

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 31387 of 2015 (W)

PETITIONER:

**MUHAMMED HANEEFA, AGED 47 YEARS,
S/O. MASOOD LEBBA, EATYVILA VEEDU,
CHEMANPALAM, PATHANAPURAM,
KOLLAM DIST.**

**BY ADVS.SMT.M.SANTHI (K/868/2011)
SRI.G.RANJU MOHAN**

RESPONDENT(S):

- 1. CIRCLE INSPECTOR OF POLICE,
PATHANAPURAM, KOLLAM - 689 001.**
- 2. KALAMOHAN, CONVENOR, INTUC, PADAM P.O,
PATHANAMTHITTA DISTRICT - 689 695.**
- 3. ABDUL RAHMANKUTTY, CONVENOR, CITU,
PADAM P.O, PATHANAMTHITTA DISTRICT - 689 694.**
- 4. K.P RAHIM, CONVENOR, AITUC, PADAM P.O,
PATHANAMTHITTA DISTRICT - 689 694.**
- 5. VINOD, CONVENOR, BMS, PADAM P.O,
PATHANAMTHITTA DISTRICT - 689 694.**
- 6. ABDUL RAHMAN, CONVENOR, KTTUC, PADAM P.O,
PATHANAMTHITTA DISTRICT - 689 694.**
- 7. SATHYACHANDRAN, CONVENOR, STU, PADAM P.O,
PATHANAMTHITTA DISTRICT - 689 694.**
- 8. K ASOKAN NAIR, AITUC, MANGODU P.O,
PATHANAPURAM, KOLLAM DST.- 689 694.**
- 9. HANEEFA, INTUC, MANGODU P.O, PATHANAPURAM,
KOLLAM DST.- 689 694.**

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10. K RAJENDRAN, CITU, MANGODU P.O,
PATHANAPURAM, KOLLAM DST. - 689 694.
 11. PADAM EBRAHIMKUTTY, STU, MANGODU P.O,
PATHANAPURAM, KOLLAM DST.- 689 694.
 12. M ABDUL RAHIMAN, KTUC, MANGODU P.O,
PATHANAPURAM, KOLLAM DST.- 689 694.
 13. SEYYED MASOOD, KTUC, MANGODU P.O,
PATHANAPURAM, KOLLAM DST.- 689 694.
 14. M.AHAMMED, INLC, MANGODU P.O,
PATHANAPURAM, KOLLAM DST.- 689 694.
- *ADDL. R15 IMPEADED
15. HEADLOAD WORKERS WELFARE FUND BOARD,
REPRESENTED BY ITS CHAIRMAN, ERNAKULAM, COCHIN - 18.

ADDL. R15 IS IMPEADED AS PER ORDER
DATED 27.10.2015 IN IA.15508/2015.

R1 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R2 TO R7 BY ADV. SRI.PRAMAKRISHNAN
R8 TO R11 & R13 BY ADVS. SRI.R.KRISHNA RAJ
SRI.BIJITH S.KHAN
ADDL.R15 BY ADV. SRI.C.S. AJITH PRAKASH, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

WP(C).No. 31387 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1 :** TRUE COPY OF THE PURCHASE ORDER GIVEN TO THE PETITIONERE BY M/S. HINDUSTAN NEWSPRINT LIMITED DATED 05-06-2015.
- EXT.P2 :** TRUE COPY OF THE LICENCE NO 08/15-16 ISSUED BY THE DIVISIONAL FOREST OFFICER.
- EXT.P3 :** TRUE COPY OF THE INTIMATION OF AUTHORISATION ISSUED BY DFO,PUNALLOOR FOREST DIVISION DATED 26/08/2015.
- EXT.P4 :** TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P4(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT. P4.

RESPONDENT(S)' EXHIBITS:

- EXT. R8(A) :** COPY OF THE JUDGMENT IN WA.1375/11 DATED 21.12.2011.
- EXT. R8(B) :** COPY OF THE ORDER OF THE GOVERNMENT DATED 17.4.2012.

//TRUE COPY//

P.S. TO JUDGE

mbr/

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

W.P.(C)No.31387 of 2015

Dated this the 3rd day of November, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioner has approached this Court seeking police protection. It is inter alia contended that he had undertaken a contract work for extraction and transportation of trees from 2005 Padam (20.16) Plantation in Pathanapuram Range. The petitioner submits that as per the terms and conditions of the contract, he will have to complete the felling and transportation of the entire pulp wood by 24.12.2015 and the contract expires by 31.12.2015. The petitioner also submits that he had entered into an arrangement with respondents 8 to 14 to carry on with the various works involved in the contract. However, obstruction is being created by respondents 2 to 7 by demanding that they should also be permitted to undertake the work, which the petitioner had contracted for. The petitioner submits that he cannot enter into any controversy

with respondents 2 to 7 in this matter and accordingly approached the police seeking necessary police protection for conducting the contracted work through the workers as suggested by respondents 8 to 14. Since no action has been taken by the police, this writ petition has been filed.

2. Counter affidavit has been filed by respondents 2 to 7 inter alia stating that they have made a claim regarding the work as they are also members of the area where the work is being carried on. Later, the dispute addressing the matter was taken up by the petitioner before the District Labour Officer and by virtue of a direction issued by this Court in a separate writ petition, the District Labour Officer was directed to consider the matter and pass appropriate orders.

3. Counter affidavit has been filed by respondents 8 to 14 also, inter alia stating that the issue involved is with reference to the claim for work in a particular area. In the said area, ie., Kalanjoor panchayath, which comes within Kollam district, the loading and unloading works are being

done by the members of respondents 8 to 14 and this issue had already been settled by virtue of a judgment of this Court in W.A.No.1375/11 and a consequent order was passed by the Government on 17.4.2012. The learned counsel for respondents 2 to 7, however would submit that they are not bound by the orders passed by the Government on 17.4.2012 and the claim made by them is to be considered by the District Labour Officer.

4. The learned counsel for the Head Load Workers Welfare Fund Board submits that the area in question is not a scheme covered area.

5. The learned counsel for the petitioner submits that the petitioner is entitled for carrying on the work through members of respondents 8 to 14 Unions in terms of the contract he had entered into or through the workers of his choice. The dispute raised by respondents 2 to 7 has nothing to do with the petitioner and if at all, any direction is issued by the District Labour Officer in that regard, the petitioner shall try to comply with the same. However, the

petitioner's right to carry on the work through employees of his own choice, cannot be prevented by any of the private respondents.

6. In view of the above factual situation, this writ petition is disposed of as follows :

That the petitioner shall be permitted to carry on the work through the workers of his own choice and the 1st respondent shall ensure maintenance of law and order situation in respect of the above work undertaken by the petitioner and shall ensure that no obstruction is caused by respondents 2 to 7 or their men.

This order, however will be subject to any further orders that may be passed by the District Labour Officer in the claim raised by respondents 2 to 7.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge