

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 31ST DAY OF JANUARY 2023 / 11TH MAGHA, 1944

WP(C) NO. 42009 OF 2022

PETITIONER:

UNNIKRISHNAN,
AGED 55 YEARS
S/O.LATE.BALAN,
MOORTHADIYIL,
VILAYUR WEST.P.O,
PATTAMBI, PALAKKAD- 679309.

BY ADV V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENTS:

- 1 DISTRICT POLICE CHIEF,
OFFICE OF THE DISTRICT POLICE CHIEF,
PARAKKUNNAM, VIDHYUT BHAVAN,
PALAKKAD-678001.
- 2 STATION HOUSE OFFICER,
THRITHALA POLICE STATION,
THRITHALA, PALAKKAD-679309.
- 3 THE ASSISTANT LABOUR OFFICER,
OFFICE OF THE A.L.O, GRADE-II,
SHORNUR, PALAKKAD-679121.
- 4 KERALA HEAD LOAD WORKERS WELFARE BOARD,
DISTRICT COMMITTEE, IST FLOOR, M.A.COMPLEX,
OPP.KSEB OFFICE, T.B.ROAD,
PALAKKAD- 678014, REP BY ITS CHAIRMAN.
- 5 P.K.CHELLAKUTTY,
AGED 56 YEARS
S/O.NOT KNOWN TO PETITIONER,
POOZHAKKAL KALATHIL,
MANGALAM, PARUTHUR.P.O,
PALAKKAD-679305.

- 6 T.SUDHAKARAN,
AGED 53 YEARS
S/O. VELAYUDHAN,
THARAMMAL VEEDU.
MANGALAM, PARUT UR.P.O,
PALAKKAD-679305.
- 7 K.C.ALI IQBAL,
AGED 59 YEARS
S/O.CHIYYAMU,
KOTTAYIL VEEDU,
PALATHARA, PARUTHUR.P.O,
PALAKKAD-679305.
- 8 T.SURENDRAN,
AGED 53 YEARS
S/O.MAKKUNNI,
THARAMMAL VEEDU,
MANGALAM, PARUTHUR.P.O,
PALAKKAD-679305.
- 9 MUHAMMADALI,
AGED 54 YEARS
S/O.KUNJALAN,
ANGADIPPARAMBIL VEEDU,
KULAMUKKU, PARUTHUR.P.O,
PALAKKAD-679305.
- 10 UNNIKRISHNAN,
S/O.NOT KNOWN TO PETITIONER,
NAMBALATH VEEDU, PARUTHUR.P.O,
PALAKKAD-679305.
- 11 SATHEESHKUMAR,
AGED 52 YEARS
S/O. VISWANATHAN.
CHOZHIYAMPARAMBIL VEEDU,
CHERUKURANGAD.P O,
PARUTHUR.P.O,
PALAKKAD-679305.
- 12 RAMAN,
AGED 59 YEARS
SO.NOT KNOWN TO THE PETITIONER.,
NARIPATTAPADI, KODUMUNDA,
PARUTHUR.P.O, PALAKKAD-679305.
- 13 SHAIJU, AGED 26 YEARS
S/O.NOT KNOWN TO THE PETITIONER.
THARAMMAL VEEDU, MANGALAM,
PARUTHUR.P.O, PALAKKAD-679305.

**14 THE CHIEF EXECUTIVE OFFICER,
KERALA IRRIGATION INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD,
NH66 BYPASS SERVICE ROAD,
CHACKAL.P.O, THIRUVANANTHAPURAM-695024.**

**BY ADVS.
THOMAS ABRAHAM
JULIAN XAVIER.J JOSEPH
PIRAPPANCODE V.S.SUDHEER V.S
FIROZ K.ROBIN(F-15)
ROY JOSEPH(K/55/2006)
ANIES MATHEW(K/952/2007)
ANJANA RAM(K/000695/2020)
NIRMAL KURIEN EAPEN(K/000151/2022)
AKASH S.(K/980/2008)
GIRISH KUMAR M S(K/001593/2018)
V.S.VARALEKSHMI(K/000910/2019)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 31.01.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

JUDGMENT

Dated this the 31st day of January, 2023

The petitioner states that he is a PWD Contractor and a successful bidder of a Tender invited by the Kerala Irrigation Infrastructure Development Corporation Limited (KIIDC) for distilling reservoir of Velliyankallu Regulator cum Bridge across Bharathapuzha River.

2. According to the petitioner, the work has to be completed by 31.03.2023. In the meanwhile, respondents 5 to 13, who are claiming to be registered headload workers in the area, are obstructing the work. Though the petitioner approached respondents 1 and 2 with complaints, they have not taken any steps to prevent the obstruction caused by respondents 5 to 13 and to abate the law and order situation there.

3. The petitioner has stated in paragraph 7 of the writ petition that according to the understanding of the petitioner, the area is not a 'Scheme Covered Area' under the Kerala

Headload Workers Act, 1978. The restriction for deploying loading and unloading workers is applicable only to a 'Scheme Covered Area' under the Kerala Headload Workers Act, 1978.

4. The 4th respondent-Kerala Headload Workers Welfare Board entered appearance through Standing Counsel. The Standing Counsel submitted that the area, where the work is going on, is a 'Scheme Covered Area' and only workers registered under Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 can be engaged for any loading and unloading activities. The petitioner has no registered headload workers.

5. Counsel for respondents 5 to 13 entered appearance and resisted the writ petition filing a counter affidavit. The counsel for respondents 5 to 13 submitted that respondents 5 to 13 are registered headload workers under the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983. As the area is a 'Scheme Covered Area', respondents 5 to 13 are legally entitled to get any loading and unloading work carried out by the petitioner.

6. Government Pleader entered appearance and submitted that this is basically a labour dispute and if there is any law and order issue, respondents 1 and 2 will be intervening in the matter.

7. I find that the work undertaken by the petitioner is one related to the Kerala Irrigation Infrastructure Development Corporation Limited. The work is distilling the reservoir of Velliyankallu Regulator cum Bridge across Bharathapuzha River. The work is therefore of a public nature. If any work is being carried out in an area where the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme is applicable, then the petitioner can engage only registered headload workers.

8. Counsel for the petitioner, however, would urge that there is no loading and unloading work involved using manpower as the sand mined from the area is loaded in Lorries using mechanical devices.

9. Where the Kerala Headload Workers Welfare Scheme is notified in an area, an employer can engage only

registered headload workers. An employer will, however, be at liberty to carry out loading and unloading activities using mechanical devices, in which case registered headload workers will have no claim. At any rate, respondents 5 to 13 cannot be permitted to take law into their hands. If the workers have a legitimate claim for getting the loading and unloading work, they have to raise a dispute under the Kerala Headload Workers Act, 1978 before the competent authority.

10. In this writ petition, the Assistant Labour Officer is the 3rd respondent and he is the Conciliation Officer in the matter of resolution of disputes.

11. In the facts and circumstances of the case, the writ petition is disposed of with the following directions:-

- (1) Respondents 1 and 2 are directed to ensure that there is no obstruction to the work being carried out by the petitioner as long as the petitioner is not resorting to manpower for direct loading and unloading work.
- (2) If the petitioner requires manpower for doing loading and unloading work, the petitioner shall engage only

registered headload workers of the area. At the same time, if the petitioner engages machine operators for using mechanical devices, respondents 5 to 13 shall not cause any obstruction.

- (3) Respondents 5 to 13 will be at liberty to approach the 3rd respondent-Assistant Labour Officer or the District Labour Officer raising a dispute for enforcement of their rights, if any.
- (4) If there is any law and order situation, respondents 1 and 2 shall interfere in the matter.

Sd/-
N.NAGARESH
JUDGE

spk

APPENDIX OF WP(C) 42009/2022

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE AGREEMENT DATED 20.05.2022 EXECUTED BETWEEN THE PETITIONER AND CHIEF ENGINEER, THIRUVANANTHAPURAM.
Exhibit P2	TRUE COPY OF THE LETTER NO.KI IDC/865/2020- PE20 DATED 15.12.2022.
Exhibit P3	TRUE COPY OF THE E-PASS DATED 21.11.2022 ISSUED BY THE KERALA IRRIGATION INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED.
Exhibit P4	TRUE COPY OF THE E-PASS DATED 13.12.2022 ISSUED BY THE KERALA IRRIGATION INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED.
Exhibit P5	TRUE COPY OF THE E-PASS DATED 19.12.2022 23 ISSUED BY THE KERALA IRRIGATION INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED.
Exhibit P6	TRUE COPY OF THE COMPLAINT DATED 19.12.2022 ALONG WITH ITS OFFICE RECEIPT SUBMITTED BEFORE THE 2ND RESPONDENT.
Exhibit P7	TRUE COPY OF THE PHOTOGRAPHS OF THE PETITIONER' WORK PLACE.
Exhibit P8	TRUE COPY OF THE COMPLAINT ALONG WITH RECEIPT DATED 11.01.2023 SUBMITTED BEFORE THE 2ND RESPONDENT
Exhibit P9	TRUE COPY OF THE COMPLAINT ALONG WITH ITS RECEIPT DATED 15.01.2023
Exhibit P10	PHOTOGRAPHS OF THE PETITIONER'S WORK PLACE
EXHIBIT P11	TRUE COPY OF THE REQUEST DATED 21.01.2023 ALONG WITH ITS RECEIPT SUBMITTED BEFORE THE 2ND RESPONDENT
EXHIBIT P12	TRUE COPY OF THE REQUEST DATED 21.01.2023 SUBMITTED BEFORE THE 1ST RESPONDENT

RESPONDENT EXHIBITS

- EXT.R10(A)** TRUE COPY OF THE IDENTITY CARD ISSUED BY THE 3RD RESPONDENT TO THE DEPONENT DATED 09.05.2009
- EXT.R10(B)** TRUE COPY OF ONE SUCH ID CARD ISSUED BY THE 3RD RESPONDENT TO SRI. P.K HARIDASAN
- EXT.R10(C)** TRUE COPY OF THE IDENTITY CARD ISSUED UNDER PARA 6A (3) OF THE SCHEME IN THE NAME OF SRI. K. SATHEESHKUMAR, THE 11TH RESPONDENT
- EXT.R10(D)** TRUE COPY OF THE IDENTITY CARD ISSUED BY THE PARUTHUR GRAMA PANCHAYAT DATED 27.08.2001 ISSUED IN THE NAME OF ONE BALAKRISHNAN M.C
- EXT.R10(E)** TRUE COPY OF THE LETTER NO. KIIDC/865/2020-PE20 DATED 07.11.2022 ISSUED BY THE CHIEF EXECUTIVE OFFICER, KIIDC, THIRUVANANTHAPURAM TO THE DISTRICT COLLECTOR, PALAKKAD
- EXT.R10(F)** TRUE COPY OF THE LETTER DATED 17.11.2022 ISSUED BY THE CHIEF EXECUTIVE OFFICER KIIDC TO THE PETITIONER