

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYASHTA, 1937

WA.No. 130 of 2015 (J)
IN
WP(C).24100/2014

AGAINST THE ORDER IN WP(C) 24100/2014 of HIGH COURT OF KERALA DATED
16-01-2015

APPELLANTS/PETITIONERS:

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1. TRIVANDRUM DISTRICT HEAD LOAD AND GENERAL WORKERS UNION
(CITU)
REG. NO. 143/1970
PARAVANKUNNU UNIT REPRESENTED BY ITS CONVENOR S. JAYAKUMAR
RESIDING AT VAYALIL VEEDU, PATTANAMKARA, AMBALATHARA
POONTHURA P.O., TRIVANDRUM.
 2. TRIVANDRUM JILLA GENERAL MAZDOOR SANGH
REG. NO. 56/82, PARAVANKUNNU UNIT
REPRESENTED BY ITS CONVENOR G. BABU, VAYALIL VEEDU
AMBALATHARA, POONTHURA P.O., TRIVANDRUM.

BY ADVS.SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.V.RENJITH KUMAR
SRI.ASWIN.P.JOHN

RESPONDENTS/RESPONDENTS:

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1. KERALA HEADLOAD WORKERS WELFARE BOARD
THIRUVANANTHAPURAM JILLA COMMITTEE
LABOUR WELFARE BOARD BUILDING, VANCHIYOOR
THIRUVANANTHAPURAM - 695 035
REPRESENTED BY ITS CHAIRMAN.
 2. KERALA STATE HEADLOAD WORKERS WELFARE BOARD
P.B NO. 2017, SRM ROAD, KOCHI - 18
REPRESENTED BY ITS SECRETARY - 682 018.
 3. DISTRICT LABORU OFFICER
TRIVANDRUM DISTRICT TRIVANDRUM - 695 001.

4. ASSISTANT LABOUR OFFICER
1ST CIRCLE
TRIVANDRUM (REGISTERING AUTHORITY UNDER RULE 26(A) OF THE
KERAL HEAD LOAD WORKERS RULES 1981) - 695 001.
5. M/S. SHAKTHI AGENCIES,
KALLATTUMUKKU - 695 009.
6. M/S. C-MARC,
AMBALATHARA - 695 026.
7. M/S. GUHAN GAS SERVICES,
AMBALATHARA - 695 026.
8. R.RAJESH
TC 48/429, SREE PADMAM, PARAVANKUNNU
MANACAUD P.O., TRIVANDRUM.
9. S.VINU KUMAR
TC 48/329, CHEMBAZHANTHY HOUSE, AMABALATHARA
POONTHURA P.O., TRIVANDRUM - 695 026.
10. S.SURESH
RAKANDATHIL VEEDU, AMBALATHARA, POONTHURA P.O.
TRIVANDRUM - 695 026.
11. MOHAMMED
POOL NUMBER 1840 PAZHAYA ROAD KAIVARAMBIL VEEDU
PARAVANKUNNU, MANACADU P.O., TRIVANDRUM.
12. SULAIMAN A
POOL NUMBER 2547, PAZHAYA ROAD KAIVARAMBIL VEEDU
PARAVANKUNNU, MANACADU P.O., TRIVANDRUM.
13. P.JAYAPALAN NAIR
POOL NUMBER 1843, KANNANKARA VEEDU, KANNANKARA
PARAVANKUNNU, AMBALATHARA, POONTHURA P.O.
TRIVANDRUM - 26.
14. ABDUL RASHEED
POOL NUMBER 1842, PUTHUVAL PUTHEN VEEDU, AMBALATHARA
POONTHURA P.O., TRIVANDRUM - 26.
15. MAHEEN
POOL NO. 1839, KOCHUPUTHUVAL VEEDU, AMBALATHARA
POONTHURA PO., TRIVANDRUM 26.

R1,R2 BY ADV. SRI.C.S. AJITH PRAKASH, SC, KHWWB
R8 & 9 BY ADV. SRI.M.P.PRAKASH
R10 BY ADV. SRI.M.RAJAGOPALAN NAIR
R10 BY ADV. SRI.G.BIJU

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

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W.A. No. 130 of 2015

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Dated this the 25th day of May, 2015

JUDGMENT

P.R. Ramachandra Menon, J.

The basic issue involved in this appeal is with regard to the registration given to respondents 8 to 10 with reference to the Kerala Headload Workers Act, Rules and Scheme. Ext.P2 is the order passed by the Registering Authority granting registration given in the circumstances as mentioned therein, after ascertaining the factual position from different corners. The said order was sought to be challenged by filing appeal before the Appellate Authority/

DLO, finally leading Ext.P15 order passed by the said Authority under Rule 26C of the Kerala Headload Workers Rules, 1981 (for short 'the Rules'). This made the writ petitioners to approach this Court by filing W.P.(C) No.24100 of 2014 raising various contentions. When the matter came up for consideration before the learned single Judge, an interim order was passed on 16.1.2015 to the effect that, pendency of the writ petition would not bar the District Committee from taking a decision for issuance of 'cards' since there was no stay. This is stated as much detrimental to the rights and interest of the appellants and hence, this appeal.

2. When the matter came up for consideration before this Court on 21.01.015, notice before admission was ordered and an interim order was passed directing the respondents 1 to 4 to defer all proceedings and the operation of Ext.P2, P10, P14 and P15 for a period of one

month which was subsequently extended. The party respondents have filed I.A. No. 192 of 2015 seeking to vacate the interim order passed by the Bench on 21.01.2015 referring to the adverse consequences resulted in this regard.

3. Heard both the sides in detail. During the course of hearing, the learned counsel for the appellants submits that the course pursued by the concerned authority is wrong and illegal in all respects and that no registration could have been given under any circumstances to the party respondents for want of satisfaction of the requirement under Rule 6B of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983. It is stated that the party respondents as aforesaid do not satisfy the minimum tenure of "two years after registration" under Rule 26A of the Rules and as such, no work can be allotted to them, which otherwise would be in contravention of the

provisions of law.

4. The learned counsel for the party respondents submits, on the other hand, that the idea and understandings of the appellants are wrong and misconceived pointing out that the original order passed by the Registering Authority is under Rule 26A of the Rules and not under 6B of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 (for short, 'the Scheme'). It is also pointed out that the appeal filed before the Appellate Authority is with reference to Rule 26A of the Rules and if at all there is any grievance to the party concerned, they are free to resort to statutory remedy and that the writ petition is not maintainable. Learned counsel also points out that subsequent registration envisaged under the Scheme as provided under 6B of the Scheme is a different cause of action and that the alleged violation of the said provision cannot be a ground to challenge the

proceedings. It is also pointed that the writ appeal itself is not maintainable as no rights have been adjudicated by the learned single Judge so as to come within the purview of Section 5 of the High Court Act. Reliance is placed on the verdict passed by the Apex court in **Midnapore People's Co-op.Bank Ltd. v. Chunilal Nanda[(2006)5 SCC 399]**.

5. During the course of hearing, the learned counsel for the party respondents 8 to 10 submits that, even if the interim order is set aside, respondents 8 to 10 may not have any grievance and that the grievance ventilated before this Court now, is pursuant to the interim order passed by this Court in the appeal. By virtue of the said order passed in the writ appeal, more relief has been extended to the appellants, which bars the way of the respondents 8 to 10 in obtaining appropriate relief in respect of the grievance concerned in the writ petition. Learned counsel for the appellants submits, on the other hand, that pursuant to the

interim order passed by the learned single Judge, proceedings have been pursued by the concerned committee leading to adverse consequences, which was brought up before this Court and the same stands stayed now.

6. After hearing both the sides and after perusing the materials on record, this Court finds that the issue has to be resolved at the first instance, in the writ petition. Continuance of the interim order passed by the learned single Judge is not necessary for effective adjudication of the issue; more so, when the prayer in the appeal to have it opposed is not seriously opposed by the party respondents. As such, we do not find it necessary to have the said order continued. The interim order passed by the learned single Judge is vacated and the writ appeal is allowed to the said limited extent.

7. We have not expressed anything with regard to the merits involved and the same requires to be considered in the writ petition, with reference to the factual position and the relevant provisions of law. Both the parties are liberty to substantiate the same before the learned single Judge in the writ petition.

It is open for the parties concerned to request for an early hearing, subject to satisfaction of the urgency before the learned single Judge.

**Sd/-
P.R. RAMACHANDRA MENON
JUDGE**

**Sd/-
BABU MATHEW P. JOSEPH
JUDGE**

ks.

True copy

P.s.(Hr.Gr.)To Judge

