

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE P.S.GOPINATHAN

WEDNESDAY, THE 30TH JUNE 2010 / 9TH ASHADHA 1932

WA.No. 1110 of 2010)

AGAINST THE JUDGEMENT/ORDER IN WPC.9652/2010 Dated 05/04/2010

APPELLANT(S):

MANAGER, NADUVANNUR SOUTH AMUP SCHOOL,
NADUVANNUR SOUTH, NADUVANNUR P.O., KOZHIKODE DIST.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENT(S):

1. C. BEENA, CHENGOTTIL HOUSE, KOYAKKAD, ORAVIL P.O.,
KOZHIKODE DISTRICT.
2. STATE OF KERALA, REP. BY CHIEF SECRETARY, GOVERNMENT OF
KERALA, TRIVANDRUM.
3. ~~THE ASST. EDUCATIONAL OFFICER, PERAMBRA NOW FUNCTIONING
AT THAMARASSERY, KOYILANDY, KOZHIKODE DIST.~~
4. THE DISTRICT EDUCATIONAL OFFICER, VADAKARA, KOZHIKODE DIST.
5. THE HEAMASTER, NADUVANNUR SOUTH AMUP SCHOOL,
NADUVANNUR SOUTH, NADUVANNUR P.O.,
KOYILANDY, KOZHIKODE DIST.

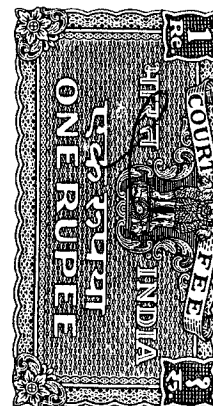
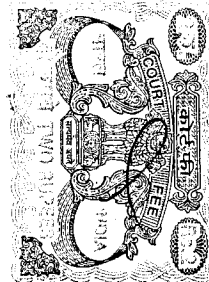
R1 BY ADV. SMT. SUMATHI DANDAPANI
R2 TO R4 BY G.P. SMT. T.B. RAMANI.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 30/06/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

RAMACHANDRAN NAIR, J.

HEARD COUNSEL FOR THE APPELLANT AND SENIOR COUNSEL, SMT. SUMATHI
DNDAPANI, APPEARING FOR THE FIRST RESPONDENT. THE FIRST RESPONDENT'S
ENTITLEMENT FOR APPOINTMENT TO THE POST IN WHICH ANOTHER PERSON WAS
APPOINTED WAS DECLARED BY THIS COURT IN EARLIER FOUND OF LITIGATION.



APPELLANT'S COUNSEL SUBMITTED THAT SLP IS FILED AGAINST THE IN THE SUPREME COURT AND IF APPEAL IS ALLOWED BY THE SUPREME COURT FIRST RESPONDENT WILL NOT BE ENTITLED TO GET APPOINTMENT. THE LEARNED SINGLE JUDGE IN THE IMPUGNED ORDER DIRECTED APPOINTMENT OF THE FIRST RESPONDENT FROM 2004-05 ON A REGULAR BASIS, BASED ON EXT.P6 JUDGMENT OF DIVISION BENCH IN THE EARLIER ROUND OF LITIGATION, PROBABLY BECAUSE THE LEARNED SINGLE JUDGE WAS NOT AWARE OF THE APPEAL FILED BY THE MANAGER BEFORE THE SUPREME COURT. IF APPEAL IS FILED BEFORE THE SUPREME COURT, CERTAINLY IMPLEMENTATION OF THE JUDGMENT SHOULD BE SUBJECT TO RESULT OF APPEAL.

2. IN THE CIRCUMSTANCES, WE DISPOSE OF THE APPEAL WITH DIRECTION TO THE APPELLANT TO APPOINT THE FIRST RESPONDENT SUBJECT TO JUDGMENT OF THE SUPREME COURT. SINCE SCHOOL HAS COMMENCED FUNCTIONING, APPELLANT WILL FORTHWITH ISSUE APPOINTMENT ORDER TO THE FIRST RESPONDENT. HOWEVER, RETROSPECTIVE BENEFIT AND OTHER MATTERS CANNOT BE GRANTED AS AN INTERIM MEASURE WHICH CAN BE CONSIDERED IN FINAL JUDGMENT OR AFTER DISPOSAL OF SLP.

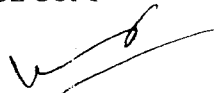
W.A. IS DISPOSED OF AS ABOVE LEAVING FREEDOM TO THE APPELLANT AND FIRST RESPONDENT TO RAISE ALL CONTENTIONS IN THE WPC FOR DECISION BY THE LEARNED SINGLE JUDGE.

ISSUE PHOTOCOPY TODAY ITSELF.

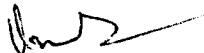
30.6.2010

SD/-C.N.RAMACHANDRAN NAIR, JUDGE.
SD/- P.S. GOPINATHAN, JUDGE.

TRUE COPY



P.S. TO JUDGE.



HIGH COURT OF KERALA
AT ERNAKULAM

Year and Number Of Suit : WA/1110/2010
or other proceedings

Name Of Applicant :
Advocate MILLU DANDAPANI

Application Number : 12200/2010

Date Of Application : 01-JUL-10


Date Of Calling for Stamp : 02-JUL-10

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Examiner