
(2011) 07 KL CK 0011

In the High Court Of Kerala

Case No : Writ Petition (C) No. 16780 of 2011 (V)

Swasraya Karshaka Samithy

APPELLANT

Vs

Superintendent of Police and Others

RESPONDENT

Date of Decision : 22-07-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 07 KL CK 0011

Hon'ble Judges : Pius C. Kuriakose, J;K. Surendra Mohan, J

Bench : Division Bench

Advocate : K. Siju, for the Appellant; Koshy George, S.C., for the Respondent

Judgement

Pius C. Kuriakose, J.—This writ petition under Article 226 is instituted by the Swasraya Karshaka Samithy, which claims to be a registered association of agriculturists conducting group farming as well as sale of agricultural produces such as vegetables, fruits, manure, etc, seeking direction for police protection from Respondents 5 and 6. It is alleged that Respondents 5 and 6, who are leaders of trade union of headload workers, are obstructing the loading and unloading of agricultural produces, manure and other materials inside the compound of the samithy where such produces, manure lime shells and other materials are brought by the Petitioner samithy for distribution amongst the agriculturists who are its members. The Headload Workers Welfare Fund Board was impleaded as additional 7th respondent.

2. Sri. Koshy George, learned standing counsel for the additional 7th Respondent submitted that the headload workers Regulation and Welfare Fund scheme is yet to be implemented in the area in question, though it is true that the members of unions led by respondents 5 and 6 are registered under Rule 26A.

3. A counter affidavit is filed by the Respondents 5 and 6, to which the reply affidavit is filed by the Petitioner. The contention raised in the counter affidavit is that the members of the union of Respondents 5 and 6 are not obstructing the

loading and unloading of agricultural produce like vegetables and fruits. The godown has been constructed in the compound of the Petitioner samithy. The intention of the Petitioner samithy in approaching this Court is to deny employment which is lawfully due to the members of the unions Respondents 5 and 6 while fertilizers are brought to the above godown.

4. The learned standing counsel for the additional 7th Respondent submitted that this Court has been adopting the course of relegating the disputes of like nature between the trade unions and employers to the ALO u/s 21 of the Act and according to him the same course is to be adopted in this case also. The learned Counsel further submitted as the scheme is yet to be implemented, till such time as the dispute is settled by the ALO the Petitioner can be granted the protection sought for.

5. Sri. Siju Kamalasanan, learned Counsel for the Petitioner on the basis of the reply affidavit submitted that the apprehensions voiced by the unions are not at all real. The Petitioner samithy has only started construction of the godown. The learned Counsel requested that it will suffice if this Court records the undertaking given by the Respondents 5 and 6 that they will not obstruct the loading and unloading of vegetables and fruits into the samithy's compound.

6. Having considered the rival submissions and the pleadings raised by the parties, we are of the view that this writ petition can be disposed of in the following terms;

7. The undertaking made by the Respondents 5 and 6 on behalf of their unions that they will not obstruct the loading and unloading of fruits and vegetables and other agricultural products by the Petitioner samithy is recorded. If any information is given by the Petitioner samithy regarding any obstructions from members of the unions led by Respondents 5 and 6 or for that matter any union or anybody else in the matter of loading and unloading of vegetables, fruits and organic manure, lime shell and other agricultural products, the 4th Respondent shall render adequate and effective protection, so that the Petitioner samithy is able to carry out their activities effectively.