
(2012) 12 KL CK 0079
In the High Court Of Kerala
Case No : Writ Petition (C) No. 27600 of 2012

Girish Kurup

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 05-12-2012

Acts Referred:

Citation : (2013) 138 FLR 299 : (2013) LabIC 335 : (2013) LLR 578

Hon'ble Judges : K.M. Joseph, J;K. Harilal, J

Bench : Division Bench

Advocate : M.G. Karthikeyan and Nireesh Mathew, for the Appellant; N. Nagaresh and P. Vijayaraghavan, for the Respondent

Judgement

K.M. Joseph, J.—Petitioner has approached this Court seeking the following reliefs:--

- i) Declare that the petitioner is entitled to get police protection as per the request in Ext. P2.
- ii) Issue a writ of mandamus or other appropriate writ, order or direction commanding respondents Nos. 1 to 6 to give necessary and adequate police protection to the petitioner, hotel, namely, Hotel Roma Central at Kayamkulam, the willing workers, the customers of the hotel and to keep away the agitators from the front of the hotel as per the request in Ext. P2.

Briefly put, the case of the petitioner is as follows:--

Petitioner is the Manager of a hotel, namely, Hotel Roma Central at Kayamkulam. It is a three star classified hotel and also a bar attached hotel. Respondents Nos. 7 to 12 voluntarily retired from the employment after receiving the entire benefits. Nearly after four months of the retirement, they started agitation under the leadership of the 13th respondent union. Since their agitation is violent and also by using physical force with deadly weapons, the petitioner submitted Ext. P1 before the sixth respondent. Since there was no response, petitioner filed Ext.

P2 before the fifth respondent with copies to respondents Nos. 1 to 4 and 6. Respondents Nos. 4 to 6 told the petitioner that since the dispute is described as a labour dispute, they will not interfere without getting direction from this Court. Hence the petitioner is before us.

2. Counter-affidavit is filed by respondents Nos. 7 to 13 producing Exts. R7(a) to R7(d). It is, inter alia, stated that there was a surprise verification of the establishment on 3.8.2012 by the ALO and the petitioner required some workers to be kept out of the hotel for the time being. Fictitious names were given by the petitioner. On 4.8.2012 at night, the petitioner informed the 12th respondent that his service is no more required. The unionised workers protested. The union took up the issue. Exts. R7(b) is the proceedings initiated by the DLO. The DLO informed the petitioner that violation of the provisions of law is illegal, and that respondents Nos. 7 to 12 are entitled for reinstatement. Petitioner agreed to reinstate them. Ext. R7(c) purports to be the proceedings. In spite of the same, the petitioner did not take back respondents Nos. 7 to 12. Thereafter, the union gave Ext. R7(d) strike notice. A Reply Affidavit is filed denying the allegations. According to the learned counsel for the petitioner, the petitioner has agreed to pay compensation, but the workers cannot be taken back in the nature of the business. Learned counsel for the party respondents would reiterate their allegations in the counter-affidavit. But, he would submit that the strike is only a peaceful strike and the party respondents will not obstruct the customers of the petitioner and the willing workers. In the light of this, we record the said submission and dispose of the Writ Petition in terms of the interim order and further directing that protection will be given as and when required. We further make it clear that this will not stand in the way of the proceedings to be taken before the competent forum and the competent forum considering the case in accordance with law.