

**Moosa V vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1806166](https://sooperkanoon.com/1806166)

**Court :** Kerala

**Decided On :** Nov-20-2020

**Judge :** Honourable Mrs. Justice Anu Sivaraman

**Appeal No. :** WP(C)/20118/2020

**Appellant :** Moosa V

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN  
FRIDAY, THE 20TH DAY OF NOVEMBER 2020 / 29TH KARTHIKA,  
1942 PETITIONERS :- 1 MOOSA.V, AGED 40 YEARS URDU  
TEACHER, PUTHURMADAM AMUP SCHOOL, PANTHEERANKAVU, 2  
SHAHUL HAMEED. M.P., UPSA, PUTHURMADAM AMUP SCHOOL,  
PANTHEERANKAVU, CALICUT DISTRICT - 673 019. BY ADV.  
SRI.POOVAMULLE PARAMBIL ABDULKAREEM RESPONDENTS :-

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO  
GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2 DIRECTOR OF THE GENERAL EDUCATION, OFFICE OF GENERAL EDUCATION, THIRUVANANTHAPURAM - 695 001. 3 DEPUTY DIRECTOR OF EDUCATION, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, KOZHIKODE - 673 004. 4 DISTRICT EDUCATIONAL OFFICER, KOZHIKODE - 673 001. 5 ASSISTANT EDUCATIONAL OFFICER, KOZHIKODE RURAL, PUTHIYARA P.O. CALICUT - 673 004. 6 MANAGER, PUTHURMADAM AMUP SCHOOL, PANTHEERANKAVU, 7 HEADMASTER, PUTHURMADAM AMUP SCHOOL, PATHEERANKAVU, BY SMT.G RENJITHA, GP THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

20.11.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -: 2 :-

## **JUDGMENT**

Dated this the 20th day of November 2020 The writ petition is filed with the following prayers:- i) To issue a writ of certiorari or other appropriate writ, or

### **order to quash Exhibits P10 & P11 orders dated 19/02/2020**

and 19/06/2020 issued by the 1st respondent and to the extent of denial of approval in Exts.P1 and P3 as they are illegal and unjustifiable. ii) To issue a writ of mandamus or any other appropriate writ or order or direction directing the 5th respondent to approve the appointment of the 1 st petitioner as Urdu (Part-Time) from 30/06/2006 to 31/05/2011 and from 02/07/2007 to consequential monetary benefits due to them forthwith. iii) To declare that the petitioners are entitled to get approval to their respective posts in the light of Ext.P6 judgment.

2. Heard learned counsel for the petitioners and learned Government Pleader.

3. It is submitted by the petitioners that their claim for

approval was rejected on the ground that the appointment of the petitioners is not liable to be approved since the Manager had not executed a bond in terms of G.O.(P).No.10/10/G.Edn. dated 12.1.2010. It is contended that this Court has considered the issue and has directed that in cases where Manager had not executed a bond in terms of G.O.(P) No.10/10, it is to be deemed that such bond has duly executed by the Manager and the appointments of

-: 3 :- persons appointed against regular vacancies are to be approved with effect from the initial date of their appointment itself. It is further submitted that this view has been reiterated and affirmed by a Division Bench of this Court as well.

4. I have considered the contentions advanced. The 1 st

petitioner was admittedly appointed as Urdu Teacher (Part Time) in the Puthurmadam AMUP School with effect from 30.6.2006 and the 2nd petitioner was appointed as UPSA in the same school with effect from 2.7.2007. There is no reason stated for refusal to approve their appointment from the initial date of their appointment except that the Manager has not executed a bond as provided in G.O.(P) No.10/10. This Court has, on more occasions than one, held that teachers appointed against regular vacancies cannot be denied approval only because the Manager did not execute a bond as provided in the G.O(P) No.10/10. I am in respectful agreement with the judgment of the learned Single Judge relied on by the learned counsel for the petitioners. The Division Bench of this Court has in W.A. No.2592/2015 held that refusal on the part of the Manager to execute a bond cannot be a reason for denying approval and salary to the teachers appointed against regular sanctioned vacancies. -: 4 :- In the above view of the matter, Exts.P10 and P11 are

set aside. There will be a direction to the respondents to approve the appointment of the petitioners with effect from 30.6.2006 and 2.7.2007 respectively, deeming that the Manager has executed the bond in terms of G.O.(P).No.10/10/G.Edn. dated 12.1.2010 and to grant them all consequential benefits. Orders in this regard shall be passed within a period of two months from the date of receipt of a copy of this judgment. Monetary benefits shall be calculated and disbursed to the petitioners within a period of two months thereafter.

The writ petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE  
Jvt/1.12.2020 -: 5 :- APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER DATED EXHIBIT P2 TRUE COPY OF THE PROCEEDINGS NO. KDIS. 1806/06 DATED 25/06/2008 ISSUED BY THE 5TH RESPONDENT. EXHIBIT P3 TRUE COPY OF THE APPOINTMENT ORDER DATED THE 2ND PETITIONER. EXHIBIT P4 TRUE COPY OF THE STAFF FIXATION ORDER DATED 30.09.2006 FOR THE ACADEMIC YEAR 2006-07 ISSUED BY THE 5TH RESPONDENT. EXHIBIT P5 TRUE COPY OF THE STAFF FIXATION ORDER DATED BY THE 5TH RESPONDENT. EXHIBIT P6 TRUE COPY OF THE JUDGMENT DATED 26/7/2017 IN W.A. NO. 2592/2015 PASSED BY THIS HONBLE COURT. EXHIBIT P7 TRUE COPY OF THE REVISION PETITIONER DATED BEFORE THE 1ST RESPONDENT. EXHIBIT P8 TRUE COPY OF THE REVISION PETITIONERS DATED BEFORE THE 1ST RESPONDENT. EXHIBIT P9 TRUE COPY OF THE JUDGMENT DATED 30/09/2019 IN WPC NO. 25946/2019 ISSUED BY THIS HONBLE COURT. EXHIBIT P10 TRUE COPY OF THE G.O.(RT) NO. 881/2020/G.EDN DATED 19/02/2020 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P11 TRUE COPY OF THE G.O.(RT) NO. 2090/2020.G.EDN DATED 19/06/2020 ISSUED BY THE 1ST RESPONDENT.

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