

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 20TH DAY OF JANUARY 2020 / 30TH POUSHA, 1941

WP(C).No.35193 OF 2018(S)

PETITIONER/S:

DR. JOHNY CYRIAC
S/O. SRI.C.L.CYRIAC, 36/1839A (CC/62, 1622), PARAKALAMPATT,
ELAMKULAM ROAD, KALOOR, KOCHI - 682 017, PRESENTLY
RESIDING AT 14C, 14TH FLOOR, THE LORDS, SKYLINE
APARTMENTS, BEHIND JINI STADIUM, KALOOR, KOCHI - 682 017.

BY ADV. SRI.JOBY CYRIAC

RESPONDENTS:

1 THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT
GOVT. OF INDIA, NEW DELHI - 110 001, REPRESENTED BY ITS
PRINCIPAL SECRETARY.

2 THE DIRECTOR
CENTRAL BOARD OF SECONDARY EDUCATION, SHIKSHA SADAN,
17, INSTITUTIONAL AREA, ROUSE AVENUE, NEW DELHI-110 002.

ADDL.R3 & R4 IMPEADED:

3 THE SECRETARY
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

4 THE DIRECTOR,
PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

(ADDL.R3 AND R4 ARE IMPEADED AS PER ORDER DATED
30/10/2018)

R1 BY SMT.SREEKALA K.L., CGC
R2 BY SRI.NIRMAL S., SC, CBSE
R3 & R4 BY SRI. TEK CHAND, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

'CR'

JUDGMENT

Dated this the 20th day of January, 2020.

Shaji P. Chaly, J

This writ petition is filed by a doctor by profession, said to be a public spirited person, seeking a direction to the Central Government, the State Government, and the Educational Authorities to ensure that weight of the school bags are reduced, as it is proven that heavier school bags are having adverse effect on the health of the growing children.

2. It is pointed out that scientific study proves a range of adverse implications on students as they grow into adulthood due to carrying of heavy school bags. Some of the commonly seen effects are fatigue, muscle strain, back pain, distortion of the spine's natural curves, rounding of the shoulders, poor body posture and short attention spans. Heavy school bags, it is submitted, causes cervical and lumber pains and it causes back pain in later years. It is reported that growth points in the bones by which bones grow will be damaged by carrying excessively heavy school

bags resulting in abnormal growth.

3. The sum and substance of the contention put forth by the learned counsel for the petitioner is that the primary school years of a child are important for the well being, growth and development of the child. The petitioner has produced Ext.P1, which is a study report of the National Centre for Biotechnology Information available in the internet. The Director, Central Board of Secondary Education, New Delhi had issued Circular dated 12.09.2016 directing all the schools affiliated to it to take appropriate steps/measures to reduce the weight of the school bags carried by the children, evident from Ext.P2. It is suggested that the school bags would be ideal, if the weight of the same is 10% of the child's body weight, which will reduce the adverse effects. It is suggested by the petitioner that Ext.P2 circular issued by the Central Board of Secondary Education is extended to all students and schools in the State, irrespective of private or Government. The petitioner has also produced Exts.P3 and P3(a) news reports, which carry news that the States of Telangana and Maharashtra have come out with effective and practical way out in the subject issue and has issued directions to the schools and Educational Authorities to ensure that the

children are carrying school bags with minimum possible weight. Therefore, it is submitted that the Union Government and the State Government may be directed to ensure that proper office memorandum/order ensuring that no school-going students in the country carry school bags heavier than 10% of their body weight.

4. The 4th respondent i.e., the Director of Public Instruction, has filed counter affidavit along with an order passed by the Kerala State Human Rights Commission dated 05.08.2016 issuing appropriate directions in respect of the school bags. It is also pointed out that on the basis of the directions so issued, appropriate circulars were issued to all the Government and aided schools to ensure proper action to reduce the weight of the school bags.

5. A statement is filed for and on behalf of the Ministry of Human Resource Development, New Delhi enumerating the steps taken by it to reduce the weight of the school bag on the basis of the guidelines and circulars issued by the States of Telangana and Maharashtra, and that circulars and directions are issued for ensuring the safety of the children in that regard.

6. We have heard Sri. Joby Cyriac, learned counsel appearing for the petitioner, Smt. Sreekala K.L., learned

Central Government Counsel appearing for the Ministry of Human Resource Development, Sri. Nirmal S, learned Standing Counsel appearing for the Central Board of Secondary Education and Sri. Tek Chand, learned Senior Government Pleader appearing for the Secretary, General Education Department and the Director of Public Instruction, and perused the pleadings and documents on record.

7. The Central Board of Secondary Education, New Delhi has issued a circular dated 12.09.2016 enumerating the measures to reduce the weight of the school bags in the schools affiliated to CBSE. The circular happened to be issued in continuation of the circular Nos. 31/2004, 07/2006, 21/2007 and 43/2008 and notification dated 18.04.2016. Apparently, the CBSE was constrained to issue the circulars referred to above, having found that the heavier school bags are known to have made adverse effects on the health of growing children and if such bags are used for a prolonged period, the impact may well be irreversible. Therefore, having found that the schools can play a significant role by sensitizing the students, parents and teachers, some of the feasible measures the schools, teachers and parents may take in this regard are suggested

in the circular dated 12.09.2016, which reads thus:

“1. Suggestions for Schools

- i. Schools may exhort students to abide strictly by the timetable and relate the adverse effects of fatigue caused due to heavy bags on their day to day performance in class. This may either be done by integrating this knowledge across scholastic or co-scholastic areas or by sharing it during school assemblies. The theme such as Adverse Effects of Heavy School Bags may be included in various activities and functions conducted in school.
- ii. Students should be encouraged to repack their bags on daily basis and to avoid carrying unnecessary articles, textbooks, workbooks that are not needed.
- iii. Schools may check school bags randomly to ensure the proper weight of school bags. This will have deterrent effect for future.
- iv. Schools may ensure the adequate supply of potable and safe drinking water for everybody and counsel students not to bring the heavy water bottle to school. This may be possible if all the teachers including principal consume the same water that is taken by their students. Regular quality checks of water may also be ensured.
- v. Schools should design weekly timetable in such a way that minimum number of textbooks and workbooks are required each day. It should be evenly spread over to the entire week. Schools may take extra care to preclude the possibility of carrying large number of books/workbooks, atlas, drawing board etc. or other article by students.
- vi. Students need not carry extra pair of sportswear throughout the day rather they may be allowed to wear it for the entire day.
- vii. Timetable could also have separate provision for students to complete their assignments/projects during the school hours under direct supervision of teachers.
- viii. It is reiterated once again that all the tasks related to projects and activities can be done as group activities during the school hours. It should not be prescribed as home work as it leads to getting the school bag bigger.
- ix. Textbooks for classes I- VIII, apart from their academic worth,

should be light weighted. Schools should not prescribe too many additional and supplementary textbooks which are at times voluminous, costly and designed in a pedagogically unsound manner. Kindly see the guidelines issued by CBSE in this regard. Textbooks and workbooks may not be hard bound.

x. There should not be any homework assigned to students of classes I-II and they need not bring their school bag.

2. Suggestions for teachers

i. Teachers may also be counselled by the principals to provide unambiguous instructions for bringing textbooks beforehand and not to penalise students in any way for not bringing textbooks/workbooks. The fear of such measures may compel many students to bring most of the books/workbooks making their bags heavy.

ii. Teachers may be encouraged to use alternative methods of teaching like the ones based on ICT to alleviate the dependence on textbooks.

iii. Teachers may be asked to use loose sheets for the workbooks as it reduces the weight of school bag and facilitate the checking by teachers as well. Teachers would also require to carry less test copies.

iv. Teachers may make pairs of children and these pairs may be allowed to share textbooks. One of the students in a pair may be asked to bring half of the textbooks required for the day and the remaining textbooks will be brought by the other student.

3. Suggestion for parents

i. During PTM parents may be advised to be mindful of the health concerns of their wards and purchase lighter school backpack with two taut stripes.

ii. For primary classes, parents may be told to remind and supervise children in repacking their bags everyday as per the timetable and ensure that their wards do not carry unnecessary items such as story books, playthings etc. to school.

iii. Children are often in the habit of storing things in their school bags, therefore regular cleaning of the school bag is essential.

iv. The bag should be put on tightly to the child's back, rather than hanging off her shoulders.

In addition to above, schools may take any other possible measure leading to reduction of the weight of school bag as they deem fit.

It is expected that all the schools affiliated to CBSE will take necessary measures to keep the weight of school bag under control.”

8. Likewise, from Exts.P3 and P4 newspaper publications, it is evident that States of Telangana and Maharashtra have made sincere and dedicated efforts to reduce the weight of the school bags and have issued necessary directions to the school as well as the the Educational Authorities. The grievance of the petitioner is that eventhough the petitioner, in line with the steps taken by the aforesaid States, has submitted Ext.P4 before the respective Educational Authorities, no action was initiated.

9. It is evident from Ext.R4(a) order of the Kerala State Human Rights Commission that appropriate directions were issued to the State Government to reduce the weight of the school bag. It is also evident that the Secretary (Education), Government of Kerala, submitted a report before the Kerala State Human Rights Commission and it was accordingly that the directions were issued by the Commission in the following manner:

a) To take steps to make the textbooks in three volumes

from the ensuing academic year i.e., 2017-2018.

- b) To direct all school authorities to insist upon using notebooks containing lesser number of pages with a view to reduce the weight of the note books.
- c) To direct the Headmasters of the school to instruct the students to contribute their textbooks at the end of each academic year to the library so that such books can be used by the students as their reference.

10. It seems, pursuant to the direction so issued by the Human Rights Commission, the Government took serious note of the matter and directed the State Education Department to take steps for the implementation of the order and also in turn, directed the Textbook Officer, by a letter dated 17.02.2017, to take steps to reduce the volume of textbooks evident from Ext.R4(b). Apparently, the Textbook Officer took steps to reduce the volume of textbooks printed and supplied to the students. Though during the year 2016-2017, the students had two volumes of each textbooks, on the basis of the directions, it was decided to make the textbooks in three volumes. Accordingly, as per the decision, the State Council of Educational Research and Training (SCERT) has modified the syllabus in such a way that each volume will contain

only 60 pages. The supply of each volume of textbooks had also been scheduled in two stages i.e., the distribution of volumes I and II textbooks during the summer vacation before 15th of May of every year, and the third volume during the Christmas vacation. The idea behind such strategy is that the students need to carry only textbook containing 60 pages in each subjects and the weight of the school bags have been reduced considerably. The report of the Textbook Officer is produced as Ext.R4(c).

11. The third respondent has also submitted a detailed report to the State Government in this regard to reduce the volume of textbooks. The Headmasters of the school were directed to ensure that the school bags brought to the schools are made of, with light weight materials. That apart, rather than the students bringing drinking water to the schools, the Headmasters were directed to make provision for supply of drinking water to the students in the school itself. Further, it was directed to reduce the weight, size and number of pages of notebooks as per the need of the students concerned, and the class teacher was directed to be entrusted with the duty to check the school bags so as to ensure that the students are not bringing unnecessary items to the school that would reduce

the weight of the school bags.

12. From the documents produced for and on behalf of the Ministry of Human Resource Development, it is evident that on the basis of the steps taken by the State of Telangana in the order dated 18.07.2017 bearing G.O.(MS) No. 22 and the State of Maharashtra in its order dated 21.07.2015 bearing No.459871/2018/IS-3, an order is issued by the Government of India directing the State Governments and the Union Territories, not to prescribe any homework for the students of classes I and II in the State Board/Matriculation/Anglo Indian Schools forthwith. It was further directed not to prescribe any other subjects, except language and mathematics for the students of classes I and II, and language, EVS and Mathematics for the students of Classes III to V as prescribed by the NCERT. Yet another direction was given to disaffiliate the schools prescribing homework and non-prescribed subject for Classes I and II students and Classes III to V students. The order also directed the State and Union Territories forthwith to formulate the 'Children's School Bags Policy' reducing the weight of the school bags in line with the guidelines issued either by the State of Telangana or the State of Maharashtra and copies were enclosed with the

said order. Another important direction was to forthwith form special squads to inspect the schools and prevent the use of non-prescribed books.

13. We have gone through the orders issued by the States of Telangana and Maharashtra specified above and find that viable, practical and appropriate directions were issued by the said Governments to the school authorities for reducing the weight of the bag. The teachers as well as the parents are also directed to ensure that the children carry the school bags with lesser weight as is prescribed under the Government Orders.

14. We have evaluated the rival submissions made across the Bar. The discussion made above would make it clear that the Central Board of Secondary Education, the Union Government and the State Government have issued necessary directions to ensure that the children are carrying school bags with minimum weight so as to ensure their welfare, growth, health and to maintain a system, where the children are not physically and mentally disturbed.

15. The petitioner, being a doctor, has also pointed out that due to the regular carrying of the heavy school bags weighing 10 to 30 kgs., various diseases are

developed in the children, including permanent and partial disabilities physically, and also severe mental trauma is caused to the children. It is a need of the day and hour to ensure that the children are brought up in good physical and mental health condition as they are the future of the nation. It is the duty of the Government to ensure that the fundamental rights, in its letter and spirit, are enjoyed by the children. One of the facets of the fundamental rights, so far as the children are concerned, is to ensure that they are having education in the best possible method.

16. Moreover, Article 21 of the Constitution of India, dealing with the protection of life and personal liberty, also conceive that the children are enjoying their school life without being disturbed in any manner especially physically and mentally. Unnecessary burden imposed upon the children will lead to deprivation of their life and personal liberty and therefore, the Union Government, the State Government and all the Educational Agencies have the responsibility and duty to ensure that the children are carrying school bags with minimum wight. Moreover, as per part IV of the Constitution, the directive principles of State Policy, the State is duty bound to secure social order for the promotion of the welfare of the people by securing

and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life.

17. It is significant to point out that as per Article 39, certain principles of policy shall be followed by the State and among them, clause (e) stipulates that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Further, clause (f) thereunder reminds that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment.

18. Therefore, it is clear and imperative that the respective authorities are duty bound to protect the interest of the children as is mandated under the Constitution of India. Even though various notifications/circulars/orders are issued by the respective stakeholders, still the directions issued are not ensured and implemented in its letter and spirit. Therefore, it is the need of the day that all the stakeholders rise to the occasion and implement the orders passed by the respective authorities to protect and

ensure freedom, dignity, enjoyment, physical as well as the mental health and the enjoyment of the school children, so as to have healthy and educated citizens to lead the nation, in all walks of life.

19. We have also come across the 'Convention on the Rights of the Child' adopted and opened for signature, ratification and accession by the United Nations General Assembly as per Resolution No. 44/25 dated 20.11.1989 to which, we are told, India is a signatory from 1992 onwards, and some of the Articles adopted are relevant in this context and it is extracted hereunder:

20. Article 12(1) thereunder states that "States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child." Article 24(1) states that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

21. Article 27(1) states that "States Parties recognize

the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. As per Article 27(2) thereto, the parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

22. Article 28(2) states that "States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention. Article 32(1) states that "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."

23. It is also significant to note that the State Government have issued directions to increase the number of volumes, instead of the textbooks being printed and published in single or dual big volumes and further to confine the pages of the textbooks and notebooks to 60 pages. Moreover, on a reading of the orders issued by the

States of Telangana and Maharashtra, it is categoric, clear and evident that suitable directions were issued to the Educational Authorities so as to safeguard and protect the interests and well being of the children.

24. Therefore, in our considered opinion, all the stakeholders, the teachers, parents, Headmasters and other authorities associated with the education of the children irrespective of Government or private to ensure that necessary circulars are issued, inspections are conducted, awareness programmes and sensitization are conducted in the schools for the teachers, students and the parents to achieve the goal to reduce the weight of the school bags. So also, the Union Government has introduced the Right of Children to Free and Compulsory Education (RTE) Act, 2009 with the objective of regulating and streamlining the education of children upto the age of fourteen years. The intention behind the introduction of the said Act also is to ensure that the children carry on their education in the schools with utmost freedom, independence and happiness. To ensure the said objectives, it is highly necessary that the children go to their schools with happiness and return with satisfaction and physical and mental health, and they are not suffered with trauma of any nature for their continued

health, education and welfare.

25. Therefore, we allow the writ petition and direct the Union Government, the State Government and all the Educational authorities, including the Central Board of Secondary Education to ensure that orders passed by the Union Government, Central Board of Secondary Education and the State Government are implemented in all the schools, in its letter and spirit, and carry out periodic inspections in the school, with or without notice so as to ensure that the orders are implemented by the respective authorities.

sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

sd/-
SHAJI P. CHALY,
JUDGE.

Rv

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE INFORMATION DATED NIL DOWNLOADED FROM INTERNET CONTAINING SEARCH RESULT FROM THE NATIONAL CENTRE FOR BIOTECHNOLOGY INFORMATION (NCBI) AT THE U.S NATIONAL LIBRARY OF MEDICINE (NLM).
- EXHIBIT P2 TRUE COPY OF THE CIRCULAR NO.ACAD-35/2016 DATED 12.9.2016 ISSUED BY THE 2ND RESPONDENT DIRECTING/SUGGESTING ALL THE SCHOOLS COMING UNDER IT TO IMPLEMENT THE SUGGESTION MADE TO REDUCE SCHOOL BAGS.
- EXHIBIT P3 TRUE COPY OF THE NEWS ITEM DATED 23.7.2015 PUBLISHED BY NEWS 18 ONLINE NEWS PORTAL.
- EXHIBIT P3 (a) TRUE COPY OF THE NEWS ITEM DATED 19.7.2017 PUBLISHED BY INDIA TODAY ONLINE NEWS PORTAL.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION DATED 3.10.2018 SUBMITTED BEFORE THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:

ANNEXURE R4(a): TRUE COPY OF THE ORDER DATED 05.08.2016 OF THE HONOURABLE KERALA HUMAN RIGHTS COMMISSION.

ANNEXURE R4(b): TRUE COPY OF THE LETTER DATED 17.02.2017.

ANNEXURE R4(c): TRUE COPY OF THE REPORT SUBMITTED BY THE TEXT BOOK OFFICER.

ANNEXURE R4(d): TRUE COPY OF THE DETAILED REPORT SUBMITTED BY THE RESPONDENT TO GOVERNMENT.

ANNEXURE A1(a): TRUE COPY OF THE LETTER D.O. NO.1-4/2018-IS-3 DATED 05.10.2018.

ANNEXURE A1(b): TRUE COPY OF THE ORDER ON 18.07.2017 HAVING G.O.Ms. NO.22.

ANNEXURE A1(c): TRUE COPY OF THE ORDER ON 21.07.2015 HAVING NO.459871/2018/IS-3.

/True Copy/

PS to Judge.