

Sheeba Thomas vs the State of Kerala

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Court : Kerala

Decided On : Dec-23-2022

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/1652/2021

Appellant : Sheeba Thomas

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V FRIDAY, THE 23RD DAY OF DECEMBER 2022 / 2ND POUSHA, 1944 WP(C) NO. 1652 OF 2021 PETITIONER/S: SHEEBA THOMAS AGED 40 YEARS WIFE OF BENNY KURIAKOSE, PHYSICAL EDUCATION TEACHER, FATHIMA MATHA GHSS, KOOMPANPARA, ADIMALY, IDUKKI DISTRICT-685 561 BY ADVS. V.A.MUHAMMED SRI.M.SAJJAD RESPONDENT/S: 1 THE STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT ANNEXE II, THIRUVANANTHAPURAM-695 001

2 THE DIRECTOR OF GENERAL EDUCATION, JAGATHY,
THIRUVANANTHAPURAM-695 014. 3 THE DEPUTY DIRECTOR OF
EDUCATION, IDUKKI AT THODUPUZHA-685 584 4 THE DISTRICT
EDUCATIONAL OFFICER, THODUPUZHA, IDUKKI DISTRICT-685 584
5 THE MANAGER, FATHIMA MATHA GHSS, KOOMPANPARA,
ADIMALY, IDUKKI DISTRICT-685 561 WP(C) NO. 1652 OF 2021 2 6
THE HEADMASTER, FATHIMA MATHA GHSS, KOOMPANPARA,
ADIMALY, IDUKKI DISTRICT-685 561

7 SRI. ANIL SEBASTIAN, PHYSICAL EDUCATION TEACHER,
FATHIMA MATHA GHSS, KOOMPANPARA, ADIMALY, IDUKKI
DISTRICT-685 561 BY ADVS. GOVERNMENT PLEADER SANTHOSH
MATHEW ARUN THOMAS SMT. MARY BEENA JOSEPH, SR. GP THIS
WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23.12.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: WP(C) NO. 1652 OF 2021 3

JUDGMENT

The petitioner states that she was appointed as Physical Education Teacher at the Fathima Matha GHSS, Koompanpara with effect from 01.06.2017 in the UP Section. The grievance of the petitioner concerns the refusal on the part of the respondents in granting approval of appointment of the petitioner on the ground that the manager has not set apart one post in the school for a protected teacher. It is in the said circumstances that this writ petition is filed seeking to quash Exts.P4, P5, P7 and P13 and for a further direction to the 4th respondent to grant approval to the appointment of the petitioner covered by Ext.P1 in the light of Ext.P11 declaration.

2. The learned counsel appearing for the petitioner, by referring to

Ext.P16, contends that the manager has set apart a vacancy of a music teacher in the High School section for the academic year 2017-18 in terms of Rule 7(3) of Chapter XXI of the KER. Learned counsel also refers to Ext.P17 request made by the manager. According to the learned counsel, the vacancy is still kept open for

accommodating a protected teacher and reference is made to Ext.P18. The learned counsel submits directions be WP(C) NO. 1652 OF 2021 4 issued to the 1st respondent to consider Ext.P15 revision petition in the light of Exts.P16 and P17, and take a decision within a timeframe with due notice.

3. Heard the learned Government Pleader who submits that in the light of Exts.P16 and P17, Ext.P15 revision petition can be taken up and considered.

4. In view of the limited nature of the relief sought, no prejudice would be caused to respondents 5 to 7 if notice is dispensed with.

5. After having carefully evaluated the contentions raised in this writ

petition, the submissions made across the Bar, and the facts and circumstances, I am of the view that this writ petition can be disposed of at the admission stage itself by issuing the following directions: a) There will be a direction to the 1st respondent to take up, consider and pass appropriate orders on Ext.P15, in the light of Exts.P16 and P17, after affording an opportunity of being heard, either physically or virtually, to the petitioner herein or her authorized representative and respondents 5 to 7. WP(C) NO. 1652 OF 2021 5 b) Orders, as directed above, shall be passed expeditiously, in any event, within four months from the date of production of a copy of this judgment. c) It would be open to the petitioner to produce a

copy of the writ petition along with the judgment

before the concerned respondent for further action. This writ petition is disposed of. Sd/- RAJA VIJAYARAGHAVAN V JUDGE NS WP(C) NO. 1652 OF 2021 6 APPENDIX OF WP(C) 1652/2021 PETITIONER(S) EXHIBITS : EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 01.06.2017. EXHIBIT P2 TRUE COPY OF THE ORDER NO. B5/5532/2017/K.DIS DATED 28.09.2017 ISSUED BY THE DEO, THODUPUZHA. EXHIBIT P3 TRUE COPY OF THE APPEAL DATED 30.10.2017 FILED BY THE MANAGER BEFORE THE DDE, THODUPUZHA. EXHIBIT P4 TRUE COPY OF THE ORDER NO. B4/18290/17/L.DIS DATED 24.03.2018 OF THE DDE, IDUKKI. EXHIBIT P5

TRUE COPY OF THE ORDER NO. E.C.(2)/80075/2018/DPI DATED 24.07.2019
ISSUED BY THE DIRECTOR. EXHIBIT P6 TRUE COPY OF THE REVISION
PETITION SUBMITTED

BY THE PETITIONER AND THE 7TH RESPONDENT JOINTLY ALONG WITH
COVERING LETTER NO. GOVERNMENT BY THE MANAGER

EXHIBIT P7 TRUE COPY OF THE G.O(RT) NO. 1878/2020/G.EDN DATED
09.06.2020. EXHIBIT P8 TRUE COPY OF THE APPOINTMENT ORDER DATED
01.06.2015 OF THE 7TH RESPONDENT. EXHIBIT P9 TRUE COPY OF THE
STAFF LIST OF THE SCHOOL AS ON 01.06.2017 EXHIBIT P10 TRUE COPY
OF THE LETTER NO. 151/20-21 DATED 22.10.2020 OF THE MANAGER
ADDRESSING THE DEO, WP(C) NO. 1652 OF 2021 7 THODUPUZHA. EXHIBIT
P11 TRUE COPY OF THE DECLARATION OF THE MANAGER DATED
22.10.2020. EXHIBIT P12 TRUE COPY OF THE LETTER NO. B5/9557/2019
DATED 12.11.2020 OF THE DDE, IDUKKI ADDRESSING THE DEO,
THODUPUZHA. EXHIBIT P13 TRUE COPY OF THE LETTER NO.
B5/19497/20/L.DIS DATED 02.12.2020 OF THE DEO, ADDRESSING THE
MANAGER. EXHIBIT P14 TRUE COPY OF THE GOVERNMENT CIRCULAR NO.
J2/21/2020 DATED 09.10.2020. EXHIBIT P15 TRUE COPY OF THE REVISION
PETITION DATED 23.12.2020 FILED BY THE PETITIONER BEFORE THE
GOVERNMENT. EXHIBIT P16 TRUE COPY OF THE AFFIDAVIT FILED BY THE
MANAGER DATED 22.10.2020 EXHIBIT P17 TRUE COPY OF THE REQUEST
MADE BY THE MANAGER VIDE LETTER NO. 201/21-22 DATED 16.02.2022
EXHIBIT P18 TRUE COPY OF THE STAFF LIST AS ON 01.06.2017 OF HS, LP
AND UP SECTION EXHIBIT P19 TRUE COPY OF THE G.O(RT) NO.
1332/2020/G.EDN. DATED 17.03.2020 EXHIBIT P20 TRUE COPY OF THE
G.O(RT) NO. 1718/2021/G.EDN. DATED 18.02.2021 EXHIBIT P21 TRUE COPY
OF THE G.O(RT) NO. 3080/2021/G.EDN. DATED 21.06.2021 RESPONDENT(S)
EXHIBITS : NIL