
(2014) 12 KL CK 0003

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 21757 of 2014 (T)

Timber Merchant Association

APPELLANT

Vs

The Superintendent of Police

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Citation : (2014) 12 KL CK 0003

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

Bench : Division Bench

Advocate : Nagaraj Narayanan, Saijo Hassan, Benoj C. Augustin, Prathap Pillai, Sebin Thomas, Vivek V. Kannankeri, Zakeer Hussain and Vishnu Bhuvanendran, Advocate for the Appellant; Shaji Thomas, N. Nagaresh, Binu Paul, T.V. Vinu, Advs., A.N. Rajan Babu, SC and C.R. Syamkumar, Sr. Government Pleader, Advocate for the Respondent

Judgement

A.M. Shaffique, J.—First petitioner is a registered association of persons engaged in the business of cutting, removing, transporting and selling timber. Second petitioner is the Secretary of the said organisation and petitioners 3 to 15 are its members. It is submitted that the petitioners are carrying on timber business in various places.

2. It is inter alia contended that now loading work of timber is being done by cranes and other mechanical devices and manual loading work is rarely used. Human labour is also required for tying the timber logs with ropes to the crane for being carried to and from the lorries and untying the same. In the process, skilled workers used to assist the loading as well as unloading activities. It is contended that respondents 4 to 29 are headload workers operating in Pala Assembly Constituency. Respondents 30 and 31 are trade unions of labourers of the locality. The petitioners complain about the illegal demand of respondents 4 to 31 for "Nokkukooli", since the petitioners are using cranes for the loading and unloading work. It is contended that the area where the petitioners carry on business is not a scheme covered area. That apart, none of the respondents have

been registered under Rule 26A of the Headload Workers Rules. Since there had been substantial obstruction and several crimes had been registered by the Police, on account of unlawful obstruction being created by the party respondents and their men against the petitioners, complaints had been filed before the Police seeking police protection for carrying on their loading and unloading work of timber in the respective areas. Since the Police did not take any action in the matter, the Writ Petition is filed.

3. Counter affidavit has been filed by respondents 4 to 22 and 24 to 31 inter alia contending that by virtue of agreement executed between the association of timber merchants and the unions, the merchants were permitted to utilise cranes only if there is real necessity. In that event, rate has also been fixed between the parties. Hence, since the agreement is in existence, it is not open for the petitioners to engage any other person other than the members of the unions.

4. Additional counter affidavit has also been filed by the 7th respondent on behalf of respondents 9, 11 to 15, 19, 21, 22 and 24 to 27 inter alia stating that they are not causing any obstruction and they are being employed by the petitioners.

5. Learned Standing Counsel for the Kerala Headload Workers Welfare Fund Board would submit that a few areas mentioned by the petitioners are scheme covered areas.

6. Learned Government Pleader, on instruction, would submit that the claim of the party respondents is with reference to the agreement.

7. Having heard the learned counsel for the parties, it is now clear that some of the party respondents have been engaged by the petitioners. Learned counsel for the petitioners submits that those persons were willing to undertake training given for skilled labourers. It is argued on behalf of the petitioners that none of these workers have any legal right to demand work from the petitioners, as they are not registered workers in the locality. But, they are indulging in criminal activities. Learned counsel for some of the party respondents submits that the petitioners are bound to comply with the terms of agreement.

8. Having regard to the aforesaid facts, it is clear that the party respondents cannot make any demand that they alone should be employed for the loading and unloading work. Primarily they are not registered workers under the Headload Workers Rules. In such event, the petitioners have a right to employ their own workers, if it is not a scheme covered area and if it is a scheme covered area, any loading and unloading work can be done only through the registered workers either by their own permanent workers or through the workers engaged from the pool. But, the party respondents cannot demand that they alone should be employed. It is always open for the petitioners to engage their employees, subject to the requirement of registration as mentioned above.

9. At any rate, the party respondents or their men have no right to create any law and order situation or obstruct the functioning of the timber business, which

is being carried on by using mechanical devices. It is purely within the discretion of the petitioners to carry on the business by using such mechanical devices, which cannot be prevented and there is no right available for the party respondents to claim any extra charges or Nokkukooli in that regard.

10. In view of the aforesaid submissions, we are of the view that if there is any obstruction caused to the functioning of the business of the petitioners, the Police is bound to take appropriate action and ensure maintenance of law and order situation.

In the result, the Writ Petition is disposed of as under:

In the event of any obstruction being caused by the party respondents or their men, respondents 1 to 3 and additional respondent No. 33 shall ensure that law and order is maintained in the area and no such obstruction is being caused with regard to the work being carried on by the petitioners.

If the party respondents have any dispute regarding the right of employment, they are entitled to take up the matter in appropriate proceedings before the competent authorities as permitted under law.