

By Speed Post



## KERALA STATE HUMAN RIGHTS COMMISSION

M.P. Appan Road, Vazhuthacaud,  
Thiruvananthapuram - 14.  
Phone : 2337263 Fax : 2337148

No. 1818/PRO/HRC/10.

Dated, 10<sup>th</sup> March, 2010.

From  
The Public Information Officer.

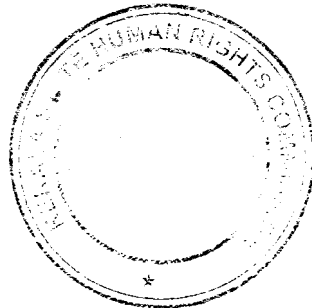
To  
Sri.Mohit Gupta  
33 – B, Third Floor  
Saidullajab, M.B.Road  
New Delhi – 30.

Sir,

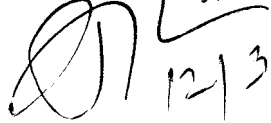
Sub:- KSHRC - RI Act 2005 - reg.  
Ref:- Postal order received on 22.02.2010

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- 1) The Order of the Hon'ble Commission is enclosed here with.
- 2) The Commission has forwarded the recommendation of the Hon'ble Commission on 12.02.09 to the Principal Secretary to Government, General Administration Department and has requested the Government to forward the Action Taken Report with in one month. As there was no reply from the Government, the Commission again sent reminder to forward the Action Taken Report with 15 days. No reply was received yet.
- 3) For the reply for Question No.3 the copy of your application has been forwarded to the Public Information Officer, Office of the Principal Secretary to Government, General Education Department, Government Secretariat, Thiruvananthapuram for necessary action and to give an early reply directly to you. The answer for the Question No.3 can only be given by the Government.



Yours faithfully,

  
12/3/2010

Public Information Officer

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION,  
THIRUVANANTHAPURAM**

**Present: Mr. Justice N. Dhinakar, Hon'ble Chairperson**

Dated this the 31st January, 2009.

- 1) H.R.M.P.No.126/2007
- 2) H.R.M.P.No. 1476/ 2007
- 3) H.R.M.P.No. 1903/2008 and
- 4) H.R.M.P.No. 5203/2008.

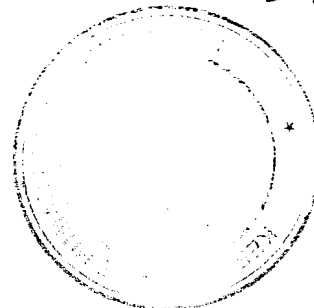
Petitioner : Mukesh Jain, C.C. 6/850, Mattanchery,  
Kochi - 682 002.  
Respondent :

**ORDER**

Petitioner filed the above four HRMPs with regard to the same subject matter. A report was called for from the Principal Secretary, General Education Department, Thiruvananthapuram, and despite 13 reminders no report was received. Petitioner was present. Heard.

The complaint of the petitioner is two fold. According to him, the roofing of school building with asbestos sheets is hazardous to health of the children. The second complaint of the petitioner is that the uniforms worn by the school children are stitched with terricotton materials with 80% polyester and 20% cotton, which is also a hazard to their health.

Before I proceed to consider the complaint it becomes necessary to find out that whether the subject matter of the complaint will fall within the jurisdiction of the Kerala State Human Rights Commission. Sub Section (d) of Section 2 of The



Protection of Human Rights Act, 1993, for short, defines "human rights" as follows:

" "human rights means" the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India".

The above definition therefore, shows that any violation of any right guaranteed by the Constitution of India will be a violation of human rights. Article 21 of the Constitution of India deals with "Rights to Life". The Supreme Court in Consumer Education and Research Centre and Others Vs Union of India and others ( (1995) 3 Supreme Court Cases 42) while interpreting Article 21 held that "the jurisprudence of personhood or philosophy of the right to life envisaged under Article 21, enlarges its sweep to encompass human personality in its full blossom with invigorated health which is a wealth to the workman to earn his livelihood, to sustain the dignity of person and to live a life with dignity and equality. The expression 'life' assured in Article 21 does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure". The Supreme Court further held that "the expanded connotation of life would mean the tradition and cultural heritage of the persons concerned and that no person can live without the means of living, that is, means of livelihood and if the right to livelihood is not treated as a part of constitutional right to life it will lead to deprivation of his means of livelihood and will make his life

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impossible to live". The Supreme Court ultimately held that " the right to health and medical aid to protect the health are fundamental rights under Article 21 r/w Articles 39 (e), 41, 43, 48-A of the Constitution". In view of the above law lay down by the Supreme Court, the complaint of the petitioner, which I have already extracted, is a subject matter falling within the purview of this Commission.

Let me now take up the first complaint of the petitioner. According to him, as asbestos is nonbiodegradable and a health hazard to the school children and if the school buildings are roofed with asbestos sheets any damage, if, caused to asbestos, it can result in release of small asbestos fibres that become airborne and inhaled and the fibres will remain in the lungs for long periods and can cause serious lung disease.

The report published by the World Health Organization (W H O) confirms the above fact. The said report further states that the asbestos is acutely toxic and principal health concerns are the developments of asbestosis, lung cancer, pleural thickening and mesothelioma and have long period in the order of 10-50 years. The said report also details the nature of diseases of asbestos and states that it is often associated with lung cancer. The report also states that the diffuse pleural thickening is a disease with chronic conditions and with no cure. Mesothelioma is caused on account of exposure to all varieties of asbestos and may develop in non-occupationally exposed people living in the same household. The report states that the low density of asbestos materials release high concentrations of fibres when damaged or disturbed, that is, during maintenance, renovation and



demolition work. It is further stated that sawing, drilling, crushing, scrapping and sanding asbestos containing materials will release respirable fibres and dust which remains suspended in the air for a long time and will be carried long distance by wind or water before settling down.

It is a known fact that many of the school buildings in the State have asbestos roofing and young children attend classes sitting under the asbestos roofs. There cannot be any denial of the fact that school children during physical training classes or during the evening hours play games and during these periods they will be using balls including cricket balls which sometimes fall on the asbestos roof and cause damage which in turn results release of small asbestos fibres which are airborne and inhaled. There are also several other factors which cause damage to the asbestos roofs on account of which severe and serious health hazards are caused as could be seen from the report of World Health Organization. The experts have also opined that the rain water flowing through the asbestos sheet cause health problems and many of the workers working in buildings roofed with asbestos sheets suffer from lung cancer and other diseases noted by the W H O. There cannot be any denial of the fact that the temperature in a room roofed with asbestos sheet is comparatively higher leading to severe radiations of the eyes of the children. The exposure to asbestos results in long tragic chain of adverse medical, legal and social consequences. It is, therefore, clear that the use of asbestos for roofing the buildings especially the school buildings leads to severe consequences and the responsibility of the Government is to secure to all its

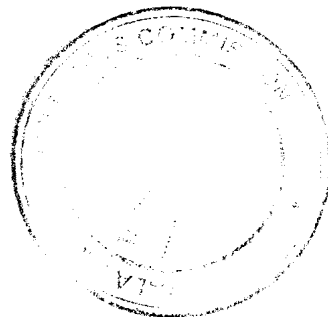
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citizens justice – social, economical and political as per the preamble <sup>of</sup> the Constitution.

Article 38 of the Constitution of India mandates that “the State shall strive to promote 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”. The Supreme Court in the Judgment referred to supra while interpreting “Social Justice” held that “it is not a simple idea of a society but is an essential, part of complex social change to relieve the poor from handicaps, penury to ward off distress and to make their life ilveable for greater good of the society at large”. The Supreme Court further held that “the States should provide facilities and opportunities to enable them to reach at least minimum standard of health, economic security and civilized living while sharing according to their capacity, social and cultural heritage”.

The above facts and the legal position, therefore, show that it is for the Government to see that asbestos roofing in the school buildings are avoided in future and that the existing school buildings roofed with asbestos sheets are also renovated by removing the asbestos sheets and replaced with country tiles.

Now I will take up the second complaint of the petitioner, namely, the use of terricotton materials for school uniform of the children. According to the petitioner, almost all schools in Kerala have prescribed uniforms to the children studying in the schools and most of the students use materials mixed with 80% polyester and 20% cotton for stitching their uniforms. According to him, it will be



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in the interest of children that if they are asked to wear school uniforms made of cotton materials.

There can be no doubt that any apparel made of cotton is comfortable as it is a breathable fabric. The benefits of cotton clothing are numerous, but the main one is the fact that cotton is hypoallergenic and dust-mite resistant, which means it is the best choice of material. Natural fabrics such as cotton clothing allow for better air circulation which helps remove and absorb body moisture, drawing heat away from the skin and keeping the body cool and dry. The cotton fabrics keep a person cool in hot and humid weather and easy to dye. It is also versatile and can be used for most types of clothing from underwear to sweaters to household linens such as sheets and curtains and as for choosing a long lasting fabric, cotton clothing comes in on top as well. Cotton is the preferred choice in the hospitals as it can endure high temperature and be sterilized. It is also ideal wash- and- wear fabric. It is also the preferred choice for fire fighters since it can be coated with flame-retardant substance and from the environmental issue cotton clothing makes a lot of sense. Cotton is also bio-degradable and renewable resources. Organic cotton clothing is even better as no pesticides are used to grow it, which means less chemicals in the environment and less exposure for the people growing it. The benefits of cotton fabrics are numerous and it is inexpensive. The polyester materials have no such advantages.

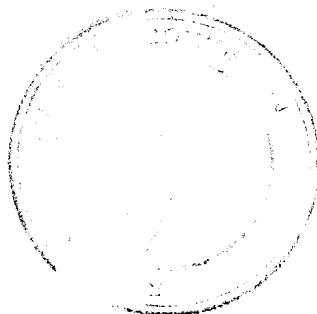
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The petitioner has also annexed the reports of reputed doctors including the President of Indian Pediatrics, Kerala and they also show that cotton is the best fabric to be used for stitching school uniforms.

At this stage it is also relevant to note that the State of Kerala already made a proposal that uniform made of handloom cloth be worn by the school children one day in a week and it is being implemented in a phased manner. It is also reported in the news paper ( Hindu daily dated 17-10-2008) that the proposal – to be implemented on a voluntary basis – has evoked a good response with many schools buying cloth from the Kerala State Handloom Weavers Co-operative Society which have been vested with the responsibility of supplying the fabric. It is also reported in the above news item that some schools have implemented the order by introducing white handloom shirts for class VIII students and the initiative can be extended to other classes over time and the educational authorities are willing to co-operate with Hantex in the endeavor.

Though the petitioner has stated that the school children also should not be made to wear ties, it is for the authorities concerned to decide on that issue keeping in mind the disadvantages caused on account of several factors including the whether condition in the State, as this Commission has no jurisdiction to prescribe the nature of uniforms to be worn by children.

It is therefore clear, in the light of the above facts and the legal principles, that use of asbestos for roofing the school buildings and use of polyester materials for stitching school uniforms are not conducive to the health of children and they



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should be replaced with country tiles and cotton fabrics respectively. The Government, therefore, will consider all the above aspects and implement the following recommendations. The following recommendations are made keeping in mind the financial implications to the State and the right of the parents to choose any fabric for stitching the uniform for their children.

**RECOMMENDATIONS:**

1. The State Government will replace asbestos roofs of all school buildings under its control with country tiles in a phased manner.
2. The Government will take steps to see that the schools run under the private management also replace the asbestos roofs with country tiles by fixing a time frame.
3. The Government should see that in future no new school is allowed to commence its functions with asbestos roofing.
4. The Government will impress upon the management of all schools in the State the benefit of cotton, and through the management the parents of the children, and see to it that the children are made to wear uniform made of cotton fabrics.
5. The Government also will take steps to educate the people of Kerala about the benefits of wearing clothes made of cotton fabrics.

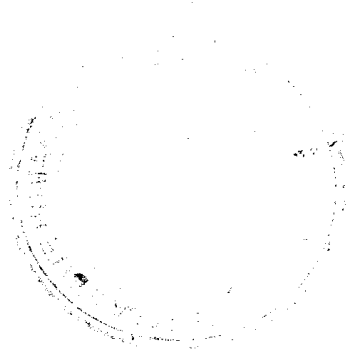


*NA*

6. The Government may consider supplying cloth for uniform, manufactured by Kerala State Handloom Weavers Co-operative Society, to the school children who are studying in the schools which are under the Government management which in turn will improve the standard of living of the Handloom Weavers.

*N. Dhinakaran*

Justice N.Dhinakar, <sup>31.1.09</sup>  
Chairperson.



**DESPATCHED**

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12/2/09

Tour GPY  
*[Signature]*  
Registrar

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