

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.Nos.1036, 1048 and 1250 of 2017

in

WP.MP.No.4074 of 2017

in/and

WRIT PETITION No.3432 of 2017

COMMON ORDER:

These vacate petitions are filed to vacate the order dt.01.02.2017 in W.P.MP.No.4074 of 2017 in the Writ Petition.

2. Parties will hereinafter be referred to as per their array in the Writ Petition.

3. The Telangana State Beverages Corporation-3rd respondent has a IMFL Depot at Gundla Singaram Village in Hanamkonda Mandal of Warangal Urban District(4th respondent). They appointed the 5th respondent-The Association of Liquor & Beer Suppliers, Hyderabad as their agent for supply of various varieties of liquor to the place of IMFL Depot at a price fixed including cost price, freight charges, handling charges, loading and unloading, etc. The said association supplies IMFL liquor to other Depots of the Corporation as per the indent placed by the Corporation by engaging vehicles for the purpose of transportation of liquors to various depots.

4. The respondents 7 to 86 as well as petitioners, who are resident of the Gundla Singaram village and neighbouring areas, were engaged as Hamalies by the said Association for unloading the liquor from the vehicles to the godowns and loading the liquor into the vehicles of the licensees. The 5th respondent pays the charges.

5. The issue in the Writ Petition is, the petitioners also want to work as Hamalies along with respondents 7 to 86, but contend that respondents 7 to 86 are not permitting them to work for the aforesaid purpose, though letter dt.21.01.2017 was addressed by the 5th respondent to the 4th respondent to allow the petitioners to work as Hamalies.

6. Petitioners contend that the local Member of Legislative Assembly (MLA) also addressed a letter on 16.01.2017 to the 5th respondent-Association requesting appointment of petitioners as Hamalies and the local Member of Parliament(MP) also addressed a similar letter on 29.06.2016 requesting the 4th respondent to take services of the petitioners as Hamalies at their Depot.

7 On 01.02.2017 in W.P.MP.No.4074 of 2017 this Court granted interim order directing respondents 2 to 4 and 6 to continue the petitioners to work as Hamalies at the IMFL Depot of Gundla Singaram, pending disposal of the Writ Petition.

8. W.V.MP.No.1036 of 2017 is filed by respondents 3 and 4, WV.MP.No.1048 of 2017 is filed by respondents 7 to 86 and another WV.MP.No.1250 of 2017 is filed by 5th respondent, to vacate the order dt.01.02.2017 in W.P.MP.No.4074 of 2017 in the Writ Petition.

9. The stand of the Corporation-3rd respondent in its counter affidavit/WV.MP.No.1036 of 2017 is that it does not engage any Hamalies for its operations and that the 5th respondent-Association, is its agent and under an agreement between the two of them, unloading of the goods would be the responsibility of the suppliers and the Hamalies are independent head load workers engaged by the suppliers and retail licensees, and the latter pay their wages for loading the liquor. They contend that the Suppliers Association is paying only unloading charges; that the Suppliers Association has no power to appoint Hamalies in the Depot and it is only a body to negotiate the unloading charges on mutually agreeable terms for a specific period. According to them, there was a dispute about the enhancement of handling charges which resulted in a decision by a Committee consisting of Deputy Commissioner of Proh. & Excise, Deputy Commissioner of Labour, Depot Manager and Retailers Association and General Secretary Suppliers Association, that Hamalies would be engaged on exigencies of the work load and the process of identification of new entries will be done in consultation with

existing Hamalies giving preference to weaker sections and those below the poverty line, provided they possess the educational qualification of 7th class and having able body under the age group of 21 to 35 years. Reference is also made to certain agitations which were held by the local villagers from 23.01.2017 to 25.01.2017 for employment, which even led to closure of the Depot. It is stated that the petitioners cannot be continued because they were never employed by the Depot and therefore, the interim direction could not be complied with. It is also stated that the letter dt.21.01.2017, on which reliance is placed by the petitioners was withdrawn by the 5th respondent on 25.01.2017 and it is now stated that the said Association is not recognizing the petitioners.

10. The 5th respondent-Association of the Liquor and Beer Supplies has filed counter affidavit/WV.MP.No.1250 of 2017 also referring to the agreement about employment of local persons as Hamalies and admitted that some of the writ petitioners also belong to Gundla Singaram Village and others are resident of nearby villagers, and all of them belong to socially and economically backward communities. It is stated that Hamalies appointed by it will unload the liquor from the vehicles to the godowns and load the liquor to the vehicles of the licensees and get paid Hamali charges and the respondents 2 to 4 are not concerned with this. It is stated

that after obtaining opinion from the existing Hamalies, prior to the issuance of letter dt.21.01.2017, the Association requested the 4th respondent to allow the petitioners consisting of 19 members to work as Hamalies and initially the Corporation also allowed them to work at the Depot, but subsequently, the Hamalies' Union stalled the entire depot operations and refused to work with the petitioners. It is stated that the petitioners were misguided by the local MLA, who had tried to influence the Association. It is reiterated that the members of the IMFL, Gundla Singaram raised objection and stalled work by agitating from 23.01.2017 and that was why the letter dt.25.01.2017 was addressed withdrawing the letter dt.21.01.2017. It stated that because of the sudden agitation by the existing Hamalies i.e., respondents 7 to 86, 5th respondent-Association was forced to withdraw the letter dt.21.01.2017 by the letter dt.25.01.2017.

11. The respondents 7 to 86 filed counter affidavit/ WV.MP.No.1048 of 2017 raising a plea that the Writ Petition is not maintainable as the petitioners never worked in the IMFL Depot at Gundla Singaram, and if the petitioners are allowed to work as Hamalies, the livelihood of respondents 7 to 86 would be affected. They contend that by using political pressure, they are trying to get their entry into the 4th respondent-Depot. However, they admit that the petitioners belong to socially and economically backward class and some

of them reside nearby Gundla Singaram Village. They claim that they have been working for more than 10 to 15 years, that they were given identity cards by 4th respondent and were working under the control of the 4th respondent, but the petitioners do not possess any such identity cards. They therefore contend that petitioners have no right to seek employment as Hamalies in the 4th respondent-Depot.

12. I have noted the submissions of both sides.

13. From the facts narrated above, it is clear that respondents 7 to 86 are being engaged as Hamalies by 5th respondent-Association for loading and unloading of stocks and that the said Association is an agent of the 4th respondent-Corporation. Petitioners are also local residents and belong to socially and economically backward communities and they also wish to work as Hamalies under the 5th respondent-Association in the 4th respondent Depot, but respondents 7 to 86 are not allowing them to work on the ground that they are first timers.

14. Neither the petitioners nor the respondents 7 to 86 have any preferential right to work under the 5th respondent and neither can compel the 5th respondent to engage them or disengage the others, for loading or unloading of the stocks in the 4th respondent-Depot at Gundla Singaram. Just as respondents 7 to 86 seek livelihood by working as Hamalies,

the petitioners also seek to do so. It is not for respondents 7 to 86 to dictate as to who shall be engaged as Hamalies by the 5th respondent-Association. They also cannot complain that the local public representatives, in order to provide source of employment to the petitioners, suggested the 5th respondent to consider engaging the petitioners also as Hamalies.

15. Since the fight between the petitioners and respondents 7 to 86 is endangering the business of the 4th respondent-Corporation and the 5th respondent-Association, and since considerable public revenue is involved and the State cannot be allowed to suffer because of its fight, I am of the opinion that neither the petitioners nor respondents 7 to 86 have any preferential right to be engaged as Hamalies by 5th respondent-Association and the 5th respondent-Association is free to engage anybody it chooses as Hamalies for loading and unloading work in the 4th respondent-Corporation Depot at Gundla Singaram. I therefore see no reason to continue the interim order dt.01.02.2017 in W.P.MP.No.4074 of 2017 in W.P.No.3432 of 2017.

16. Therefore, all the WV.MPs are allowed and the interim order dt.01.02.2017 in W.P.MP.No.4074 of 2017 in W.P.No.3432 of 2017 is vacated.

17. Accordingly, the Writ Petition is disposed of declaring that neither the petitioners nor the respondents 7 to 86 have

any preferential right to be engaged as Hamalies by the 5th respondent-Association; that the 5th respondent Association is free to engage any person as Hamali, and that the petitioners and respondents 7 to 86 shall not obstruct the business activity of respondents 2 to 5 in any manner. No costs.

18. Miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

31st July, 2017

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