

(2021) 06 KL CK 0373

In the High Court Of Kerala

Case No : Writ Petition (C) No. 22236 Of 2019

Anton Phonse Cardamom Plantations VII/327

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 24-06-2021

Acts Referred:

Citation : (2021) 06 KL CK 0373

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

**Advocate : C.K.Karunakaran, Lekshmi P. Nair, Arjun Sathish Kumar,
T.P.Sindhumol, N.B.Sunil Nath**

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. This writ petition is filed with following prayers:

i.Â To issue a writ of mandamus or such other appropriate writ, order or direction commanding respondents 1 to 3 to provide protection to the lives of the workers of

the petitioner and the property of the plantation.

ii.Â To issue a writ of mandamus, or such other appropriate writ, order or direction commanding respondents 1 to 3 to afford protection to the labourers from Tamil

Nadu, and other states who

come to work in the plantation for seasonal work.

iii.Â To direct the 3rd respondent to enquire into the illegal activities of respondents 4, 5 and their henchmen, and to take appropriate action against persons

indulging in criminal acts against the men and properties of the petitioner.

iv.Â To direct respondents 2 and 3 to immediately investigate Ext.P11 complaint, including the use of violence, damage to property.

v.Â To report to this Hon'ble Court the action taken by the 3rd respondent on Exts.P4 to P10 complaints.

vi.Â To issue such other appropriate writs, orders or directions that this hon'ble Court may deem fit and proper to issue on the facts and in the circumstances of this

case.

Vii.Â To grant the costs of these proceedings to the petitioner.

2.Â When this matter came up for consideration on 18.09.2019, this Court passed an order which is extracted hereunder:

â??The learned Government Pleader, on instruction submits that Union leaders insist that only the permanent workers and those others identified by the Unions can

be employed within the Estate. It is also submitted that there are four FIR's registered on the complaint of the Estate Manager.

2.Â The Union leaders with the help of miscreants have obstructed the employment of temporary workers coming from Tamil Nadu on a daily basis, according to the

learned counsel for the petitioner. This is a practice followed for long years by the Management. The learned counsel appearing for respondents 4 and 5 submit that

there is an agreement entered into between the management and the Union on 06.08.2019. The agreement speaks of only 21 permanent workers and ten temporary

workers.

3.Â We are of the opinion that it is not for the Union to decide as to how many workers can be employed in the Estate. The permanent workers definitely cannot be

denied employment. Subject to the above condition, it is directed that the management would be free to employ as many workers as they require without denying

employment to the permanent workers. We will not state the specific number of the permanent workers which has to be decided after seeing the entire records. If

there is any obstruction caused to the work carried on by the Management, the police shall afford necessary protection.

Post on 03.10.2019.â??

3.Â Thereafter the matter again came up for consideration on 11.02.2020. On that day, this Court passed the following order:

The learned counsel for the respondents 4 and 5 submitted that on account of the engagement of many migrant workers, some of the regular employees engaged by

the petitioner are rendered as jobless. That be so, the respondents shall state the names of such workers, who are rendered jobless.

2.Â In the light of the interim order passed by the Division Bench of this Court in this writ petition on 18.09.2019, the police shall ensure that no obstruction is caused to the petitioner.

3.Â The learned counsel for the petitioner appraised the Court about an incident occurred on 10.02.2020 wherein the migrant workers were threatened and they had

to leave without any engagement by the petitioner. This Court, taking into account the gravity of the incident, hereby direct the police to ensure that no migrant

workers engaged by the petitioner are obstructed by the party respondents or their associates.

Post on 18.02.2020. The interim order already passed in this matter will continue till then.

4.Â Now the counsel for the petitioner submitted that as on now, there is no law and order problem and if there is any law and order problem, the

petitioner will approach the police authorities and there may be a direction to the police authorities to do the needful. The Government Pleader

submitted that if there is any law and order issue, the Police will do the needful.

Therefore, this writ petition is disposed, retaining the interim order, with following directions:

1.Â If there is any law and order problem, the petitioner is free to approach the Station House Officer concerned with a complaint.

2.Â If such a complaint is received, the Station House Officer will do the needful in accordance to law and in terms of the interim order passed by this Court.

With the above observations, this writ petition is disposed of.