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**(2021) 02 KL CK 0105**  
**In the High Court Of Kerala**  
**Case No : Writ Petition (C) No. 21893 Of 2020**

Eicl Limited

APPELLANT

Vs

Commissioner Of Police And Ors

RESPONDENT

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**Date of Decision :** 19-02-2021

**Acts Referred:**

Kerala Police Act, 2011 — Section 3, 4, 4(a), 4(b), 4(c), 4(d), 4(e), 4(f), 4(g), 4(h), 4(i), 4(j), 4(k), 4(l), 4(m), 4(n), 4(o), 4(p), 4(q), 4(r), 4(s)

**Citation :** (2021) 02 KL CK 0105

**Hon'ble Judges :** Anil K. Narendran, J

**Bench :** Single Bench

**Advocate :** P. Ramakrishnan, T.C. Krishna, C. Anil Kumar, Asha K. Shenoy, Pratap Abraham Varghese, Gopakumar R. Thaliyal, Sunil Nath N. B

**Final Decision :** Disposed Of

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## Judgement

1. The petitioner, a company incorporated under the Companies Act, engaged in mining and processing of high end kaolin, which has manufacturing plants and mines at Veli and Thonnakkal in Thiruvananthapuram District, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding respondents 1 to 4 to provide adequate and effective police protection for the smooth functioning of the petitioner's factory at Thonnakkal, without let or interference at the hands of respondents 5 to 8 or their supporters and sympathizers. The petitioner has also sought for a declaration that respondents 5 to 8 have no right to cause any obstruction to the functioning of the petitioner's factory at Thonnakkal and that, the failure on the part of respondents 1 to 4 to provide adequate and effective protection for the functioning of the petitioner's factory at Thonnakkal would amount to abdication of duties.

2. On 15.10.2020, when this writ petition came up for admission this Court issued notice before admission to the respondents. The learned

Government Pleader took notice for respondents 1 to 4 and urgent notice by speed post was ordered to respondents 5 to 8. Having regard to the

submissions advanced by the learned counsel for the petitioner, this Court granted an interim order directing respondents 3 and 4 to maintain law and

order and to ensure that no obstruction is caused by respondents 5 to 8 to the free ingress and egress of the staff, willing workmen and officials of the

ECIL Ltd., to enter into their factory at Thonnakkal.

3. Respondents 6 and 7 have filed their counter affidavit, opposing the reliefs sought for in this writ petition, raising various labour issues.

4. Heard the learned counsel for the petitioner, the learned Government Pleader for respondents 1 to 4 and also the learned counsel for respondents 6

and 7. Despite service of notice, none appears for respondents 5 and 8.

5. The Kerala Police Act, 2011 is enacted to consolidate and amend the law relating to the establishment, regulation, powers and duties of the Police

Force in the State of Kerala and for matters connected therewith and incidental thereto. Chapter II of the Act deals with duties and functions of

Police. Section 3 of the Act deals with general duties of Police. As per Section 3, the Police, as a service functioning category among the people as

part of the administrative system shall, subject to the Constitution of India and the laws enacted thereunder, strive in accordance with the law, to

ensure that all persons enjoy the freedoms and rights available under the law by ensuring peace and order, integrity of the nation, security of the State

and protection of human rights. Section 4 of the Act deals with functions of Police. As per Section 4, the Police Officers shall, subject to the

provisions of the Act, perform the functions enumerated in clauses (a) to (s) of Section 4. As per clause (a), the Police Officers shall enforce the law

impartially; and as per clause (b), the Police Officers shall protect the life, liberty, property, human rights and dignity of all persons in accordance with

the law.

6. Lord Denning in 'The Due Process of law' [First Indian Reprint 1993, Page 102] has described the role of the Police thus;

In safeguarding our freedoms, the police play vital role. Society for its defence needs a well-led, well-trained and well-disciplined force or police

whom it can trust, and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice.

The police, of course, must act properly. They must obey the rules of right conduct. They must not extort confessions by threats or promises. They

must not search a man's house without authority. They must not use more force than the occasion warrants.

7. In *Manohar Lal Sharma v. Principal Secretary* [(2014) 2 SCC 532] the Apex Court held that, one of the responsibilities of the police is protection of

life, liberty and property of citizens. The investigation of offences is one of the important duties the police has to perform. The aim of investigation is

ultimately to search for truth and bring the offender to the book. The Apex Court reiterated the said principle in *Ankush Maruti Shinde v. State of*

*Maharashtra* [(2019) 15 SCC 470].

8. In *Gujarat Steel Tubes Ltd. Vs. Gujarat Steel Tubes Mazdoor Sabha* [(1980) 2 SCC 593] the Apex Court held that, the right to unionise, the right to

strike as part of collective bargaining and subject to the legality and humanity of the situation, the right of the weaker group viz. labour, to pressure the

stronger party viz. capital, to negotiate and render justice, are processes recognised by industrial jurisprudence and supported by Social Justice. While

society itself, in its basic needs of existence, may not be held to ransom in the name of the right to bargain and strikers must obey civilised norms in the

battle and not be vulgar or violent hoodlums industry, represented by intransigent Managements, may well be made to reel into reason by the strike

weapon and cannot then sequeal or wail and complain of loss of profits or other ill-effects but must negotiate or get a reference made. The broad

basis is that workers are weaker although they are the producers and their struggle to better their lot has the sanction of the rule of law. Unions and

strikers are no more conspiracies than professions and political parties, are, and being far weaker, need succour. Part IV of the Constitution, read with

Article 19, sows the seed of this burgeoning jurisprudence. The Gandhian quote at the beginning of the judgment [Para.5 @ Page 603 SCC] sets the

tone of economic equity in industry. Of course, adventurist, extremist, extraneously inspired and puerile strike, absurdly insane persistence and violent

or scorched earth policies boomerang and are anathema for the law. Within these parameters the right to strike is integral to collective bargaining.

9. In the instant case, on 15.10.2020, this Court directed respondents 3 and 4 to maintain law and order and to ensure that no obstruction is caused by

respondents 5 to 8 to the free ingress and egress of the staff, willing workmen and officials of the ECIL Ltd., to enter into their factory at Thonnakkal.

During the course of arguments, it is pointed out by the learned counsel for the petitioner that in view of the interim order of this Court, at present

there is no law and order issue.

10. The learned counsel for respondents 6 and 7 would point out that conciliation proceedings are now pending before the concerned Labour Officer

and there is no co-operation from the side of the petitioner management.

11. The learned counsel for the petitioner would submit that the management will co-operate with the conciliation proceedings now pending before the

concerned Labour Officer.

12. The learned Government Pleader, on instructions from the 4th respondent Station House Officer, would submit that after the interim order of this

Court, there is no law and order issues.

Having considered the submissions made by the learned counsel on both sides, this writ petition is disposed of with the following directions:

(i) The petitioner management and respondents 5 to 8 unions shall co-operate with the conciliation proceedings, which is now pending before the

concerned Labour Officer.

(ii) The 4th respondent shall take necessary steps to ensure that there is no threat to law and order in the locality, at the instance of employees of

respondents 5 to 8 unions.

(iii) In case there is any threat to law and order in the locality, at instance of the employees of respondents 5 to 8 unions, the petitioner shall move the

4th respondent Station House Officer with a request for Police protection.

(iv) In case any such request for Police protection is made by the petitioner, the 4th respondent shall take necessary action on that request, without

any delay, taking note of the statutory provisions referred to hereinbefore and also the law laid down in the decisions referred to supra.

No order as to costs.