity of hearing to the petitioner, 6th respondent and other affected parties, if any.

4. Petitioner will produce a certified copy of this

judgment and a copy of this writ petition

before the 1st respondent for compliance. Sd/- P.V.KUNHIKRISHNAN SM JUDGE
APPENDIX OF WP(C) 7964/2023 PETITIONER EXHIBITS Exhibit P1 TRUE
COPY OF ORDER OF APPOINTMENT DATED 18.12.2006 ISSUED BY THE 6TH
RESPONDENT. Exhibit P2 TRUE COPY OF ORDER NO. B-6022/2006/K.DIS
DATED 29.03.2007 ISSUED BY THE 5TH RESPONDENT . Exhibit P3 TRUE
COPY OF ORDER NO. F 5/25460/17/DPI/K.DIS DATED 14.01.2019 ISSUED BY
THE 2ND RESPONDENT. Exhibit P4 TRUE COPY OF STAFF-FIXATION
ORDER NO. D.DIS.B3-5994/2006 DATED 30.11.2006 ISSUED BY THE 4TH

RESPONDENT. Exhibit P5 TRUE COPY OF ORDER NO. D.DIS-B3-13826/2006 DATED 12.06.2007 ISSUED BY THE 4TH RESPONDENT. (ALONG WITH TYPED COPY) Exhibit P6 TRUE COPY OF ET4/72346/2008/DPI/D.DIS DATED 19.12.2008. Exhibit P7 TRUE COPY OF GO(P) NO. 10/10/G.EDN DATED 12.01.2010. Exhibit P8 TRUE COPY OF REVISION PETITION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, DATED 12-06-2020 Exhibit P9 TRUE COPY OF THE JUDGMENT DATED 30-11-2021 IN WP NO. 27038/2021 PASSED BY THIS HON'BLE COURT Exhibit P10 TRUE COPY OF THE JUDGMENT DATED 15-12-2021 IN WP NO. 28914/2021 Exhibit P11 TRUE COPY OF THE HEARING NOTE SUBMITTED FOR HEARING DATED 18-03-2022 SUBMITTED FOR AND ON BEHALF OF THE PETITIONER Exhibit P12 TRUE COPY OF GO(RT) NO. 3224/2022/G.EDN DATED 27-05-2022 Exhibit P13 TRUE COPY OF GO(RT) NO. 8/2023/G.EDN DATED 04-01-2023 Exhibit P14 TRUE COPY OF THE GO (P) NO. 199/11/G.EDN DATED 01.10.2011 Exhibit P15 TRUE COPY OF GO(P) NO. 29/2016/G.EDN DATED 29.01.2016 Exhibit P16 TRUE COPY OF THE JUDGMENT DATED 29.03.2021 IN WP 27009/2017 RESPONDENTS EXHIBITS : NIL //TRUE COPY// PA TO JUDGE

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