



WA NO. 1552 OF 2025

1

2025:KER:80592

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 28TH DAY OF OCTOBER 2025 / 6TH KARTHIKA, 1947

WA NO. 1552 OF 2025

AGAINST THE JUDGMENT DATED 14.11.2024 IN WP(C) NO.2851 OF
2018 OF HIGH COURT OF KERALA

APPELLANTS/RESPONDENTS 1 TO 6 IN W.P.(C):

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, EDUCATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 2 SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 3 DEPUTY DIRECTOR OF EDUCATION
KOZHIKODE-673001.
- 4 ASSITANT EDUCATIONAL OFFICER
KODUVALLY, KOZHIKODE, PIN - 673572.
- 5 DIRECTOR OF PANCHAYATHS
THIRUVANANTHAPURAM-695001.
- 6 DEPUTY DIRECTOR OF PANCHAYATHS
KOZHIKODE-673001.

BY SR. GOVERNMENT PLEADER SMT. NISHA BOSE

RESPONDENT/PETITIONER IN WPC:

KHADEEJA V
AGED 49 YEARS
HEADMISTRESS, A.M.L.P.SCHOOL, PAIPULASSERY,
MUTTANCHERRY.P.O, NARIKKUNI, KOZHIKODE-673585.



WA NO. 1552 OF 2025

2

2025:KER:80592

BY ADV. SRI.M.A.FAYAZ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17.10.2025,
THE COURT ON 28.10.2025 DELIVERED THE FOLLOWING:

**JUDGMENT****Muralee Krishna, J.**

Respondents 1 to 6 in W.P.(C)No.2851 of 2018 filed this writ appeal under Section 5(i) of the Kerala High Court Act, 1958, challenging the judgment dated 14.11.2024 passed by the learned Single Judge in that writ petition. The respondent-writ petitioner approached this Court with W.P.(C)No.2851 of 2018 filed under Article 226 of the Constitution of India seeking the following reliefs;

"(i) To call for the records leading to Ext.P6 and quash the same by issuing a writ of certiorari or any other appropriate writ, or order or direction;

(ii) To declare that the action of the respondents 2 to 6 in taking steps to recover the salary received by the petitioner from October 2010 to November 2012 is arbitrary and illegal;

(iii) To set aside the action initiated against the petitioner on the basis of Executive orders when there is no bar in claiming honorarium while acting as President of the Panchayath as per Rule 3(A) of the Kerala Panchayath Raj (Honourarium and Allowance to Representative of Peoples) Rules 1995;

(iv) To declare that petitioner is entitled to receive Honourarium as Panchayath President as per Rule 3(A) of the Kerala Panchayath Raj (Honourarium and Allowance to Representative of Peoples) Rules 1995 even while working as Headmistress, in the light of Ext.P8 and Ext.P7 Government order vide G.O. (Ms) No.203/2002/LSGD dated 25.11.2002 and G.O.(P) No.28/98/G.Edn dated 16.1.1998."



2. The respondent, while working as the Headmistress of A.M.L.P. School, Paipulassery, Kozhikode, contested the election for Local Bodies during October 2010 and got elected as a Member of Ward No.16 of Madavoor Grama Panchayat. Later, she was selected as the President of the Panchayat with effect from 08.11.2010. She was discharging her duties as the President of the Grama Panchayat and was also continuing as Headmistress of the School, by availing eligible commuted leave, casual leave etc. She received salary from the School and also honorarium for functioning as the President of the Grama Panchayat as provided in Rule 3A of the Kerala Panchayat Raj (Honorarium and Allowances to Representatives of People) Rule, 1995.

2.1. According to the respondent, based on an anonymous complaint filed by one of her adversaries, some enquiries were conducted behind her back, of which she was unaware. The respondent states that the appellants, on the basis of mere presumption at the dictates of the opposite party in the Panchayat, decided to recover salary received by her as Headmistress during the period she took up the post of President of Grama Panchayat. On being informed that there are Government Orders stipulating that an employee can take up the post of President of the Local



Body only after availing leave, the respondent submitted Ext.P2 resignation from the post of President of the Panchayat with effect from 21.11.2012. Thereafter, apprehending that some coercive action will be taken, she submitted Ext.P3 explanation dated 03.10.2014 to the District Finance Inspection Officer, stating that she had not abdicated her duty as Headmistress and prayed to drop further steps. Likewise, the respondent submitted Ext.P4 representation to the 2nd appellant to drop all further proceedings against her. By Ext.P5 communication dated 30.03.2015, the 5th appellant informed the 6th appellant not to proceed against the respondent based on the complaint that she claimed dual salary from the Education Department and Local Self Government as honorarium. While so, she was served with Ext.P6 communication dated 12.01.2018 from the 4th appellant by referring to an order issued by the 3rd appellant dated 08.01.2018 stating to recover the salary claimed by her from October 2010 to November 2012. Therefore, the respondent approached this Court with the present writ petition.

3. In the writ petition, the 3rd appellant filed a counter affidavit dated 27.02.2024 opposing the reliefs sought by the



respondent-writ petitioner. Paragraphs 2 to 6 of that counter affidavit read thus;

"2 It is submitted that in the local body election that was conducted during October 2010, the petitioner was elected to the Grama Panchayath of Madavoor, representing Ward No.16, and subsequently took charge as Madavoor Grama Panchayath President on 08.11.2010. Aided school teachers are allowed to contest elections and hold the post of President or chairman of the Panchayath/Municipality. The petitioner took charge of the Madavoor Grama Panchayath President on 08.11.2010 and continued in the post till 23.11.2012. During the period of charge, she had only availed the following days of commuted leave:-

From	To	No. of days
05.01.2011	24.02.2011	20 days
08.02.2012	17.02.2012	10 days
04.09.2012	09.09.2012	6 days

But as per G.O.(MS) No.81/08/LSGD dated 15.03.2008, aided school teachers elected as Panchayath President should avail Leave Without Allowance for the period required from the parent department before assuming the new charge. But the petitioner had not availed any leave other than 36 days Commuted Leave as furnished above. Hence, the objection raised by the Deputy Director of Education, Kozhikode (R3) and the District Finance Inspection Squad is valid, genuine and as per the existing rules. The petitioner had claimed both salary as the Aided School Teacher and honorarium from the Grama Panchayath, which is against the existing rules. The petitioner's ignorance of rules and directions cannot be treated as an excuse and the department could not be held responsible for the violation of the rules.



3. It is submitted that the petitioner was working as Headmistress of A.M.L.P. School, Paymbalassery, and as the President of Madavoor Grama Panchayath simultaneously. Based on the complaint received against the petitioner, the Deputy Director of Education, Kozhikode (R3), had instructed the Assistant Educational Officer, Koduvally (R4), to conduct an enquiry at the school on 19.08.2014 and it was established that the petitioner was found to be drawing dual salary from both the posts. It is pure fabrication that the petitioner was unaware of the enquiry conducted over the complaint. The findings of the Deputy Director of Education, Kozhikode, and the Assistant Educational officer, Koduvally, in this regard adhere strictly to the regulations in G.O. (MS) No.81/08.LSGD dated 15.03.2018.

4. It is submitted that the petitioner had served as the President of Madavoor Grama Panchayath for the period from 08.11.2010 to 23.11.2012, i.e., for 2 years and 16 days. During the period she had only availed 36 days commuted leave as furnished in the above statement. The rest of the period for which she held the dual posts, she had been drawing dual salary and this fact is established. Hence, the contentions raised by the petitioner is unsustainable. It is submitted that educational officers of the department are competent to conduct inspections at school without issuing any prior notice. The District Finance Inspection Squad is also equipped with delegatory powers enabling them to conduct verification of registers and cash book of the school.

5 It is submitted that the petitioner had availed only 36 days of commuted leave during the entire stretch of 2 years of her charge as Panchayath President. The presence of Headmistress is important and inevitable to a school and hence the manipulation carried out by the petitioner has to be viewed seriously. The refund of the excess salary drawn by the petitioner was temporarily stayed as per Exhibit P5 letter No.J-3/43271/2014 dated 30.03.2018. The final order in this regard is not seen



produced and hence decision cannot be taken relying on a letter directing temporary stoppage of the dues towards the Government. The Assistant Education Officer, Koduvally, is entitled to execute the directions from the higher authorities and had just followed the instructions to initiate refund the excess drawal as directed by the Director of Public Instruction, Thiruvananthapuram and Deputy Director of Education, Kozhikode. The action of the Assistant Educational Officer in this regard is genuine, legal and sustainable.

6 The post of Headmistress of an aided school is a full time functioning post demanding constant monitoring over all academic and extracurricular activities and co-ordination of the teachers towards academic excellence. Hence the petitioner's contention justifying her shortcomings may be rejected ad limina. The petitioner is bound to follow all the rules in this regard. The petitioner's claims are vague, flimsy and baseless. The fact that she had claimed dual salary during the period is established and she is bound to refund the excessive loss caused to the state exchequer."

4. Similarly, the 6th appellant filed a counter affidavit dated 08.06.2018 in the writ petition, producing therewith Exts. R6(a) to R6(c) documents. Paragraphs 6 to 9 of that counter affidavit read thus;

"6. It is submitted that, as per Chapter XIV Section 153(1) of the Kerala Panchayat Raj Act, 1994, the President shall be a full-time functionary of the Panchayat and as per Section 156, the President shall be directly responsible for the due fulfillment of the duties imposed upon the Panchayat by the Act. As the petitioner claimed the salary from the parent department, she has violated the stipulations contained in G.O.(Ms)No.81/08/LSGD. The petitioner stated in the Exhibit P4 which she submitted before the



2nd respondent that she was not aware of the G.O.(Ms)No.81/2008/LSGD. But the petitioner who was unaware of the Government order cannot escape liability for violating the Government order merely because she was not aware of its content.

7. It is submitted that the 5th respondent has informed this respondent that action has directed by the Government vide letter No.48771/EM2/2013/LSGD dated 07.11.2014 is adjourned by the Government vide Exhibit P5. It is crystal clear from Exhibit P5 that the proceedings were not withdrawn, but was only stopped temporarily. Hence, the violation of conditions laid down in the Government order cannot be nullified and the petitioner cannot be exempted from her liabilities for the reason that she has tendered her resignation.

8. The contentions of the petitioner that Exhibit P6 is the only communication received by her is false since she was intimated by Annexure R3(b) as to the recovery of the amount received as salary. She was not responded to the above communication. The contention that she is not having any prior notice of the issue is not sustainable.

9. It is submitted that the decision to recover the amount from the petitioner by the Government is on the basis of G.O.(Ms)No.81/08/ LSGD The Government Order was made applicable to the President of Grama Panchayath because President is the fulltime functionary of Panchayat and the President is vested with executive power for the purpose of implementing and performing provisions in Kerala Panchayat Raj Act as laid down in Section 156. Hence, the action taken by the Government to recover the amount from the petitioner is just and proper."

5. In the writ petition, the respondent-writ petitioner produced Exts.P11 to P13 documents along with I.A.No.1 of 2024.



6. After considering the rival contentions of both sides, the learned Single Judge, by the impugned judgment dated 14.11.2024, allowed the writ petition by setting aside Exts.P5 and P6 orders. Consequential directions were also issued by the learned Single Judge in that judgment.

7. This writ appeal has been filed by the appellants with a delay of 162 days. By the order dated 26.09.2025 in C.M.Application No.1 of 2025, we condoned the delay.

8. Heard the learned Senior Government Pleader for the appellants and the learned counsel for the respondent.

9. The learned Senior Government Pleader would submit that the Government order dated 15.03.2008 clarifies that the Presidents of the Panchayat and the Chairpersons of the Municipalities are entitled to get only leave salary from their employment in the parent department, apart from the honorarium. The said Government order is not challenged in the writ petition. Therefore, the respondent cannot claim both benefits at a time by relying on the Government orders.

10. On the other hand, the learned counsel for the respondent would submit that a representative of people in a Panchayat is eligible for honorarium even if he has income from



other sources in view of Section 3A of the Kerala Panchayat Raj (Honorary and Allowances to Representatives of People) Rules, 1995. By Ext.P8 order, the Government has clarified that there is no restriction on doing another employment for the Panchayat Presidents and Chairpersons of the Municipalities during their tenure, and there need not be any restriction on allowing permitted leave to them from the parent department. It was clarified in that order that the leave to be sanctioned to those persons need not be leave without allowance. In such circumstances, there is no necessity to interfere with the impugned judgment of the learned Single Judge.

11. Admittedly, during the period from 08.11.2010, till 21.11.2012, the respondent was performing two official duties, such as Headmistress of the School as well as President of Grama Panchayat. She received the salary for the post of Headmistress as well as the honorarium for performing duties as the Panchayat President. She is relying on Ext.P8 order of the Government, which says that there is no restriction on the leave to be allotted to such persons, who were selected as Panchayat Presidents and Chairpersons of the Municipalities, and also from their engaging in other employment for their livelihood.



12. The respondent has no specific case that during the entire period of functioning as Panchayat President, she availed leave from the School. The learned Senior Government pleader, by pointing out Section 27 of the Right of Children to Free and Compulsory Education Act, 2009, submitted that the engagement of a Teacher for another job, apart from teaching simultaneously is against the said section. Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 reads thus;

“27. No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to election to the local authority or the State Legislatures or Parliament, as the Case may be.”

13. Relying on Exts.P7 and P8 orders, the learned Single Judge passed the impugned judgment in favour of the respondent-writ petitioner. By Ext.P7 order dated 16.01.1998, the Government ordered that the Presidents/Chairmen/Chairpersons of the Local Bodies constituted under the Kerala Panchayat Raj Act, 1994, and the Kerala Municipalities Act, 1994, will be granted special leave without pay for attending their duties under the Kerala Panchayat Raj Act and Kerala Municipalities Act for one entire academic year at a time or part thereof or for the entire period of their holding such office. The period of such leave will be counted for increment, higher scale of pay and pensions, but not



for leave, if so required. Subsequently, the Government issued Ext.P8 order clarifying that the leave to be allowed to such persons need not be leave without allowance. However, by the order dated 15.03.2008, it was again clarified that the Panchayat Presidents and Chairpersons of the Municipalities have to discharge their duties for full time as per Section 153(10) of the Kerala Panchayat Raj Act and Section 10(1) of the Kerala Municipalities Act respectively, and hence they have to obtain leave from their parent Department and are entitled for the leave salary alone from the parent Department. By the said Government order, the Ext.P8 order relied on by the learned Single Judge is modified. But in the writ petition, the respondent has not challenged the Government order dated 15.03.2008, as rightly argued by the learned Senior Government Pleader. In view of the aforesaid Government Order, it is clear that the respondent is entitled to only the leave salary, if any entitled, for the aforesaid period. The learned Single Judge did not consider these aspects while passing the impugned judgment.

14. Having considered the pleadings and materials on record and the submissions made at the Bar, in the light of the discussions made above, it is only to be held that the respondent



cannot claim honorarium for her duties as Panchayath President as well as salary from her parent department for the same period. Therefore, the writ petition ought to have been dismissed by the learned Single Judge.

In the result, the writ appeal is allowed by setting aside the impugned judgment dated 14.11.2024 passed by the learned Single Judge in W.P.(C)No.2851 of 2018, and the writ petition stands dismissed.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

DSV/-