

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT



THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 4TH DAY OF JULY 2022 / 13TH ASHADHA, 1944

WP(C) NO. 20030 OF 2022

PETITIONER:

FAIZAL KULAPPADAM @ FAIZAL N
AGED 34 YEARS, SON OF A NAZIMUDEEN LEBBA,
RESIDING AT PUTHENVEEDU, NEDUMPANA P.O,
KOLLAM, PIN - 691 576.

BY ADV JOMY K. JOSE

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANATHAPURAM, PIN - 695 001.
- 2 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT
GENERAL EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 3 THE DIRECTOR
GENERAL EDUCATION DEPARTMENT,
JAGATHI, THIRUVANANTHAPURAM, PIN - 695 014.

BY ADVS.
SRI.N.MANOJ KUMAR, STATE ATTORNEY
SRI.K.R.RANJITH, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Dated this the 4th day of July, 2022

S.Manikumar, C.J.

In the instant writ petition, the petitioner has sought for the following reliefs:

- “i) Issue a writ of mandamus or any order or appropriate direction to the respondents to implement Ext.P1 government order.
- ii) Direct the respondents to ensure all the schools in Kerala including Government/Aided and unaided (Higher Secondary, Vocational Higher Secondary) to setup complaint boxes as directed in Ext.P1 government order without further delay.”

2. Shorts facts leading to the filing of the writ petition are as hereunder:

2.1. The General Education Department has issued G.O. (P)No.39/2016/G.Edn. dated 11.02.2016 for setting up students complaint boxes in all schools of Kerala. It was on the basis of a request from the child welfare commission, the Government has decided to issue Exhibit P1 Government Order. In the complaint boxes, students can secretly drop in



their complaints/vexations/concerns. It is explained in detail how to deal with a complaint from a student. Due to the lackadaisical approach on the part of the respondents, majority of the schools in Kerala failed to setup complaint boxes. The inertness on the part of the respondents in taking action against the schools which failed to implement the directions contained in Exhibit P1 Government Order is absolutely illegal.

2.2. Aggrieved by the non-implementation of G.O.(P) No.39/2016 G.Edn. dated 11.02.2016 by the respondents, this public interest litigation is filed.

3. On the basis of the instructions, a statement dated 24.06.2022 has been filed on behalf of the Director, General Education Department, respondent No.3, contending that Exhibit P1 has been implemented and subsequently, instructions have been issued.

4. Relevant portions of the statement are reproduced:

“2. The above Writ Petition is filed as Public Interest Litigation alleging non-Implementation of G.O.(P) No.



39/2016/G.Edn. dated 11.02.2016. It is submitted that pursuant to the order of the State Child Welfare Commission dated 20.12.2014, the Department of General Education has issued a Circular No. 2859/G3/15/G.Edn dated 18.03.2015, by which instructions were given to all schools to place drop boxes. Thereafter the Government by G.O.(P) No. 39/2016/G.Edn dated 11.02.2016 (Exhibit P1) issued guidelines regarding the implementation of drop box and for handling the complaints received therein. As per the letter dated 19.04.2017 from the Ministry of Human Resource Development (MHRD) regarding the implementation of online complaint box developed by the National Commission for the Protection of the Rights of the Child, the Director of Public Instructions has issued Circulars on 20.09.2017 and 03.03.2018. The contention of the petitioner that the respondents are inert in implementing the Government Order and the boxes are not available in most of the schools are not correct. The Department is keen to Implement the provisions of the Government Order.

3. It is submitted that in the draft school manual published in May 2022, in Chapter 11 under the 'General Things', the Instructions regarding the drop box has been included. Moreover, after the re-opening of schools, all head of the institutions were reminded of complying to the directions in G.O.(P) No. 39/2016/G.Edn dated 11.02.2016 vide Circular No.M(4)465299/2022/DGE dated 17.06.2022. It is also insisted that, the Educational Officers



should ensure the availability of the complaint boxes during their school visits.

4. It is respectfully submitted that there is no laxity on the part of the respondents in implementing the directions in the G.O.(P) No. 39/2016/G.Edn dated 11.12.2016.”

5. Substantiating the averments, Mr.K.R.Ranjith, learned Government Pleader has also filed a memo dated 01.07.2022, enclosing the copies of the Circular No.G3/2859/2015/G.Edn. dated 18.03.2015, Circular No.M-4/40217/2017/DPI dated 20.09.2017, Circular No.M4/95408/2017/DGE dated 03.03.2018, G.O.(P) No. 39/2016/ G.Edn dated 11.02.2016 and Letter No. M4/465299/2022/DGE dated 17.06.2022 from the Director of General Education.

6. Documents filed along with the memo are reproduced:

GOVERNMENT OF KERALA

GENERAL EDUCATION (G) DEPARTMENT

No. G3/2859/2015/G.Edn

Thiruvananthapuram

Dated 18/03/2015

CIRCULAR

Sub: General Education - Instruction of prevent sexual



offences in schools – Reg.

Ref: Order dated 20/12/2014 of the State Child Protection Commission.

In the context of increasing sexual crimes against children in schools any information regarding the same must be immediately reported to the police. Any failure to report such cases to police in a timely manner is punishable upto 1 year imprisonment and a fine under Protection of Children from sexual offences act 2012 (POCSO Act). The following guidelines are issued for the implementation of POCSO Act in educational institutions.

1. Awareness classes should be organized to create awareness among all children, teachers and other staff in the school about POCSO Act to protect children from sexual crimes. DEO/AEO should conduct awareness classes on POCSO Act in their monthly meetings. For the availability of experts to take classes in this matter contact the District Child Protection Officers (DCPO) in the District under Integrated Child Protection Scheme.
2. Detailed discussions and deliberations on the Act should be made in parent teacher association meetings.
3. All Educational institutions (Aided, Unaided, Primary, Secondary, Higher secondary, Vocational secondary) should keep drop boxes to drop in complaints and suggestions regarding the same.
4. Every day, either the Headmaster or the person assigned by him in the presence of two teachers (One should be a woman) should open and inspect the drop box.
5. If any offence noticed, the matter should be intimated to the nearest police station.
6. Director of Public Instruction, Director of Higher Secondary Education, Director of Vocational Higher Secondary should ensure that all instruction



regarding the same are implemented.

Dr VISWAS METHA
Principal Secretary

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No.M-4/40217/2017/DPI Office of the Director of General
Education, Thiruvananthapuram.
Dated: 20/09/2017
Phone No. 0471-258 0595

CIRCULAR

Sub:- General Education- POCSO Act-National
Commission for the Protection of Child Rights-
Online Complaint Box – Reg.

Ref- 1) Lr. No. F.14-2/2017-EE.8 dated 19/04/2017 from
the Secretary, Union Ministry of Human Resource
Development (MHRD)
2) PC3This office circular of even No. dated
20/07/2017

As per the circular 2 cited above it has been
instructed to prevent sexual abuses against children and
enabling students to register complaint against sexual
offences and take immediate action to set POCSO online
complaint boxes. It has also been instructed that action
taken report be submitted within 30 days. Further
instructions regarding the same is given below.

POCSO box is an online project launched by the
National Commission for Protection of Child Rights
(NCPCR) to protect the rights of children, to report child
abuse in timely manner and to take action against it.



Clicking on the Pocso-e-box button on the website <http://ncpcr.gov.in/index.php> will bring up information about it and the child can register the complaint directly with the help of animation pictures given therein.

In addition to online registration, complaints can also be sent to the National Commission for Protection of Child Rights (NCPCR) 5th Floor, Chandralok Building, 36, Janapath, New Delhi - 110 001.

Sd/-
For Director of General Education

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No. M4/95408/2017/DGE Office of the Director of General Education, Thiruvananthapuram.
Dated: 03/03/2018
E-mail: supdtm.dge@kerala.gov.in

CIRCULAR

Sub: General Education - Installing Drop Box for Children in school – Reg.

Ref: 1. Order No.CRMP No.2423/10/LA2/2015/KeSCPCR dated 26/11/2015 from the Kerala State Commission for Protection of Child Rights.
2. This office Circular No. M4/40217/2017/DPI dated 20/09/2017.

In order to prevent sexual abuse against the child and for the children to register complaints, POCSO online complaint system has been set up on all schools. All the



authorities concerned must ensure its effective functioning.

In addition a help box (complaint box) should be set near the school office so that the children can drop in their complaints without fear.

The Headmaster should form a committee consisting of a teacher, SMC/PTA executive member and the school leader to open and inspect the drop box on every Tuesday and Friday and record the details of the complaint in a register which must be duly signed by the committee members. The key of the drop box should be kept by the Headmaster and the committee members should keep the confidentiality of the complaint.

Action to be taken on complaint should be discussed by the committee immediately. If the complaints are related to sexual harassment, matter should be reported immediately to the police, Childline apart from reporting to the authorities concerned.

Sd/-

For Director of General Education

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GOVERNMENT OF KERALA

Abstract

General Education - Installing for dealing the complaints of School Children (Drop Box) - Guidelines issued.

GENERAL EDUCATION (J) DEPARTMENT

GO(P) No 39/2016 G.Edn. Dtd. Thiruvananthapuram, 11/02/2016



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- Ref:-
1. GO(P) No 100/2011/G Edn. Dated 30/04/2011.
 2. GO(P) No. 192/14 G.Edn dated 20/09/2014.
 3. Circular No. M4/18853/2014/DPI Dtd 18/06/2014.
 4. G.O(P) No. 2859/G3/15/G.Edn. dated 18/03/2015.
 5. Letter No.4700/A3/KeSCPCR dt. 05/01/2016 of Kerala state Commission for Child Protection.

ORDER

Based on the Right to Education Act 2009, the Kerala Right to Education Rules 2011 have been issued vide order referred (1) above vide order (2) the duties of local authorities concerned have also been issued regarding the prevention of sexual offences in schools, vide reference(3) cited above. The Child Rights Commission has above also asked Government to bring uniform provisions regarding this subject.

2. The Government examined this matter in detail. The following guidelines are issued regarding Drop Boxes in schools.

1. All government/Aided/Unaided Schools (Including Higher Secondary & Vocational Higher Secondary) should install complaint boxes to submit complaints/suggestions of children.
2. The drop box should be placed in conspicuous place where children can approach it without fear or worry and where it attracts attention.
3. More than one drop box should be placed where there are more number of children.
4. A five member committee comprising of school Headmaster/Principal, the senior teacher/Principal who will take charge in the absence of the Headmaster/Principal and three teachers selected by them will be responsible for examining and



- resolving the complaints in the Drop box.
5. In schools with less than 200 students, a three member committee comprising of the Headmaster/Principal, Headmaster/Principal In-charge and a teacher of their choice (One of them must be a women) need to be formed.
 6. The Headmaster should examine the complaints in the Drop box three days a week in the presence of any two members, one must be a women of the above committee.
 7. The committee should organize meeting on two days in a week to examine the complaints/suggestions in the Drop Box. In emergency situations the Headmaster/Principal shall convene the meeting.
 8. The complaints of serious and urgent nature should be reported to grievance Redressal Cell of local self Government and complaints under the POCSO Act to the police station through the child line.
 9. Complaints which does not come under the above category should be resolved by the committee itself. The services of SMC/School counselors/NRHM Counselor should be utilised to solve the complaints received in Drop box.
 10. Headmaster/Principal should prepare and maintain a register of complaints and ensure, confidentiality of complaints.
 11. If any punishment is imposed on children for any of the complaints received from them, it will be viewed seriously.

(By order of Governor)

V.S. Senthil
Additional Chief Secretary

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No. M4/465299/2022/DGE Office of the Director of General
Education, Thiruvananthapuram
Dated 17/06/2022
E-mail: supdtm.dge@kerala.gov.in



From

The Director of General Education,
Thiruvananthapuram.

To

1. All Deputy Director of Education
2. All Regional Deputy Director of Education (HSE Section)
3. All Assistant Directors (VHSE Section)
4. All District/Assistant Educational Officers.
5. All Headmasters (Through Educational Officers)

Sir,

Sub:- General Education - Installing complaint boxes (Drop Box) in Schools for collecting Complaints from students – Reg.

- Ref:
1. GO(P) No. 39/2016/G.Edn. Dated 11/02/2016.
 2. Letter from this office M4/40217/2017/DPI dated 20/09/2017.
 3. Letter from this office M4/95408/2017/DPI dated 03/03/2018.

Attention is invited to the references. Instruction had already been given to install complaint boxes in schools. Taking into consideration of the importance of the matter all Government, Unaided, Aided schools shall follow the instructions as such. The Educational Officers should ensure that complaint boxes are installed in the schools during their school visit.

Yours faithfully,
Sd/
For Director of General Education



7. Though Mr.Jomy K.Jose, learned counsel for the petitioner submitted that instructions have not been issued by the Director of General Education in Exhibit R3(e) letter dated 17.06.2022 to the effect that drop boxes should be kept in all the Higher Secondary and Vocational Higher Secondary Schools, we are not inclined to accept the same, for the reason that perusal of Exhibit R3(e) letter dated 17.06.2022 makes it clear that all the references in the said document, have been directed to be implemented. Educational officers are also directed to ensure that complaint boxes are installed in the schools during their school visit.

8. In the light of the above circulars extracted supra, we are of the view that wherever the drop boxes have not been installed, the same have to be done in all Government/aided and unaided schools, as expeditiously as possible.

9. In addition to the above, we direct all the Deputy Director of Education, all the Regional Deputy Director of Education (HSE Section), all the Assistant Directors (VHSE



Section) and all the District/Assistant Educational Officers to send periodical report to the Director of General Education, Thiruvananthapuram, setting out the nature of complaints and finality of the same.

10. Secretary to the Government, General Education Department, Government of Kerala and the Director of General Education, Thiruvananthapuram shall issue appropriate directions for effective monitoring and implementation of the Circulars issued as regards installation of complaint boxes/drop boxes in the schools. An effective mechanism be put in place.

With the above directions, writ petition is disposed of.

Pending interlocutory applications, if any, shall stand closed.

Sd/-

S.Manikumar
Chief Justice

Sd/-

Shaji P.Chaly
Judge



APPENDIX OF WP(C) 20030/2022

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE G.O.(P)NO. 39/2016/G.
EDN DATED 11-02-2016.
- Exhibit P1(a) A TRUE COPY OF THE TRANSLATION OF
GOVERNMENT ORDER NO. 39/2016/G.EDN DATED
11-02-2016.
- Exhibit P2 A TRUE COPY OF THE REPRESENTATION
SUBMITTED BY THE PETITIONER BEFORE THE
1ST RESPONDENT DATED 06-4-2022.

RESPONDENT ANNEXURES

- ANNEXURE R3(A) TRUE COPY OF THE CIRCULAR
NO.2859/G3/15/G.EDN DATED 18.03.2015.
- ANNEXURE R3(B) TRUE COPY OF THE CIRCULAR DATED
20.09.2017.
- ANNEXURE R3(C) TRUE COPY OF THE CIRCULAR DATED
03.03.2018.
- ANNEXURE R3(D) TRUE COPY OF THE RELEVANT PAGES OF THE
DRAFT SCHOOL MANUAL.
- ANNEXURE R3(E) TRUE COPY OF THE CIRCULAR
NO.M(4)465299/2022/DGE DATED 17.06.2022.

//TRUE COPY//

P.A. TO JUDGE