

**The Manager, vs Assistant Educational Officer,**

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**SooperKanoon Citation :** [sooperkanoon.com/1405735](https://sooperkanoon.com/1405735)

**Court :** Kerala

**Decided On :** Feb-01-2023

**Judge :** Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No. :** WP(C)/39537/2022

**Appellant :** The Manager,

**Respondent :** Assistant Educational Officer,

**Judgement :**

WP(C) NO. 39537 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN  
WEDNESDAY, THE 1ST DAY OF FEBRUARY 2023 / 12TH MAGHA,  
1944 WP(C) NO. 39537 OF 2022

PETITIONER/S: THE MANAGER, KARUNARAM A.U.P.SCHOOL,  
NANMINDA, KOZHIKODE, PIN - 673613. BY ADVS. M.R.SABU  
LAKSHMI RAMADAS RESPONDENT/S: 1 ASSISTANT EDUCATIONAL  
OFFICER, BALUSSERY, KOZHIKODE , PIN-673 612. 2 T.K.  
SANTHOSH KUMAR, HEADMASTER, KARUNARAM A.U.P.SCHOOL,

NANMINDA, KOZHIKODE- 673613. BY ADV APARNA RAJAN, SMT.SURYA BINOY,SR.GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 39537 OF 2022 2

P.V.KUNHIKRISHNAN, J ----- W.P.(C) No. 39537 of 2022 ----- Dated this the 1st day of February, 2023

## **JUDGMENT**

The above writ petition is filed with following prayers :

(i) call for the records leading to Ext.P7 to the extent it

proposes to consider the proposal for approval of appointment as Headmaster along with the request for action against the former Headmaster for recovery of amount based on the penalty inflicted on him and quash the same by issue of certiorari;

(ii) issue a writ in the nature of mandamus commanding the

1st respondent AEO to take a decision on the proposal for approval of appointment of 2nd respondent in the retirement vacancy of the incumbent and also to approve the appointment effective from 01.02.2022 onwards;

(iii) issue any other such writ, order or direction as this Hon'ble Court may deem fit and necessary in order to meet the ends of justice in the facts and circumstances of the instant case and

(iv) Award the costs of this case to the petitioner and

(v) Petitioner also prays that this Hon'ble Court may be pleased to dispense with the translation of the document produced in the vernacular language. [SIC] WP(C) NO. 39537 OF 2022 3

2. The petitioner is the Manager of Karunaram AUP

School which is an aided UP School. In the school, the post of Headmaster fell vacant with effect from 01.02.2022 on the retirement of the incumbent. According to the petitioner, the senior most qualified teacher was promoted as Headmaster. A proposal for approval of the appointment as Headmaster was forwarded to the 1st respondent. It is the case of the petitioner that the 1st respondent instead of taking a decision on the proposal for approval of appointment, now issued a notice for hearing as evident by Ext.P7 in which it is stated that the disciplinary proceedings against former Headmaster is to be decided. Aggrieved by Ext.P7, this writ petition is filed.

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. The counsel for the petitioner submitted that the 1st

respondent ought to have considered the issue of approval and the punishment to the former Headmaster separately. The counsel submitted that as per Ext.P7, the 1st respondent is going to decide both the issue together. The counsel submitted that WP(C) NO. 39537 OF 2022 4 unless the appointment of the 2nd respondent is approved, there will be problem for the smooth functioning of the school. The Government Pleader on the other hand, submitted that when the hearing was conducted based on Ext.P7, the petitioner- Manager retracted from the stand against the former Headmaster. The Government Pleader submitted that the 2nd respondent is appointed as Headmaster in the leave vacancy of the former Headmaster.

5. This Court considered the contentions of the

petitioner and the respondents. After hearing both sides, I am of the opinion that the question of approval of the appointment of the 2nd respondent is to be considered separately. The 1st respondent is free to take decision as far as the disciplinary proceedings against the former Headmaster in accordance to law. But the 1st respondent has to decide the proposal for approval of the appointment of

the 2nd respondent immediately. Therefore, this writ petition is disposed of with the following directions : 1) There will be a direction to the 1st respondent to decide on the proposal for approval of the 2nd respondent as WP(C) NO. 39537 OF 2022 5 Headmaster as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this

## **judgment.**

2) The petitioner will produce a certified copy of this

## **judgment along with a copy of this writ petition before the**

1st respondent for compliance. Sd/- P.V.KUNHIKRISHNAN JUDGE SKS WP(C) NO. 39537 OF 2022 6 APPENDIX OF WP(C) 39537/2022 PETITIONER EXHIBITS Exhibit P1 RUE COPY OF THE ORDER OF THE 1ST RESPONDENT NO.F/3616/2021/ DATED 08.11.2021 Exhibit P2 RUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE PETITIONER DATED 01.02.2022 Exhibit P3 TRUE COPY OF THE ON-LINE APPLICATION FOR APPROVAL OF APPOINTMENT DATED NIL Exhibit P4 TRUE COPY OF THE ORDER ISSUED BY THE PETITIONER DATED 20.07.2022 Exhibit P5 TRUE COPY OF THE COMMUNICATION OF THE MANAGER TO THE 1ST RESPONDENT DATED 23.07.2022 Exhibit P6 TRUE COPY OF THE NOTICE ISSUED BY THE MANAGER DATED 21.05.2022 Exhibit P7 TRUE COPY OF THE NOTICE ISSUED BY THE AEO DATED 11.11.2022 NO.F/2422/2022 Exhibit P8 TRUE COPY OF THE HEARING NOTE SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 21.11.2022.

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