

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).4287/2005  
(From the judgement and order dated 04/11/2004 in WA No. 3485/2001 of  
The HIGH COURT OF KERALA AT ERNAKULAM)

ARIFA M. Petitioner(s)

VERSUS

THE STATE OF KERALA & ORS. Respondent(s)  
(With prayer for interim relief and office report )  
(For final disposal)

Date: 01/09/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. K. Rajeev,Adv.

For Respondent(s) Mr. G. Prakash,Adv.

UPON hearing counsel the Court made the following  
ORDER

It is accepted at the Bar that if the institution- 'Muslim Girls  
Upper Primary School' is not a minority institution, the respondent No.5 will  
have a preferential claim on the post.

It is also not in dispute that the question as to whether the said  
institution is a minority institution or not was agitated by the respondent No.6 as  
also by the petitioner herein at all stages.

By reason of the impugned judgment, a Division Bench of the  
High Court dismissed the Writ appeal filed by the Manager of the Muslim Girls  
Upper Primary School arising out of the judgment and order passed by the  
learned Single Judge of the High Court stating:

" ...In the facts and circumstances of the case, we are of the  
view, Government is justified in rejecting the claim that the school is not entitled  
to the benefit of Article 30(1) of the

-1-

Constitution. Consequently, we reject the claim of Arifa for the post of  
headmistress for the period from 6.1.1998 to 30.4.1998 and on subsequent  
periods. It is pointed out that Abraham's appointment was also not approved and  
the salary was not given to him. If that be the case, we are of the view, Sudhama  
is also entitled to be appointed as headmistress and she is entitled to get salary  
for the period from 6.1.1998 onwards if it had not been paid to any other  
person. We, therefore, uphold Ext.P.10 order passed by the Government. We are  
of the view the petitioner's school is not entitled to protection under Article 30(1)  
of the Constitution of India on the basis of the materials already on record.  
However, this will not prevent the petitioner to move the Government if they got  
sufficient materials to establish the claim with which we express no opinion. The  
Writ appeal is disposed of as above."

The petitioner, admittedly, did not prefer any appeal thereagainst.  
He has, therefore, accepted the judgment of the learned Single Judge.

The special leave petition at the instance of the petitioner is, thus,  
not maintainable. It is dismissed accordingly. However, we make it clear that we  
have not gone into the merits of the matter.

A.R.-cum -P.S.

Court Master