

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 21843 of 2009 (A)

PETITIONER(S):

SIDHEEK K.S., S/O.SULAIMAN,
POOMKULAM HOUSE, PIRAYIRI P.O.
PALAKKAD TALUK & DISTRICT.

BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENT(S):

1. THE REGIONAL JOINT LABOUR COMMISSIONER,
CIVIL STATION, KAKKANAD, ERNAKULAM.
2. THE DISTRICT LABOUR OFFICER,
PALAKKAD.
3. M.MOHAMMED BASHEER, PRESIDENT,
PALAKKAD DISTRICT NATIONAL HEADLOAD & GENERAL
WORKERS CONGRESS (INTUC), VADAPARAMBU, KANNADI
PALAKKAD TALUK & DISTRICT.
4. M.MADHAVAN, PALAKKAD DISTRICT NATIONAL
HEADLOAD & GENERAL WORKERS CONGRESS (INTUC)
VADAPARAMBU, KANNADI, PALAKKAD TALUK & DISTRICT.
5. L.RAJAMONI, -DO-, -DO-.
6. P.SUNDARAN, -DO-, -DO-.
7. S.SHAHUL HAMEED, -DO-, -DO-.
8. C.KAREEM, -DO-, -DO-.
9. S.RAVIKUMAR, -DO-, -DO-.
10. KAJA HUSSAIN, -DO-, -DO-.

11. SAHADEVAN, -DO-, -DO-.

12. K.R.NATARAJAN, -DO-, -DO-.

13. K.CHINNAPPU, -DO-, -DO-.

BY ADV. SRI.T.C.SURESH MENON

BY ADV. SRI.JIBU P THOMAS

BY ADV. SRI.P.S.APPU

BY ADV. SRI.A.R.NIMOD

BY ADV. SRI.C.A.ANOOP

BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 21843 of 2009 (A)

APPENDIX

EXHIBITS

P1- TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 24.6.05
ISSUED BY THE DISTRICT INDUSTRIES CENTRE, PALAKKAD

P2- TRUE COPY OF THE LICENSE ISSUED BY THE KANNADI GRAMA
PANCHAYAT ON 21.2.2005

P3- TRUE COPY OF THE PROVISIONAL INVOIE CARD ISSUED BY KERALA
STATE ELECTRICITY BOARD

P4- TRUE COPY OF THE LICENSE ISSUED BY THE DEPARTMENT OF
FACTORIES & BOILERS ON 29.2.2008

P5- TRUE COPY OF THE ORDER DATED 31.1.2007 PASSED IN WP(C).3371
OF 2007 ON THE FILE OF THIS HONOURABLE COURT

P6- TRUE COPY OF THE JUDGMENT DATED 26.2.2007 PASSED IN
WPC.3371 OF 2007 ON THE FILE OF THIS HONOURABLE COURT

P7- TRUE COPY OF THE ORDER DATED 11.4.2007 (NO.C951/2007) PASSED
BY R2

P8- TRUE COPY OF THE ORDER DATED 22.1.2008 PASSED BY R2

P9- TRUE COPY OF THE ORDER DATED 12.11.08 (A-4/08 PASSED BY R1

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P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 21843 of 2009

Dated 18th March, 2015

JUDGMENT

The petitioner is concerned with the loading and unloading work in his establishment which is a Small Scale industrial unit, manufacturing rubber wood packing cases. The grievance of the petitioner is against respondents 4 to 13 obstructing the loading and unloading work which is said to be carried on by the petitioner, his son and two other employees in the Organization. The petitioner was earlier before this Court with a writ petition seeking police protection in which interim order was granted as per Ext.P5 and then the same made absolute as per Ext.P6. The petitioner is now aggrieved with Exts.P8 and P9 orders passed by the District Labour Officer and the Regional Joint Labour Commissioner.

2. The District Labour Officer in Ext.P8 order has found that, for the employees of an establishment to carry on loading and unloading work, they should be registered under Rule 26A of the Kerala Head Load Workers Rules, 1981. The compelling argument of the petitioner is that the area in which the establishment is carried on, is not a Scheme covered area. A Full Bench of this Court in **Raghavan v. Superintendent of Police (1998 (2) KLT 732)** held that in an area where the Scheme is not made applicable, employer can engage any head load worker of his own choice. The same was followed by a majority in another Full Bench decision reported in **Karunakara Kurup v. State of Kerala (2004 (1) KLT 215 [F.B])** which was again followed by a Division Bench in **Nujumudeen M. v. City Police Commissioner, Kollam and Others (2011 (3) KLT 268).**

3. Following the aforesaid binding decisions, this Court is of the opinion that the employer in an area not covered by the Scheme under the Head Load Workers Scheme, is entitled to employ workers of his own choice and that too without any registration under Rule 26A of the Rules.

The writ petition stands allowed; however, subject to any specific notification brought out covering the area under the Scheme.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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