

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 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 30180 of 2015 (V)

PETITIONER(S):

**M/S. REEFECO CONTAINER TECHNOLOGIES PVT. LTD.,
VI/78A, INDUSTRIAL DEVELOPMENT AREA, BINANIPURAM,
ALUVA - 683 503,
REPRESENTED BY ITS DIRECTOR SRI.MANOJ PRABHU,
S/O.VISWANATHA PRABHU, RESIDING AT 37/21, TEMPLE ROAD,
KADAVANTHRA, KOCHI - 20.**

**BY ADVS.SRI.ELVIN PETER P.J.
SRI.T.G.SUNIL (PRANAVAM)
SRI.K.R.GANESH**

RESPONDENT(S):

- 1. THE SUPERINTENDENT OF POLICE,
ALUVA MUNNAR ROAD, ALUVA - 683 803.**
- 2. THE CHIRCLE INSPECTOR OF POLICE,
ALUVA - 683 502.**
- 3. SUB INSPECTOR OF POLICE,
BINANIPURAM POLICE STATION,
BINANIPURAM, ALUVA - 683 101.**
- 4. AITUC HEADLOAD WORKERS UNION,
REG. NO. 731/90, BINANIPURAM, EDAYA - 683 502,
REPRESENTED BY ITS SECRETARY.**
- 5. CITU HEADLOAD WORKERS UNION,
REG NO. 358/74, BINANIPURAM, EDAYA - 683 502,
REPRESENTED BY ITS SECRETARY.**
- 6. INTUC HEADLOAD WORKERS UNION,
REG. NO. 301/76, BINANIPURAM, EDAYA - 683 502,
REPRESENTED BY ITS SECRETARY.**

Msv/

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- 7. BMS HEADLOAD WORKDERS UNION,
REG NO. 446/82, BINANIPURAM, EDAYA - 683 502,
REPRESENTED BY ITS SECRETARY.**
- 8. SRI.I.M.SIDDHIQUE,
S/O. MEETHIYAN, NADAKKAPARAMBIL HOUSE,
BINANIPURAM P.O., EDAYAR - 683 502, PARUR TALUK.**

**R1-R3 BY ADV. STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R4-R8 BY ADV. SRI.DINESH MATHEW J.MURICKEN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 30180 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE JUDGMENT DT. 30.6.2014 IN WPC NO. 10775/2014 OF THIS HON'BLE COURT.

P2 - TRUE COPY OF THE ORDER DT. 03.9.2014 N WPC NO. 23594/2014 OF THIS HON'BLE COURT.

P3 - TRUE COPY OF THE JUDGMENT DT. 30.11.2014 IN WPC NO. 23594/2014 OF THIS HON'BLE COURT.

P4 - TRUE COPIES OF THE IDENTITY CARDS ISSUED TO THE 7 (SEVEN) PERMANENT HEADLOAD WORKERS OF THE PETITIONER.

P5 - TRUE COPY OF THE REPRESENTATION DT. 30.9.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P6 - TRUE COPY OF THE REPRESENTATION DT. 01.10.2015 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS:

EXT.R4(a): TRUE COPY OF THE LETTER ISSUED BY THE DISTRICT LABOUR OFFICER TO THE 8TH RESPONDENT DTD.22.7.2015.

EXT.R4(a)(1): TRUE ENGLISH TRANSLATION OF EXT.R4(a).

EXT.R4(b): TRUE COPY OF THE REPLY GIVEN TO THE DISTRICT LABOUR OFFICER BY THE RESPONDENTS 4 TO 7 DTD.3.9.2015.

EXT.R4(b)(1): TRUE ENGLISH TRANSLATION OF EXT.R4(b).

EXT.R4(c): TRUE COPY OF THE LETTER ISSUED BY THE DISTRICT LABOUR OFFICER TO THE PETITIONER DTD.19.9.2015.

EXT.R4(c)(1): TRUE ENGLISH TRANSLATION OF EXT.R4(c).

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 30180 of 2015

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Dated this, the 16th day of October, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court alleging that respondents 4 to 8 are preventing the petitioner from carrying on their business activities, especially loading and unloading work, which they are undertaking in their business premises through their registered permanent workers. It is contended that they are engaged in the business of de-coiling and bending of TMT Reinforcement steel bars. 90% of the work are being done through mechanical devices and about 10% requires manual loading and unloading activities. Earlier the petitioner had approached this Court by filing writ petition, which was rejected on the ground that petitioner will have to provide 10% of the loading and unloading work to the workers engaged from the pool as it is a scheme covered area. Petitioner submits that they have their own registered workers, who had obtained identity cards

under Rule 26A of the Kerala Headload Workers Rules. Ext.P4 series are the cards so obtained by their workers and that 10% of the loading and unloading work is being carried on through the registered workers, which is being obstructed by respondents 4 to 8. Petitioner therefore approached the police for necessary police protection in the matter. But since no action had been taken by the police, this writ petition is filed seeking for a direction to the police to provide adequate protection to carry on their business activity as aforesaid.

2. Counter affidavit has been filed by respondents 4 to 8 inter alia stating that in so far as the right of the petitioner has been covered by Ext.P1 judgment, petitioner is not entitled to again approach this Court for the very same relief. That apart, it is contended that there is a specific direction in the judgment in WP (C) No.10775/14 that the parties should resolve their disputes by approaching the District Labour Officer. The matter is still under consideration of the District Labour Officer and in the meantime, petitioner had obtained registration cards for their employees. Learned counsel submits that they intend to challenge the

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registration cards issued in favour of the employees of the petitioner.

3. Be that as it may, even if it is a scheme covered area, the law is well settled that if the petitioner has loading and unloading work and it is being done through registered workers, the headload workers in the pool have no legal right to demand such work from such establishment. Such being the situation, if there is any obstruction from respondents 4 to 8 in the matter relating to loading and unloading work being carried on by the petitioner in their establishment, with their own registered workers, as evident from Ext.P4 series, the police is bound to interfere in the matter and ensure that no such obstruction is created. But as far as the right of respondents 4 to 8 are concerned, their remedy is to approach the labour authorities and seek appropriate directions.

4. As long as the petitioner has their own registered headload workers under the Kerala Headload Workers Rules, it may not be possible for respondents 4 to 8 to demand the headload work from the petitioner's establishment.

Under such circumstances, this writ petition is disposed of as under;

(i) If there is any obstruction from respondents 4 to 8 or their men in the matter relating to loading and unloading work being carried on in the petitioner's establishment through their own registered workers (Ext.P4 series), the 3rd respondent shall ensure maintenance of law and order and also ensure that no such obstruction is being caused in the functioning of the petitioner's establishment.

(ii) However, this order will be subject to further orders that may be passed by the District Labour Officer taking into consideration the objection raised by respondents 4 to 8 also.

(sd/-)

ASHOK BHUSHAN, CHIEF JUSTICE

(sd/-)

A.M. SHAFFIQUE, JUDGE

True Copy PS to Judge

Rp

16/10/2015