
(2014) 08 KL CK 0114
In the High Court Of Kerala
Case No : WP(C). No. 19211 of 2014 (B)

Devadas

APPELLANT

Vs

The Director General of Police

RESPONDENT

Date of Decision : 20-08-2014

Acts Referred:

Citation : (2014) 08 KL CK 0114

Hon'ble Judges : Ashok Bhushan, C.J;A.M. Shaffique, J

Bench : Division Bench

Advocate : Shajin S. Hameed, Advocate for the Appellant; P.I. Davis, Sr. Government Pleader, C.S. Ajith Prakash, SC, Gopakumar R. Thaliyal, R.B. Rajesh and N. Nagaresh, Advocate for the Respondent

Judgement

A.M. Shaffique, J.—Petitioners have approached this Court seeking for a direction to the 3rd respondent to provide adequate and effective police protection to the life of the petitioners to conduct business in their respective shops under the Agricultural Wholesale Market Authority, Anayara, Thiruvananthapuram.

2. The contention urged by petitioners is that they are carrying on business in vegetables and egg in the market. The area in question is not a scheme covered area under the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983. They have their own employees to do the loading and unloading works in their respective shops. The complaint is that respondents 5 to 10 who are Conveners of certain Unions in the area engaged in headload work are demanding that they alone should be permitted to carry on the work in the petitioners' shops and they are making illegal demands by way of "nokku koolie". On account of the threat by respondents 5 to 10, petitioners have approached the 3rd respondent seeking police protection and since no action has been taken in the matter, they have approached this Court.

3. Learned counsel appearing for 4th respondent submits that as matters stand now, the area in question is not a scheme covered area and a decision has already been taken by the Committee to include the area in question also as a

scheme covered area, which will be done within 15 days.

4. Counter affidavit has been filed on behalf of respondents 5, 6 & 8 to 10 inter alia stating that they have been working as headload workers since last several years and they alone have the right to do the loading and unloading work in the area. So far as the petitioners are concerned, they do not have any permanent registered workers under the provisions of Rule 26A of the Headload Workers Rules. According to them, they have not obstructed the work of petitioners and they have not demanded "nokku koolie" as contended by the petitioners. But they are entitled to work in the area and petitioners have no cause of action to approach this Court.

5. As matters stand now, as the area is not a scheme covered area, members of respondent Unions 5 to 10 have no right to demand that they alone should be permitted to do the loading and unloading work of petitioners. Petitioners are entitled to engage their own permanent workers to carry on loading and unloading work which cannot be prevented by respondents 5 to 10. However, the issue might be different when the area is declared to be a scheme covered area. In such circumstances, if the petitioners do not have their own registered permanent workers, it will be possible for the registered workers in the area to claim loading and unloading work in the business concern of the petitioners. But, as already indicated, as matters stand today, respondent Nos. 5 to 10 have no legal right to demand that they alone should be engaged. However, if they have any claim, they have no right to prevent the petitioners from carrying on their business activity, but they have to approach the competent authorities under the Labour Laws to substantiate their claim for employment, which authority has to consider the same in accordance with the procedure prescribed.

6. Hence this writ petition is disposed of as under:

- i. The 3rd respondent shall provide adequate police protection to the petitioners to carry on their business activity in their premises without any hindrances from members of respondent Unions 5 to 10.
- ii. The right of respondent Nos. 5 to 10 to claim employment will be subject to the decision of the competent authority in the event any claim is made by them.
- iii. This order shall remain in force only until proclamation of the area is declared as a scheme covered area and in which event the concerned authorities shall decide the question as to whether the petitioners are entitled for continuing their loading and unloading work done through their own permanent employees.