

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 28493 of 2015 (J)

PETITIONER(S):

BHAGYALAKSHMI, AGED 43 YEARS,
W/O.T.M.R.KUTTY (late), THEVAR VEEDU,
PANANGATTIRI, ELAVANCHERRY,
PALAKKAD DISTRICT.

BY ADV. SRI.P.DEEPAK

RESPONDENT(S):

- 1.THE SUPERINTENDENT OF POLICE,
PALAKKAD-678001.
- 2.THE SUB INSPECTOR OF POLICE,
KOLLENGODE POLICE STATION,
KOLLENGODE, PALAKKAD-678001.
- 3.THE DISTRICT LABOUR OFFICER,
PALAKKAD-678001.
- 4.RAVEENDRAN, S/O.BALAN
KUZHALODE HOUSE, ELAVANCHERRY,
PALAKKAD-678508.
- 5.ARUMUGHAM, S/O.SUBAYYA PANDARAM,
ANDITHARA, KIZHAKKEMURI P.O.,
ELAVANCHERRY, PALAKKAD-678506.
- 6.KANNAN, S/O.RAJAN,
ADICHIRA, KARIPPODE P.O.,
PUDUNAGARAM, PALAKKAD-678504.
- 7.THE SECRETARY, BHARAT MAZDOOR SANGH (BMS)
BMS OFFICE, HARIKKARA STREET, PALAKKAD-01.

R4-R5 BY ADV. SRI.BINOY VASUDEVAN
R4-R5 BY ADV. SRI.M.R.MANIKANTAN
BY Sr.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28493 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE REGULAR PERMIT ISSUED TO KL-09/K 1015.

EXT.P2 : PHOTOCOPY OF THE PHOTOGRAPH SHOWING THE GROUNDING OF THE VEHICLE KL-09/K1015.

EXT.P3 : TRUE COPY OF THE RECEIPT ISSUED BY THE OFFICE OF THE 2nd RESPONDENT DT.16.9.2015.

EXT.P4 : TRUE COPY OF THE REPRESENTATION DATED 17.9.2015 FILED BEFORE THE 1st RESPONDENT.

EXT.P5 : TRUE COPY OF the REPRESENTATION DATED 17.9.2015 ADDRESSED TO THE 3rd RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A.TO JUDGE

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

W.P.(C)No.28493 of 2015

Dated this the 1st day of October, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioner, who is a stage carriage operator, has approached this Court seeking police protection. It is stated that respondents 4 and 5 were engaged as drivers and the 6th respondent as conductor. It appears that some disputes are existing between the petitioner and respondents 4 to 6 in the matter relating to payment of bonus. The petitioner submits that the eligible bonus has already been paid to the respondents, but dissatisfied with the quantum, the respondents 4 to 6 have approached the 3rd respondent-the District Labour Officer and the matter is pending consideration. In the meantime, respondents 4 to 6 had stopped operation in the middle of the road and therefore the petitioner was unable to operate the stage carriage. Respondents 4 to 6 along with respondent no.7 are

threatening the petitioner with dire consequence, if they operate the vehicle through other workers. If respondents 4 to 6 are not willing to work, the petitioner will have to engage other workers for carrying out the operation of stage carriage.

2. Counter affidavits have been filed by respondents 4 and 5 inter alia stating that the matter is pending before the District Labour Officer and several meetings had been convened, but the petitioner did not participate in the meeting. It is stated that the claim of the respondents for bonus of 16.5% has to be considered by the District Labour Officer. It is submitted by the respondents that they are ready and willing to work for the petitioner, but it is only on account of the negative attitude expressed by the petitioner for payment of bonus, the matter has not been settled so far.

3. Having regard to the above factual situation, we are of the view that the claim of bonus is an apparent issue which has to be considered and decided by competent

Labour authorities. The parties agreed that the matter is pending before the 3rd respondent, the District Labour Officer and the parties will have to co-operate with the settlement of the issues before the said authority as well.

4. In the meantime, if respondents 4 to 6 co-operate for operating the stage carriage, they are entitled to approach the petitioner for the same. But if for any reason, respondents 4 to 6 are not carrying on the work as assigned to them, it is always open for the petitioner to engage other workmen of her own choice. In such circumstance, if any obstruction is caused by respondents 4 to 7 or their men, the police shall ensure maintenance of law and order situation and shall also ensure that no obstruction is caused to the functioning of the stage carriage. In such circumstance, the writ petition is disposed of as under :

- (i) If respondents 4 to 6 are not willing to work for the petitioner, it is open for the petitioner to engage her

own workmen. In such circumstance, if there is any obstruction for the functioning of the stage carriage, the 2nd respondent shall ensure maintenance of law and order situation and also ensure that no obstruction is caused to the operation of the stage carriage.

(ii) The petitioner as well as respondents 4 to 6 shall co-operate with the proceedings pending before the 3rd respondent - the District Labour Officer.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A.to Judge