

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 23149 of 2015 (P)

PETITIONER(S):

GOODLIFE CONSTRUCTIONS & DEVELOPERS AGED 29 YEARS
VALAYIL HOUSE, PALLISSERY ROAD, PALARIVATTOM
KOCHI-682 025, REPRESENTED BY ITS PARTNER.

BY ADVS.SRI.S.EASWARAN

SRI.P.MURALEEDHARAN (IRIMPANAM)
SRI.M.A.AUGUSTINE
SRI.P.SREEKUMAR (THOTTAKKATTUKARA)
SMT.SOUMYA JAMES

RESPONDENT(S):

1. THE CIRCLE INSPECTOR OF POLICE, KALAMASSERY
KALAMASSERY-682 026.

2. THE CONTRUCTION WORKERS'S UNION (CITU)
CANAL SHED ROAD, BOAT JETTY, ERNAKULAM
KOCHI-682 011, REPRESENTED BY ITS SECRETARY, HAMZA.

3. THE DISTRICT CONSTRUCTION WORKERS (INTUC)
KALABHAVAN ROAD, KOCHI-682 018
REPRESENTED BY ITS PRESIDENT, K.P.HARIDAS.

4. THE ERANKULAM JILLA NIRAMANA THOZHILALI SANGH (BMS)
I.S.PRESS ROAD, KOCHI-682 018
REPRESENTED BY ITS GENERAL SECRETARY, K.S.ANILKUMAR.

5. THE SWATHANTHRA THOZHILALI UNION
C.H.MUHAMMED KOYA SMARAKA SOUDHOM
ERNAKULAM-682 011.

6. ERNAKULAM DISTRICT CONTRUCTION & GENERAL
WORKERS'S UNION
REG.NO.159/85 (AFFILIAGED TO AITUC & WFTU), C.S.ROAD
T.U.HOUSE, KOCHI-682 011
REPRESENTED BY ITS GENERAL SECRETARY.

R6 BY ADV. SRI.MAJNU KOMATH

R3 BY ADV. SRI.C.S.AJITH PRAKASH

R2 BY ADV. SRI.M.A.ASIF

R1 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23149 of 2015 (P)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1. TRUE COPY OF THE WORK ORDER DATED 8TH JULY, 2015 ISSUED TO THE PETITIONER BY M/S.ACCORD HABITATE PRIVATE LIMITED.

EXT.P2. TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND MS/.ACCORD HABITATE PRIVATE LIMITED DATED 22/7/2015.

EXT.P3. TRUE COPY OF THE PETITION DATED 28/7/2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

EXT.P4. TRUE COPY OF THE JUDGMENT DATED 19/11/2014 IN WPC NO.28310/2014 K.

RESPONDENT(S) ' EXHIBITS

EXHIBIT R6(a): COPY OF THE JUDGMENT IN W.P(C).No.15506/2013 DATED 17.7.2013.

EXHIBIT R6(b): COPY OF JUDGMENT IN W.P(C).NO.21405/2014 DATED 27.8.2014.

/TRUE COPY/

PS TO JUDGE

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.P.(C).No.23149 of 2015

Dated this the 17th August, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking Police protection in a matter relating to construction being undertaken by the petitioner at TOG Road, Kalamassery in the name and style 'Accord Scholar Avenue'. The petitioner submits that the petitioner has their own workers to carry out the construction work and no loading and unloading work is being done in the site. For the purpose of the construction work, the same being a specialised work, the petitioner has engaged their own workmen. According to the petitioner, obstruction is being created by respondents 3 to 6 Unions demanding work from the petitioner. Complaining about the unlawful obstruction from respondents 3 to 6, the petitioner

approached the Police. Since no action was taken by the Police, the petitioner has approached this Court in this Writ Petition.

2. Learned counsel for the second respondent submits that they have already entered into an agreement with the petitioner and their members are being engaged and they have no grievance against the petitioner.

3. Counter affidavit has been filed by the third respondent submitting that many of their workers are doing specialised and skilled work and that their members are entitled to be engaged for the said work as well. The respondents also pointed out that there are agreements of settlement between the trade unions and the petitioner's association and the petitioner is bound to honour the bilateral settlement.

4. Counter affidavit has been filed by the 6th respondent inter alia contending that the members of the 6th respondent Union are residing in the locality and among them skilled and unskilled workers are available.

By virtue of the judgment dated 17.7.2013 in W.P(C). No.15506 of 2013 a Division Bench of this Court had observed that it shall be open for the contractor to engage 50% of their own workers and the balance 50% has to be from among the trade unions in the locality.

5. It is submitted that the intention of the petitioner is to engage migrant workers at a lesser wage and therefore such an approach should not be permitted under the guise of Police protection.

6. Having heard learned counsel on either side, we are of the view that if at all there is an agreement between the petitioner, their association and the Unions and in case of breach thereof, the remedy of the respondent Unions is not to create obstruction in the construction activities being undertaken by the petitioner, whereas the remedy is to approach the labour authorities and seek for necessary intervention. In such circumstances, if there is any obstruction, it is for the Police to interfere and ensure maintenance of law and order.

7. Having regard to the aforesaid factual situation, we are of the view that this Writ Petition can be disposed of as under:

In case of obstruction by respondents 2 to 6 or their members, on the complaint of the petitioner, the first respondent shall ensure maintenance of law and order and further shall also ensure that no obstruction is being caused to the work undertaken by the petitioner, however, without prejudice to the rights of the parties to approach the District Labour Officer for intervention, if required.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFIQUE
JUDGE**

vgs18/8/15