

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 16166 of 2015 (U)

PETITIONERS :

1. PRAVEEN KUMAR AGED 49 YEARS
VETTAKKAL HOUSE, VARAPUZHA
ERNAKULAM DISTRICT PIN 683517
2. SHIBU P A., PAZHAYAKAT HOUSE, EDAVANAKAD P O
ERNAKULAM DISTRICT PIN 682502
3. SAJU T B., THUDATHIL HOUSE, MULAVUKAD,
ERNAKULAM DISTRICT
4. RONISH PERCIRA
THOPPIL HOUSE, ELAMAKKARA P O,
ERNAKULAM DISTRICT, PIN 682026
5. MANUEL PEREIRA
THOPPIL HOUSE, ELAMAKKARA P O, ERNAKULAM DISTRICT
PIN 682026
6. K S AJAYAKUMAR
KAITHAMANA HOUSE, BOLGATTY, MULAVUKAD
ERNAKULAM DISTRICT
7. GIRIGH C N
CHEKKENATTU HOUSE, PONNARIMANGALAM
MULAVUKAD ERNAKULAM DISTRICT
8. SAJITH K D
KODARNIKATHIL HOUSE, MKULAVUKAD , ERNAKULAM DISTRICT
9. SABU JOSEPH
THEKKINEDATH HOUSE, KOONAMMAVU P O, PIN 683518
10. ANTONY MENDEX
KALLANGARA HOUSE, VADUTHALA P O, KOCHI 23
ERNAKULAM DISTRICT

11. VIJIMON T V
THUDIPARAMBIL HOUSE, PONNARIMANGALAM, MULAVUKAD
ERNAKULAM DISTRICT
12. SUDHEER T S
THUDIPARAMBIL HOUSE, PONNARIMANGALAM, MULAVUKAD
ERNAKULAM DISTRICT
13. SHAJI
ANANDHASERY HOUSE, PALLURUTHY P O, KOCHI
ERNAKULAM DISTRICT
14. SHALBY
KEERAMPILLY HOUSE, PACHALAM T SQUARELINE
SHANMUGAPURAM, ERNAKULAM DISTRICT
15. GIGI PAUL THALIYATH
THALIYATH HOUSE, MUPPATHADOM P O, ALUVA
ERNAKULAM DISTRICT
16. ANTONY MELVIN LUIZ
CHERUPURETHIL HOUSE, THEVARA, PERUMANOOR
ERNAKULAM DISTRICT
17. BIJOY A B
ALUNGAL HOUSE, THAIKATTUKARA, ALUVA
ERNAKULAM DISTRICT
18. RATHIESH V P
VELUTHERIL HOUSE, KOTHAD P O'ERNAKULAM DISTRICT
PIN 682027
19. SUNIL KUMAR P S
PALLATH HOUSE, PIZHALA P O, ERNAKULAM DISTRICT
20. RAJESH K K
KODERNIKATHIL HOUSE, BOLGHATTY, MULAVUKAD
ERNAKULAM DISTRICT
21. SHIBU XAVIER,
KUTTIKKAL HOUSE, PONNURUNNI, VYTTILA
ERNAKULAM DISTRICT
22. JOSHY O B., KEERAMPILLY HOUSE, PACHALAM, ERNAKULAM DISTRICT
23. JYOTHIS, PARASSERY HOUSE, AMBELIPADAM ROAD, VYTTILA
ERNAKULAM DISTRICT
24. JAYAN M J
MAKKOLIPARAMBIL HOUSE, KOLLASSERY ROAD, PALLURUTHY
ERNAKULAM DISTRICT

25. SURESH P K
POTTANTTEPARAMBIL, VALLUVALLY P O, KOONAMMAVU
ERNAKULAM DISTRICT

26. MARINE DRIVE TOURIST BOAT ASSOCIATION
RAINBOW JETTY, MARINE DRIVE , ERNAKULAM 31
REPRESENTED BY ITS SECRETARY SAJU T B

BY ADVS.SRI.JOMY GEORGE
SRI.SEBASTIAN THOMAS
SRI.DEEPAK MOHAN

RESPONDENTS :

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1. CIRCLE INSPECTOR OF POLICE,
ERNAKULAM- 682031
 2. ASSISTANT COMMISSIONER OF POLICE
CENTRAL POLICE STATION, KOCHIN 682011
 3. COMMISSIONER OF POLICE
REVENUE TOWER, KOCHI 682011
 4. ERNAKULAM DISTRICT MOTOR BOAT THOZHILALI UNION
(MBTU-CITU)66/1245., PAPPANCHETTAN SMARAKAK HALL
KALABHAVAN ROAD, ERNAKULAM NORTH, KOCHI 682018
REPRESENTED BY ITS PRESIDENT P S SHANMUGHA DAS
 5. V V BABY
SECRETARY, ERNAKULAM DISTRICT MOTOR BOAT THOZHILALI UNION
(MBTU-CITU)66/1245
PAPPANCHETTAN SMARAKAK HALL, KALABHAVAN ROAD
ERNAKULAM NORTH, KOCHI 682018
 6. K M JANARDHANAN
TREASURY, ERNAKULAM DISTRICT MOTOR BOAT THOZHILALI UNION
(MBTU-CITU)66/1245
PAPPANCHETTAN SMARAKAK HALL, KALABHAVAN ROAD
ERNAKULAM NORTH, KOCHI 682018
 7. BHASI T S
S/O.SEKARAN, THUNDIYIL HOUSE, PUTHUVYPE
ERNAKULAM DISTRICT, PIN 682508
 8. GOPI K
S/O.T A KRISHNAN, THEKKEOLYATHU HOUSE, KAITHARAM
NORTH PARAVOOR, ERNAKULAM DISTRICT, PIN 683513
 9. NADESAN
S/O.KOCHAL, NIKATHIL HOUSE, PALIYAM THURUTH
PIZHALA P O, ERNAKULAM DISTRICT 682027

10. KUNJAPPAN
ARAKKAL HOUSE, NAYARAMBALAM, IDUKKI DISTRICT

11. JEEMON @ YESUDAS J
ARAKKAL HOUSE, PUTHUVAL THEKKU, KAKKUGHAM P O
ALAPPUZHA

12. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001

R1 TO R3 & R12 BY ADV. SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL
BY SR. GOVERNMENT PLEADER, SRI.C.R. SYAMKUMAR
R4 TO R11 BY ADV. SRI.S.KANNAN
SMT.K.S.SANGEETHA
SMT.S.SIMY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS :

P1:-TRUE COPY OF THE FIR DTD 22/5/2015 ALONG WITH ITS ENGLISH
TRANSLATION IN CRIME NOS 922/2015 U/S.323,506(1), 294(B),427 & 34 IPC

P2:-TRUE COPY OF THE FIR DTD 26/5/2015 ALONG WITH ITS ENGLISH
TRANSLATION IN CRIME NO 949/2015 U/S.143.,147,341,323,294(B)
R/W 149 IPC

P3:-TRUE COPY OF THE COMPLAINT DTD 26/5/2015 ALONG WITH ITS ENGLISH
TRANSLATION FILED BY THE 26TH PETITIONER BEFORE THE DISTRICT
COLLECTOR, ERNAKULAM

P4:-TRUE COPY OF THE COMPLAINT DTD 27/5/2015 FILED BY THE WORKERS WHO
ARE NOT ON STRIKE TO THE 1ST RESPONDENT

P5:-TRUE COPY OF THE COMPLAINT ALONG WITH ITS ENGLISH TRANSLATION
DTD 26/5/2015 FILED BY THE 25TH PETITIONER BEFORE 2ND PETITIONER

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 16166 OF 2015

Dated this the 23rd day of July, 2015

JUDGMENT

Shaffique, J.

Petitioners have approached this Court seeking police protection *inter alia* contending that respondents 4 to 11 are obstructing the operation of the vessels being operated by the petitioners as 'Tourist Boat Service'. It is contended that respondents 4 to 11 and their supporters were threatening the petitioners and creating obstruction to the peaceful life of the petitioners and their employees in regard to the operation of the tourist boats.

2. According to the petitioners, on 05.05.2015 the workers in the boats declared a strike demanding huge hike in their salary. Petitioners agreed to their demand and most of the workers withdrew from the strike. But some members of the CITU union continued their strike demanding wages even if there is no work. Though petitioners tried for an amicable settlement, respondents did not adhere to it and petitioners were attacked by respondents 5 to 11 and some other persons.

Pursuant to which crimes have been registered as Crime No.922/2015 and also Crime No.949/2015 which are pending investigation. In the mean time, the petitioners submitted complaints to the police seeking adequate police protection and since no action was taken by police in this regard, they have approached this Court.

3. Counter affidavit has been filed by respondents 4 to 11 *inter alia* stating that they were only holding lawful strike. According to them, the intention of the petitioners was to prevent the labour issue being raised by the respondents. An additional affidavit has been filed *inter alia* stating that at the instance of police a settlement has been arrived at between the parties wherein the respondents and their members agreed to work at the enhanced rate of Rs.575/-. Some of the operators have agreed to the aforesaid suggestion and certain workers are already working. As far as the others are concerned, their claim is pending before the District Labour Officer and so far, no settlement had been arrived at, though discussions are proceeding.

4. Learned counsel for the respondents also submits that the petitioners are engaging persons who does not have any licence in operating the motor boats, on the basis of the interim directions issued by this Court to maintain the law and order. It is submitted by learned counsel that as per the rules and regulations in force, only licensed persons are entitled to operate the boats which is being violated by the petitioners.

5. Learned Government Pleader on instructions would submit that on the basis of the interim direction issued by this Court appropriate police protection had been given in order to maintain law and order. As matters stand now there is no law and order situation and the boats are being operated.

6. Learned counsel for the petitioners would however submit that they are operating the boat service based on the interim direction issued by this Court and they have engaged only licensed persons for operating the boats.

7. As far as the claim of the contesting respondents with regard to the enhancement of wages and their respective rights are concerned, the matter apparently has to be decided

by the District Labour Officer and parties have to abide by any such decision taken by the said authority. With regard to the allegations of the private respondents, regarding the validity or right of the persons now operating the tourist boats are concerned, it is for the competent authority to verify as to whether they are proper licence holders and are capable of operating the said boat service. It is always open for the private respondents to bring the matter to the notice of concerned authorities, who shall look into the matter and do the needful.

8. As far as the rights of the petitioners to operate the services are concerned, it cannot be obstructed by the private respondents or their men under the guise of labour dispute. If the petitioners do not operate the boat service, it may affect their livelihood as well.

In the said circumstances, there will be a direction to the respondent Police to maintain law and order in the matter regarding the boat service being conducted by the petitioners which of course will be subject to the further directions that may

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-:5:-

be issued by the District Labour Officer regarding the wages as claimed by the respondents 5 to 11.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

ttb/24/07