

(2013) 08 KL CK 0040
In the High Court Of Kerala
Case No : Writ Petition (C) No. 26212 of 2012

Jose Sebastian

APPELLANT

Vs

Sub Inspector of Police

RESPONDENT

Date of Decision : 02-08-2013

Acts Referred:

Citation : (2013) 3 KLT 740

Hon'ble Judges : S. Siri Jagan, J;K. Ramakrishnan, J

Bench : Division Bench

Advocate : T.A. Unnikrishnan, for the Appellant; V.M. Kurian, P.J. Justine, M.A. Jeemon, P. Vijayaraghavan, State Attorney and P.A. Mohammed Shah, Sr. Government Pleader, for the Respondent

Judgement

S. Siri Jagan, J.—The petitioners are two autorickshaw drivers. They are new entrants to the profession of plying autorickshaw for a living. They are residents of Pala in Kottayam District. There are 24 approved autorickshaw parking centers within the limits of Pala Municipality. There is no restriction by any authority, particularly the Municipality, in parking autorickshaws in a particular auto stand. The petitioners wanted to park their autorickshaws and ply the same for a living, from the auto stand of their choice. But respondents 3 to 6, are obstructing the petitioners from parking their auto in the stand where respondents 3 to 6 are parking autorickshaws. Despite request in that regard for police assistance, the 1st respondent did not respond. It is under the above circumstances, the petitioners have filed this Writ Petition seeking the following relief: issue a writ of mandamus or such other writ, order or direction, directing the 1st respondent to afford sufficient and meaningful protection to the petitioners to ply their autorickshaw, stationing them in any of the approved autorickshaw stands within the Municipality of Pala, without any threat or obstruction from the respondents 3 to 6 or their people.

Although respondents 3 to 6 have entered appearance through counsel and filed a counter affidavit, none appears for them today, when the case is taken up. In

their counter affidavit, after using major portion of the counter affidavit to state why the petitioners cannot park the autorickshaws in the particular stand, ultimately they say that they are not in any way obstructing the petitioners from parking the vehicle in the stand where they are parking their autorickshaws. They also say that they have no intention to do so. But they contend that in the absence of adequate infrastructural facilities in the particular stand to accommodate such large number of autorickshaws in the particular stand, it is not feasible to allow more autorickshaws to be parked in the particular stand. Of course they have a case that the petitioners do not have the required permits. But, along with the reply affidavit, the petitioners have produced the copies of their permits also.

2. We have heard the learned Government Pleader also. Every citizen of this country, who wants to eke out a livelihood selecting plying of autorickshaw as a profession, has a right to earn that livelihood from any stand unless it is prohibited by law. At present there is no law prohibiting the petitioners from plying their vehicles from this particular stand, which is allegedly obstructed by respondents 3 to 6. But, of course, it is for the Government and the concerned Municipality to see that appropriate rules are framed to regulate number of autorickshaws which can be plied from a particular stand, depending on the infrastructural facilities available in that stand. But until and unless they do so, nobody can prevent the petitioners from plying their autorickshaws from a particular stand. Respondents 3 to 6 have filed a counter affidavit stating that they are not obstructing the petitioners and they will not do so also. That statement is recorded. However, contrary to the same if any untoward thing happens, the first respondent shall see that appropriate preventive measures are taken to redress the grievance of the petitioners.

This Writ Petition is disposed of as above.