

Kerala High Court

Kerala High Court

Rajan Kudumbathil vs Union Of India, Represented on 12 November, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM WP(C).No. 15393 of 2009(S)

1. RAJAN KUDUMBATHIL,

... Petitioner

Vs

1. UNION OF INDIA, REPRESENTED

... Respondent

2. STATE OF KERALA, REP. BY SECRETARY

3. CORPORATION OF KOCHI,

4. THE DISTRICT COLLECTOR,

5. S.P. OF POLICE, ERNAKULAM.

For Petitioner :SRI.KALEESWARAM RAJ For Respondent :SRI.C.M.SURESH BABU,SC,COCHIN
CORPORATI The Hon'ble the Chief Justice MR.S.R.BANNURMATH The Hon'ble MR. Justice
A.K.BASHEER

Dated :12/11/2009

O R D E R

S.R.BANNURMATH, C.J. & A.K.BASHEER, J. - - - - -
W.P.(C)No.15393 OF 2009

- - - - - Dated this the 12th day of November 2009 JUDGMENT

A.K.BASHEER, J.

This writ petition has been filed by an Advocate practicing in this court. He highlights the problems now being allegedly faced by migrant labourers who come to this State in search of job opportunities. We do not deem it necessary to refer to the various aspects of this social issue as highlighted by the petitioner in the writ petition at this stage in view of the order that we propose to pass. The reliefs sought for in the writ petition may be noticed;

i) issue a writ of mandamus directing the 1st respondent to take an assessment of the migrant labourers in various parts of the State and to prepare a comprehensive scheme for making rehabilitation and welfare of such labourers and their family members in accordance with Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Rules made thereunder; ii) issue a writ of mandamus directing the respondents to implement the provisions contained in Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Rules;

iii) issue a writ of mandamus directing the respondents to ensure that the slum dwellers and the migrant labourers are not attacked/tortured by the local populace and to ensure that sufficient preventive measures are taken to protect their lives; iv) issue a writ of mandamus directing the respondents to ensure that offences of illegal traffic, sexual exploitation and other types of assaults are not committed on the women and children among the migrant labourers and slum dwellers and pavement vendors;

W.P.(C)No.15393 OF 2009

:: 2 ::

v) issue a writ of mandamus directing the respondents 2, 3 and 4 to ensure that the migrant labourers and slum dwellers at Manapatti Paramna ground in Kochi are properly rehabilitated and they are given basic facilities including shelter and water;

2. We have heard learned counsel for the petitioner Sri.Kaleeswaram Raj and the learned Government Pleader. We have also perused the materials available on record.

3. In our view, while prayer Nos.1 and 2 are worthy of consideration, the other prayers, cannot be entertained particularly in the absence of any material to substantiate the alleged acts of atrocities like torture, illegal traffic, sexual exploitation, etc. Therefore, reliefs sought for in prayer Nos.3, 4 and 5 are declined.

4. As regards prayer Nos.1 and 2, we are satisfied that it is the responsibility of a welfare State to ensure that no citizen of this country is denied his right to live in dignity. He is entitled to get basic amenities in life, atleast to reasonable levels, whether he belongs to the same State or hails from outside the State.

5. We do not propose to refer to or deal with the provisions contained in the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 or the Unorganised Workers' Social Security Act, 2008. Suffice it to say that the various provisions contained in these two enactments would, if implemented, W.P.(C)No.15393 OF 2009

:: 3 ::

take care of many of the problems that are being faced by some of these migrant workers.

6. When this writ petition had come up for consideration on July 13, 2009 the following direction was issued by this court: "There will be a direction to the second respondent to file an affidavit as to the shortest time required for the issuance of the smart cards to the unorganised workers under the provisions of the Unorganised Workers' Social Security Act, 2008. The second respondent will also indicate as to the steps taken for framing the Rules and also for constituting the State Board under the Act. The affidavit shall be filed within a period of one month from today."

7. In spite of issuing the above direction, respondent No.2 has not so far filed an affidavit as directed. This inaction cannot be countenanced. Therefore, having regard to the entire facts and circumstances of the case, we dispose of the writ petition with the following directions:

i) Respondents shall ensure that a proper study or assessment is made as regards the migrant labourers who are eking out their livelihood in various parts of the State of Kerala. ii) A methodology shall be evolved to get these workers registered at the Panchayat/Corporation/District level with W.P.(C)No.15393 OF 2009

:: 4 ::

provision to issue photo identity cards, making it mandatory for employers to report about such migrant workers to the competent authority, if these workers are engaged by them. iii) A comprehensive programme for providing these migrant workers basic amenities can be considered by the Government under a scheme which can be drawn up for this purpose in tune with the provisions contained in the 1979 Act. iv) Respondents shall ensure that the order dated July 12, 2009 which is extracted above, is implemented without any further delay.

v) Steps shall be taken to constitute the Board as provided under the 2008 Act.

With these directions, the writ petition is disposed of. (S.R.BANNURMATH)

CHIEF JUSTICE

(A.K.BASHEER)

JUDGE

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