

(2014) 11 KL CK 0102
In the High Court Of Kerala
Case No : WP(C). No. 22405 of 2014 (A)

Kerafed Staff Union

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 21-11-2014

Acts Referred:

Citation : (2014) 11 KL CK 0102

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

Bench : Division Bench

Advocate : P.M. Mohammed Shiraz and G.R. Manju, Advocate for the Appellant;
P.I. Davis, Sr. Government Pleader and George Poonthottam, SC, Advocate for
the Respondent

Judgement

A.M. Shaffique, J.—This Writ Petition has been filed by the staff union of the Kerala Kera Karshaka Sahakarana Federation Ltd. (Kerafed) seeking the following reliefs:

"A. Direct 2nd respondent, Kerafed, to stop procurement of raw coconuts forthwith;

B. Issue a writ of mandamus or any other appropriate writ, order or direction directing 2nd respondent, Registrar of Cooperative Societies, to conduct an enquiry into raw coconut procurement by Kerafed;

C. Direct the 1st respondent, State of Kerala, to reimburse the expenses incurred by Kerafed in connection with raw coconut procurement;

D. Direct 2nd respondent, Kerafed, not to regularize the service of any person recruited for the purpose of raw coconut procurement."

2. The petitioner claims to be a registered trade union of employees of Kerafed. Their complaint is with reference to the scheme formulated by the Government for procurement of raw coconuts as evident from Exhibit P1. According to them, though initially the Government had provided sufficient funds for procurement of

raw coconuts, subsequently, the Government stopped funding the project. Presently, funds are being self generated by Kerafed. That apart, it is contended that procurement of raw coconuts is creating loss to the exchequer as well as the Kerafed and therefore, appropriate direction has to be issued in the matter. Hence the petitioner has approached this Court by way of public interest litigation.

3. Counter affidavit has been filed by the second respondent inter alia stating that on account of the intervention of the Kerafed, price of coconut has shown a substantial rise. By such intervention, the farmers are now getting better price for the coconuts. That apart, funds have been generated within the organisation by way of interest, which is received from the deposits made by the institution. The second respondent also makes complaint contending that the intention of the members of the petitioner is not to carry on the work, which they have to do as per the terms of employment.

4. Reply has been filed by the petitioner inter alia producing audit report, which is forwarded to the Registrar of Co-operative Societies. Learned counsel for the petitioner submits that there are various materials available on record as evident from the audit report to show the manner in which the Kerafed is functioning, but despite receipt of the report by the Registrar, no action is being taken in the matter.

5. In view of the aforesaid submissions, we do not think that this is a case in which directions as sought for can be granted. First of all, second respondent is an organisation, which carries on certain commercial activities, which they do in accordance with the policy decision taken by the administration of the second respondent from time to time. Such activities of the second respondent cannot be gone into in detail by this Court exercising writ jurisdiction.

6. Further, it is apparent that the second respondent being a Co-operative Society registered under the Cooperative Societies Act, appropriate provisions are available under the Act to conduct necessary audit into the affairs of the Society. When an audit report is submitted by a person authorised by the Registrar, it is not in dispute that enquiry will have to be carried out by the Registrar and appropriate action taken after inviting explanation from the persons involved in the management. Therefore, direction in respect of the relief sought for to conduct enquiry is unnecessary, as already an audit report is forthcoming in the case and which has already been placed before the Registrar.

7. In regard to the third prayer to call upon the Government to reimburse the expenses incurred by the Kerafed, it is purely a matter between respondents 1 and 2. The petitioner cannot complain that on account of the Government not providing fund, the Kerafed should not take up the activity of raw coconut procurement at their expenses.

8. The other relief prayed for is not to regularize the service of any person recruited for the purpose of raw coconut procurement. This is also a policy

matter, which the second respondent is entitled to do in accordance with law.

9. In such circumstances, we do not think that this Court will be justified in issuing any direction as sought for in the Writ Petition. However, we only observe that it shall be open for the Registrar to take into consideration the audit report and take appropriate action in accordance with law.

The Writ Petition is closed.