

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
Monday, the 29th day of January 2024 / 9th Magha, 1945
WP(C) NO. 3383 OF 2024 (W)

PETITIONER:

SINDHU RADHAKRISHNAN NAIR, [REDACTED]
[REDACTED]

RESPONDENTS:

1. STATE OF KERALA, LABOUR DEPARTMENT, REPRESENTED BY ITS SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
2. THE LABOUR COMMISSIONER, OFFICE OF THE LABOUR COMMISSIONER, THOZHIL BHAVAN, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN - 695033
3. THE ASSISTANT LABOUR OFFICER, ASSISTANT LABOUR OFFICE, CIVIL STATION, CHENGANNUR, ALAPPUZHA, PIN - 689121

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the effect and operation of Exhibit P2, pending disposal of the above WP(C).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.ADARSH KUMAR, K.M.ANEESH & SHASHANK DEVAN, Advocates for the petitioner, GOVERNMENT PLEADER for Respondents, the court passed the following:



RAJA VIJAYARAGHAVAN V, J.

W.P.(C) No.3383 of 2024

Dated this the 29th day of January 2024

ORDER

The learned government pleader takes notice for the respondents.

2. Sri. Adarsh Kumar, the learned counsel appearing for the petitioner, contends that the petitioner is running an LPG distributorship and he is not engaged in transporting goods or passengers for hire or reward. According to the learned counsel, in order to come within the purview of the term 'motor transport undertaking' as defined under Section 2(g) of the Motor Transport Workers Act, 1961, the undertaking is to be engaged in carrying passengers or goods or both by road for hire or reward. Reliance is also placed on the law laid down by this Court in **Aravindaksha Kurup v. Reghunathan Pillai and Others** [2005(3) KLJ 33] wherein in pari materia provisions of the Motor Transport Workers Payment of Fair Wages Act, 1971 was considered and it was held that unless the predominant activity comes within the ambit of

Section 2(g), the employee cannot be regarded as a 'motor transport worker' attracting the provisions of the Act of 1961.

3. Having considered the submissions, I am of the view that the petitioner has made a case for the grant of an interim order.

There will be an interim order, as prayed for, for a period of four weeks.

sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE**

DCS



APPENDIX OF WP(C) 3383/2024

Exhibit P2

**A TRUE COPY OF THE INSPECTION NOTE WITH RESPECT TO
INSPECTION DATED 10-01-2024 ISSUED BY THE 3RD
RESPONDENT**

