

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937H

WP(C).NO. 25270 OF 2015 (G)

PETITIONER(S) :

**SHINES STAR LUBES,
VI/592-D, EDAYAR INDUSTRIAL DEVELOPMENT AREA
BINANIPURAM P.O, ALUVA 683 502.
REPRESENTED BY ITS PROPRIETOR GICKSON C.ANTO.**

BY ADV. SRI.V.KRISHNA MENON

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE
BINANIPURAM POLICE STATION,
MUPPATHADAM P.O, ALUVA-683110.**
- 2. INTUC (1)
CEE JEE LUBRICANTS UNIT
EDAYAR INDUSTRIAL DEVELOPMENT AREA, BINANIPURAM P.O
ALUVA 683 502
REPRESENTED BY ITS SECRETARY JOSEPH SHYJU.**
- 3. M/S. CEE JEE LUBRICANTS
EDAYAR INDUSTRIAL DEVELOPMENT AREA, BINANIPURAM P.O
ALUVA 683 502
REPRESENTED BY ITS PROPRIETOR C.J.ANTO.**

**BY GOVERNMENT PLEADER SRI. C.R. SYAMKUMAR
R3 BY ADVS. SMT.J.SURYA
SMT.A.B.BEENU
SRI.SAJEEV KUMAR K.GOPAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 25270 OF 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1. COPY OF THE COMPLAINT ALONG WITH ITS ENGLISH TRANSLATION
RECEIVED BY THE PETITIONER FROM ITS EMPLOYEES.**

**EXHIBIT P2. COPY OF THE PETITION DATED 17.8.15 SUBMITTED TO THE 1ST
RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.**

EXHIBIT P3. COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF EXHIBIT P2.

RESPONDENT(S)' EXHIBITS :

**EXHIBIT R2(A) . COPY OF THE COMMUNICATION FROM THE MANAGER OF THE 3RD
RESPONDENT COMPANY.**

/ TRUE COPY /

AMV

P.A. TO JUDGE

ASHOK BHUSHAN, C.J.

&

A.M.SHAFFIQUE, J.

.....
W.P.(C) No. 25270 of 2015 (G)

.....
Dated this the 21st day of August, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking police protection. It is stated that, the petitioner is conducting a separate business as a proprietary concern and his father was conducting another proprietary concern M/s.Cee Jee Lubricants, the 3rd respondent, which is adjacent to the petitioner's premises. On account of certain issues, the 3rd respondent had with reference to the functioning of the said establishment he has issued notice of lay off. He has about 47 employees working in the said establishment. The petitioner who is functioning another concern by name Shine Star Lubricants in the adjacent premises deals with sale of industrial lubricants, automobile lubricants etc. and the products manufactured by the 3rd respondent is being sold through the petitioner's establishment. The petitioner does not deal with any raw materials where as he deals only

with finished products.

2. Under the guise of creating agitation in the premises of the 3rd respondent, the petitioner is also being prevented from carrying on his business which remains closed for the last two weeks on account of the agitation created by the members of the 2nd respondent unit. The petitioner has approached the Police seeking necessary police protection to enable him to carry on his business. Since no action was taken by the Police authorities, this writ petition is filed.

3. Counter affidavit has been filed by the 2nd respondent, inter alia, stating that the units of the 1st petitioner as well as the 3rd respondent is carrying on business in the same premises and only certain pipes are erected inter-connecting the establishments so that the finished products are pumped into the storage premises of the petitioner. Being father and son, their idea is to remove the finished goods as well as the raw materials which was brought for the purpose of the 3rd respondent to another unit and their intention is to close down the establishment of the 3rd respondent. The members of the 2nd respondent has not created any

obstruction to the functioning of the petitioner's units but the petitioner in collusion with the 3rd respondent had stored certain raw materials which are intended for the 3rd respondent unit, in the premises of the petitioner. The union had only prevented such raw materials being taken away. It is stated that the intention of the 3rd respondent is to remove the raw materials to another unit at Palakkad and the present attempt of seeking police protection is only for the purpose of removing the raw materials to their Palakkad Unit.

4. Counter affidavit is also filed by the 3rd respondent supporting the stand taken by the petitioner.

5. Having regard to the aforesaid factual circumstances, we are of the view that the 2nd respondent is entitled to take appropriate action in accordance with their legal rights to challenge the lay off or any other labour issue before the competent authority. But they cannot obstruct the functioning of the 1st petitioner's establishment nor can they prevent movement of their goods in any manner. The right to conduct any demonstration or agitation shall not be with

the purpose to prevent the functioning of the petitioner's establishment. It is an independent and separate concern.

Under such circumstances, if there is any such obstruction, it is for the police to ensure maintenance of law and order and also to ensure free ingress including movement of goods.

Sd/-
ASHOK BHUSHAN, Chief Justice

Sd/-
A.M.SHAFFIQUE, Judge

AMV/21/08/