

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 7TH DAY OF FEBRUARY 2023 / 18TH MAGHA, 1944

WP(C) NO. 21986 OF 2013

PETITIONER:

DEPUTY DIRECTOR OF EDUCATION
IDUKKI, THODUPUZHA.

BY SRI. TEK CHAND V. SENIOR GOVERNMENT PLEADER

RESPONDENTS :

- 1 JOSEPH A.T.
EDAPPATTUKAVUNGAL HOUSE,
MARIKA P. O., PURAPPUZHA VILLAGE,
MUVATTUPUZHA - 686 662.
- 2 THE UPA LOK AYUKTA
C/O.SPECIAL ATTORNEY, LOK AYUKTA,
THIRUVANANTHAPURAM - 695 001. (*CORRECTED)

(*THE ADDRESS OF R2 IS CORRECTED AS

'THE KERALA LOK AYUKTA,
REPRESENTED BY REGISTRAR,
VIKAS BHAVAN, LEGISLATURE COMPLEX,
THIRUVANANTHAPURAM'.

AS PER ORDER DATED 26.09.2013 IN IA 12292/2013).

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of February, 2023

S.MANIKUMAR, CJ.

Short facts leading to the filing of the complaint are as under:-

The complainant was working as Physical Education Teacher in St.Jeroms Higher Secondary School, Vellayamkudy, Kattappana and St.Sebastian's High School, Vazhithala in Idukki District, for 27 years. He retired from service on 31.03.2003. While he was working in St.Sebastian's High School, Vazhithala, he was appointed as teacher in charge for book manufacturing under the work experience project for students for the period 1999 to 2001. As per order dated 16.02.2009, the Deputy Director of Education fixed an amount of Rs.49,322/- as liability on the complainant towards loss sustained on account of the unsold books. Aggrieved, the complaint is filed.

2. After considering the rival submissions, by order dated 14.05.2013 in complaint No.1387 of 2012, Lok Ayukta held that fixing of liability on the complainant is highly irregular and the

complainant cannot be held liable for payment of the amount and directed to disburse the pensionary benefits to the complainant.

3. Being aggrieved, instant writ petition is filed.

4. Though Mr. V. Tekchand, learned Senior Government Pleader, made submissions on the grounds assailing the correctness of the order, on similar facts and circumstances, this Court, by judgment in W. P. (C) No. 20825 of 2013 dated 20.06.2022, dismissed the writ petition filed by the Deputy Director of Education, Idukki.

5. Operative portion of the said judgment is reproduced:-

“7. The discussion of facts made above would make it clear that the liability was fixed against the 1st respondent on the basis of the failure on the part of the 1st respondent to sell notebooks that were manufactured in SSHS, Vazhithala and therefore, 35250 number of books remained idle. According to the petitioner 1st respondent and others did not take any initiative for selling the note books. Hence, they were equally liable for the loss sustained to the Government. However, the Upa Lok Ayukta vide its common order dated 14th May, 2013 has held that the Deputy Director of Education, Thodupuzha did not have a case that the Headmaster or the Teacher-in-Charge of the manufacture of note books

refused deliberately to sell the books in spite of the demands for purchase of books from the schools. It was also held that merely for the reason that at the time of inspection, there were notebooks kept in the centres without being sold, it cannot be said that it was due to the fault on the part of the Headmaster or the Teacher in-Charge.

8. Heard learned Senior Government Pleader Sri.Tek Chand for the petitioner, learned counsel Sri.Unnikrishnan V. Alappat for the 1st respondent and perused the pleadings and materials on record.

9. The legality and correctness of the said findings of the Upa Lok Ayukta is under challenge in this writ petition. Having considered the rival submissions, we are of the considered opinion that as observed by the Upa Lok Ayukta, there is no case for the Deputy Director of Education that the 1st respondent and others refused to sell the books or that they did not take any initiative to sell the books deliberately and willfully. Merely because there were no demands for the books, it cannot be said that the 1st respondent was partly liable for the damage suffered on account of note books not being purchased by other schools. That apart it could be seen that when there is no demand made from other schools for purchase of note books, the 1st respondent was not expected to compel them to purchase the books.

10. Above all, it was taking into account the factual situations available on record that the Upa Lok Ayukta has arrived at the findings that the liability fixed on account of the note books

kept idle cannot be sustained. We are of the clear opinion that the Upa Lok Ayukta was right in allowing the complaint and directing disbursement of the pensionary benefits to the 1st respondent. On going through the facts and figures we are convinced that the impugned order was passed after providing full opportunity of participation and hearing to the parties to the complaint and considering the entire material on record. Matters being so we could not locate any jurisdictional error or other legal infirmities justifying us to interfere with the order passed by the Upa Lok Ayukta, exercising the powers of judicial review conferred under Article 226 of the Constitution of India. Moreover, a learned Single Judge of this Court had occasion to consider an order passed by the LokAyukta in the very same fact situation in W.P.(C) No.19175 of 2009 filed by the Deputy Director of Education, Thodupuzha Idukki and it was dismissed as per a judgment dated 16th March, 2020. We are in respectful agreement with the findings rendered by the learned Single Judge in the said writ petition.

Needless to say, writ petition fails, accordingly it is dismissed, and consequently there will be a direction to the petitioner herein or the competent authority to pay all the attendant pensionary benefits to the 1st respondent at the earliest and at any rate within one month from the date of receipt of a copy of the Judgement.”

6. Inasmuch as the decision made in W. P. (C) No. 20825 of 2013 dated 20.06.2022 covers the facts and circumstances of

instant case also, we are inclined to follow the abovesaid judgment, and accordingly, sustain the impugned order.

Consequently, the writ petition is dismissed.

There shall be a direction to the writ petitioner or the competent authority to pay a sum of Rs.49,322/-, as ordered by the Lok Ayukta in the complaint No.1387 of 2012, within one month from the date of receipt of a copy of this judgment.

Sd/-

**S. MANIKUMAR
CHIEF JUSTICE**

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

spc/

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1	PHOTO COPY OF THE COMPLAINT FILED BY THE 1ST RESPONDENT.
EXHIBIT P2	TRUE COPY OF THE ORDER NO.D5/6079/2007 DATED 16.02.2009.
EXHIBIT P3	TRUE COPY OF THE GUIDELINES ISSUED BY THE DIRECTOR OF PUBLIC INSTRUCTION RELATING TO THE MANUFACTURE OF BOOKS UNDER WORK EXPERIENCE SCHEME.
EXHIBIT P4	A PHOTO COPY OF THE ORDER OF LOK AYUKTA IN COMPLAINT NO.1387/12.
EXHIBIT P5	PHOTO COPY OF THE INTERIM ORDER IN W.P[C]NO.5174/2012.

RESPONDENTS EXHIBITS: NIL.