

**(2006) 02 KL CK 0054**  
**In the High Court Of Kerala**  
**Case No : O.P. No. 32496 of 2001**

M.G. Sasibhooshan

APPELLANT

Vs

Kerala Lokh Ayukta and Others

RESPONDENT

**Date of Decision :** 15-02-2006

**Acts Referred:**

Kerala Panchayat Raj Act, 1994 — Section 166

**Citation :** (2006) 1 KLJ 855 : (2006) 2 KLT 17

**Hon'ble Judges :** V. Ramkumar, J; J.B. Koshy, J

**Bench :** Division Bench

**Advocate :** Pirappancode V. Sreedharan Nair, S.P. Aravindakshan Pillay, Pirappancode V.S. Sudhir, N. Santha and Saju John, for the Appellant; B. Harish Kumar and Noorjie Noushad (GP), for the Respondent

## Judgement

J.B. Koshy, J.—Petitioner was the Director of Kerala State Literacy Mission Authority. Ext. P1 complaint dated 20-06-2000 was filed by the 2nd respondent against the Chief Secretary, petitioner and Vice Chairman of the Kerala State Literacy Authority before the Lok Ayukta for the alleged irregularity committed by the petitioner and others starting from the meeting of the authorities from 4-10-1997 onwards. This was objected to by the petitioner contending that the complaint is not maintainable as the State Literacy Mission Authority will not come within the purview of Kerala Lok Ayukta Act, 1991 (in short hereinafter referred to as "the Act"). The Kerala State Literacy Mission Authority is a Society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Act, 1955 (in short T.C. Societies Act). Originally it was registered as Kerala Saksharatha Samithi. It was re-named Kerala State Literacy Mission Authority. The above Society was functioning with the grant given by the State as well as the National Literacy Mission. Ext. P5 shows that National Literacy Mission Authority is funding for the project with full grant for three years and 50% grant for the succeeding two years. Sec. 166 of the Kerala Panchayat Raj Act defines the duties and powers of the Grama Panchayats and provided that it shall be the duty of the Grama Panchayat to make provision for carrying out the

requirements of the Panchayat area in respect of matters covered by schedule 3. Item 1(f) in Schedule 3 reads thus:

Similarly, Section 173 of the Act defined the duties and powers of the District Panchayats and they are bound to carry out the duties mentioned in Schedule 5. Item 11(b) of the Schedule reads thus:

Accordingly memorandum of Association and rules of the Mission were amended as per Ext. P5 regarding the working of the projects by the Saksharatha Samithi as can be seen from Ext. P5. Literacy Mission Authority constituted to be registered as the Society registered under T.C. Societies Act. After the amendment the functioning of the Samithi was arranged with the programmes of Grama Panchayath and District Panchayat. But the authority remained as a registered Society with Government control.

2. The word "public servant" is defined under Sec. 2(o) which as follows:

2(o) "public servant" means a person who is or was at any time.

(i) xxxx

(ii) xxxx

(iii) xxxx

(iv) xxxx

(v) xxxx

(vi) xxxx

(vii) a person in the service or pay of,-

(A) xxxx xxxx xxxx

(B) a statutory body of a corporation (not being a local authority) established by or under a State or a Central Act, owned or controlled by the Government of Kerala and any other board or corporation as the Government may, having regard to its financial interest therein, specify, by notification in the gazette from time to time.

(C) xxxx xxxx xxxx

(D) a society registered or deemed to have been registered under the Travancore Cochin Literacy, Scientific and Charitable Societies Registration Act, 1860 (Central Act 21 of 1860), which is subject to the control of the Government of Kerala and which is notified, in this behalf, in the Gazette.

3. The Society was registered under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 and there is no control by the Government. But it is not notified in the Gazette. Therefore, petitioner is not a public servant for the purpose of the Act. This Act is not applicable to a person

who is getting pay from the Society which was not notified by the Government in the Gazette for the purpose of the Act. But Ext. P4 order Lok Ayukta rejected the preliminary objection and held that petitioner is a public servant accepting the contention that Kerala State Literacy Mission authority is a registered Society notified as mentioned in Sec. 2(o)(vii)(D). But, according to the Lok Ayukta Some Power of the Panchayath Given for literary purposes as mentioned in Panchayat Raj Act is taken up by the Samithy and function of the Samithy became statutory. Hence the authority is a Statutory Authority coming under Sec. 2(vii) in para 8 it is held as follows:

Both the Kerala State Literacy Mission Authority and the Kerala Saksharatha Samithi are Societies registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. Kerala Saksharatha Samithi was initially, accorded sanction to the implementation of the post literary and continuing education programme in all Districts in the State. The Government order 8-3-96 pointed out that the National Literacy Mission funds the literary programme and the structure of the field level organizations of District Panchayat levels would be as per the projects approved by National Literacy Mission. This Government Order approved the transfer of powers and functions of the Kerala Saksharatha Samithi to the District and Grama Panchayats and the "restructure the Institutions at the State and District Panchayat levels" based on the recommendations of the Executive Committee of the Samithi. It was then specifically ordered thus: "Since the Major functions are transferred to the Local Bodies, the Central Samithi is having the responsibility of only syllabus, examination, training and special projects as approved by the Central Council.

Thereafter is held as follows:

Saksharatha Samithis cannot therefore be treated as mere registered societies, they are statutory "institutions" governed and controlled by the Panchayat Raj Act. Respondents 2 and 3 are government servants and thus the institution and respondents 2 and 3 are Public Servants as defined under the Lok Ayukta Act. There is jurisdiction to entertain this complaint and the preliminary objection regarding jurisdiction is overruled.

4. We are unable to accept the above views that Samithy is a statutory institution. Kerala State Literacy Mission Authority is not established by or under State or Central Act. Hence it is not a statutory body or a statutory authority established by or under the State or Central Act. Hence it is not a statutory body, though statutory function of the panchayat in literacy programmes are being executed or implemented with the help of the Samithy. In the above circumstances, the petition filed before the Lok Ayukta is not maintainable and, therefore, Ext. P4 is set aside. This judgment will not prevent the Government from notifying the Authority in the Gazette under Sec. 2(o)(iii)(D) in view of the various functions vested on it. The petitioner also can take out his remedies elsewhere.

This Original Petition is disposed of as above.