

പുസ്തകവിതരണ കേന്ദ്രം, എറണാകുളം, കോച്ചി, കേരളം
National Book Trust, India, Kerala, Ernakulam, Kochi

[Established under Section 14 of the Act 20 of 1980]
PB.No.2017, S.R.M.Road, Ernakulam, Kochi. 682018

നമ്പർ: ഇ1 - 17437/16

തീയതി- 31.08.2016

പ്രേഷകൻ

ചീഫ് എക്സിക്യൂട്ടീവ്

സീക്രട്ടറി

ഇല്ലാ കമ്മിറ്റി ചെയർമാൻമാർ

സർ,

വിഷയം- ബഹു: കേരള ഹൈക്കോടതിയുടെ ഡബ്ബിൾ.പി.(സി) നമ്പർ 19944/16-ാം നമ്പർ കേസിലെ വിധിനിയമം ശ്രദ്ധിക്കേണ്ടതു സംബന്ധിച്ച്.

സൂചന- ഡബ്ബിൾ.പി.(സി) നമ്പർ 19944/16-ാം നമ്പർ കേസിലെ വിധിനിയമം തീയതി 10.08.2016.

മേൽ സൂചന കേസിൽ ബഹു: കേരള ഹൈക്കോടതി ഡിവിഷൻ ബഞ്ച് പുറപ്പെടുവിച്ച വിധിനിയമം കേരള ചുമട്ടുതൊഴിലാളി ക്ഷേമബോർഡുമായി ബന്ധപ്പെട്ട് നിലവിലുള്ള കേസുകളിൽ ബോർഡിന്റെ നിലപാടിനോട് യോജിക്കുന്നതായതിനാൽ സമാന സ്വഭാവത്തിലുള്ള കേസുകളിൽ ഈ വിധിയുടെ പകർപ്പ് എക്സിബിറ്റായി ഉപയോഗപ്പെടുത്തണമെന്ന അറിയിക്കുന്നു.

വിശ്വസ്തതയോടെ,

ചീഫ് എക്സിക്യൂട്ടീവ്

ഉള്ളടക്കം:

വിധിനിയമത്തിന്റെ പകർപ്പ്.

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11/9/16

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE JUSTICE K.T.SANKARAN

THE HONOURABLE JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 10TH DAY OF AUGUST 2016/19TH SRAVANA, 1938

WP(C).No. 1844 of 2016 (P)

PETITIONER:

P K XAVIER,
MANAGING PARTNER,
M/S. CALICUT POLYMERS LTD. 5/1086/V,
CENTRE ARCADE, PASSPORT OFFICE ROAD,
ERANHIPALAM, KOZHIKODE-673006.

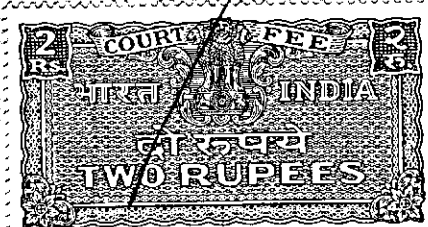
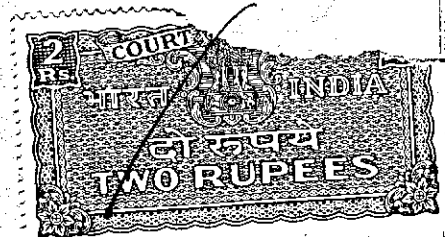
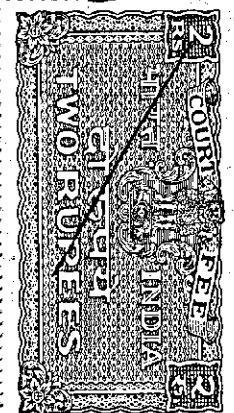
BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKESAR

RESPONDENTS:

1. THE SUB INSPECTOR OF POLICE,
NADAKKAVU POLICE STATION,
KOZHIKODE DISTRICT-673011.
2. THE CIRCLE INSPECTOR OF POLICE
NADAKKAVU, KOZHIKODE DISTRICT-673011.
3. THE DISTRICT POLICE CHIEF,
KOZHIKODE-673001.
4. THE KERALA HEAD LOAD WORKERS WELFARE FUND BOARD
KOZHIKODE LOCAL COMMITTEE,
CHEROOTTI ROAD, KOZHIKODE-673032,
REPRESENTED BY ITS CHAIRMAN.
5. THE HEAD LOAD WORKERS UNION (CITU),
CITY UNIT, REPRESENTED BY ITS SECRETARY,
KOZHIKODE-673011.

R BY SENIOR GOVERNMENT PLEADER A.J.VARGHESE
R BY SRI.C.S. AJITH PRAKASH, SC, KHWWB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-08-2016,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



17

Dated this the 10th day of August, 2016

JUDGMENT

K.T.Sankaran.J

The petitioner is the managing partner of M/s. Calicut Polymers Ltd., a partnership firm. The business of the firm is in respect of flex and other polymer materials. It is stated that the petitioner was having a godown near Calicut beach but on account of the trouble caused by the head load workers, the petitioner had to shift the establishment to Eranhipalam about two months back. It is stated that the petitioner had employed two workers and the loading and unloading activities are carried out by them. The petitioner submitted application for registering P.D.Joshy and Reneesh N.K as attached head load workers under the Kerala Head Load Workers Rules. According to the petitioner, due to the objection raised by the local Head Load Workers Union, the registration of the permanent Head Load Workers of the establishment is getting unduly delayed. The allegation in the writ petition is that when the workers of the petitioner started loading materials, members of the 5th respondent union obstructed the work. They demanded that either the work of loading and unloading should be entrusted to them or else they should be paid wages. In other words, the members of respondent No.5 union demanded "Nokku Kooli" even if the work were to be done by the

workers of the petitioner. There was obstruction on several occasions at the instance of respondent No.5 union and its members. The relief prayed for in the writ petition is to issue a direction to respondents 1 to 3 to provide adequate and sufficient police protection for carrying out the loading and unloading operations in the petitioner's establishment without any obstruction from the 5th respondent union and its members.

2. In the statement filed on behalf of the 4th respondent (The Kerala Head Load Workers Welfare Fund Board), it is stated that the area where the petitioner is doing business comes within the territorial limits under the scheme formulated under the Kerala Head Load Workers Rules. The Board has constituted a pool as pool No.4H. There are eight registered head load workers working under pool 4H. Those workers have filed complaint before the District Labour Officer alleging denial of employment by the petitioner. The Deputy Labour Officer has sought for the comments from the Board. The Head Load Workers, allegedly employed by the petitioner do not have registration and identity card under Rule 26A of the Kerala Head Load Workers Rules and therefore, the petitioner cannot legally employ them for carrying out the loading and unloading work.

3. Since the establishment of the petitioner is in a scheme covered area, the petitioner is bound to employ the registered Head load workers

under the Kerala Head Load Workers Rules, so long as the own employees of the petitioner do not have registration and identity card under Rule 26A. Admittedly, the petitioner's workers do not have identity card. Therefore, the petitioner is bound to employ the pool workers. The learned counsel for the petitioner submitted that the petitioner is prepared to employ the pool workers but they are demanding wages at rates higher than the rates fixed by the Board. If so, the petitioner would be entitled to complain to the Board about the demand of higher wages. The petitioner is also free to make the deposit of wages with the Board, so that petitioner need not directly pay the wages to the pool workers. Even after depositing the amount payable to the pool workers, if the pool workers demand higher amount and obstruct the work, certainly respondents 1 and 2 shall interfere and provide adequate police assistance to the petitioner to carry out the loading and unloading work by employing the workers of the petitioner's choice.

With the above observations, this Writ Petition is disposed of.

sd/-
K.T.SANKARAN, JUDGE

sd/-
K.ABRAHAM MATHEW, JUDGE

pm

True Copy

pm
VA to Judge.

APPENDIX

PETITIONER(S) ' EXHIBITS.

P1 - A TRUE COPY OF THE APPLICATIONS SUBMITTED BY THE PETITIONER ALONG WITH COVERING LETTER DT. 21/3/16

P2 - A TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 1ST RESPONDENT DT. 23/4/16

P3 - A TRUE COPY OF THE RECEIPT DT. 23/4/16 ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT

RESPONDENT(S) ' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

TRUE COPY
Seetha
Examiner