

'C.R.'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

MONDAY, THE 20<sup>TH</sup> DAY OF DECEMBER 2021 / 29TH AGRAHAYANA, 1943

WP(C) NO. 17866 OF 2021

**PETITIONER:**

T.K.SUNDARESAN, AGED 65 YEARS, S/O. KUNJUKRISHNAN,  
ASWATHY, SIVANKOVIL ROAD, PUNALUR P.O., KOLLAM  
DISTRICT-691 305.

BY ADVS.MANOJ RAMASWAMY  
JOLIMA GEORGE  
JISHA SASI  
C.B.SABEELA  
CHINNU ROSE MARY THOMAS

**RESPONDENTS:**

- 1 DISTRICT POLICE CHIEF,  
KOLLAM RURAL, KOLLAM DISTRICT, KOLLAM-691 001.
- 2 THE STATION HOUSE OFFICER,  
ANCHAL POLICE STATION, KOLLAM DISTRICT-691 306.
- 3 UNNIKRISHNAN, CONVENOR, C.I.T.U.,  
KRISHNAVILASOM, ALUMMOOD, KARINGANOR P.O.,  
VELINALOOR, KOLLAM DISTRICT-691 516.
- 4 ASOKAN, CONVENOR, I.N.T.U.C., ARUN BHAVAN,  
MELAKKADU, KOTTUKAL P.O.,  
KOLLAM DISTRICT-691 306.
- 5 ANILKUMAR, MEMBER, C.I.T.U., ANITHAVILASOM,  
ALAYMON, KUZHIYAMTHADAM, ANCHAL P.O.,  
KOLLAM DISTRICT-691 306.
- 6 SUDARASAN, MEMBER, C.I.T.U., NADAYIL  
VADAKKETHIRA, OZHUKKUPARACKAL P.O.,  
KOLLAM DISTRICT-691 539.

**\*ADDL.R7 DIRECTOR GENERAL OF POLICE,  
STATE POLICE HEAD QUARTERS, VELLAYAMBALAM,  
THIRUVANANTHAPURAM-695 010.**

**\*IS SUO MOTU IMPEADED AS PER ORDER DATED 03-09-  
2021.**

**\*ADDL.R8 KERALA HEAD LOAD WORKERS WELFARE FUND BOARD  
SRM ROAD, ERNAKULAM -682012, REPRESENTED BY ITS  
CHIEF EXECUTIVE.**

**\*IS IMPEADED AS PER ORDER DATED 10-09-2021 IN  
IA NO.1./2021.**

**\*ADDL.R9 ADDITIONAL CHIEF SECRETARY (LABOUR AND SKILLS),  
GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.**

**\*IS SUO MOTU IMPEADED AS PER ORDER DATED 16-09-  
2021.**

**BY ADVS.SRI.E.C.BINEESH, G.P.  
S.SREEKUMAR (KOLLAM)  
SRI.SIJU KAMALASANAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 20.12.2021, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:**

**'C.R.'**

**JUDGMENT**

One would be called an incorrigible fabulist if it were to be said that extortion is legitimate and practiced in a civilized society.

2. But this is exactly what has been going on unobtrusively for the last several years, if not decades, in Kerala, under the inventive euphemism "Nokku Kooli".

3. It is unclear when "Nokku Kooli" - literally translated to mean "Gawking Charges" - spread its tentacles in our little State; but it is common, admitted and irrefutable knowledge - forcing this Court to have taken judicial notice of it - that it is being practiced, as if it is a matter of entitlement, by various trade Unions and its members.

4. Though mired by lack of clarity, "Nooku Kooli" is indubitably the unintended by-product of a well intended legislation - the Kerala Head Load Workers Act, 1978 (hereinafter referred to as the "Act", for short).

5. The mid 1950's in Kerala, saw a significant increase in the exploitative tendencies against the "informal sector", which mirrored the burgeoning of a band of workers increasingly reliant on the vagaries of a globalized capitalist mode of enterprise and production.

6. The dichotomy between "formal" and "informal" sectors came to be acknowledged and the imperative to provide protection to the latter was recognized. Trade Unions began to demand interventions in the informal labour markets and bowing to this, the State responded by actively intervening, through a series of direct and

institutional measures.

7. A major component of the "informal sector" was head load work - commonly regarded as a physically demanding work - its workers then being called "Coolies", conferring them a livelihood dominated by unskilled manual labour. Organizations within the sector, in fact, began in the 1950's, but the localized character of the Unions, coupled with its militant nature, often resulted it in inter-union rivalries, leading to violent agitations, destructive to smoothly running markets.

8. The Government was obviously disturbed by the series of disruptive strikes and thus was persuaded to quell the near state of anarchy, by legislating the "Act", designed to *"regulate the employment of Headload workers in the State of Kerala and to make provision for their welfare, for the Settlement of Disputes in*

*respect of their Employment or Non-Employment".*

9. The "Act" was followed by the inception of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 ('the Scheme', for short), which aimed at the constitution of the Kerala Headload Workers Welfare Fund Board ('the Welfare Board', for short), to institutionalize the contractual relations of the employers and "Headload Workers". The Welfare Board is a representative body, with members nominated by the Government, employers and the Trade Unions.

10. The "Act" has specific provisions for the manner and mode of employment of the "Headload Workers"; redress in the case of violation and denial of employment; as also for reduction of physical strain involved in the loading and unloading works.

11. However, even with all these provisions being in place and operating on a near satisfactory level, allegations and complaints of Trade Union militancy continue, particularly with the advent of mechanized forms of loading and unloading, which was perceived to reduce legitimate opportunities to the "Headload Workers".

12. This was the beginning of the concept of "Nooku Kooli", which literally construe that the "Headload Workers" and Unions will continue to be paid, even without any work being given to them or incapable of being offered to them; and over the years, this became almost a way of life.

13. What I said above is irrefutable, because as early as in the year 2012, the State Police Chief of Kerala issued Circular No.7 of 2012 dated 26.03.2012, declaring the demand for "Nokku Kooli", accompanied by either an express or

implied threat of criminal use of force, to be a violation of several laws, including Sections 383, 503 and 149 of the Indian Penal Code (IPC). The Circular also required the Station House Officers to immediately reach the place of occurrence of the complaint and to investigate it, by registering a Crime, as per the afore provisions and other applicable ones in the IPC.

14. Unfortunately, nothing really changed at the ground level and the demands for "Nokku Kooli" continued unabated.

15. At this time, this Court began to interpose actively in cases which were brought to its notice with respect to this menace and several judgments followed, which compelled the Government to issue an order bearing No.G.O.(Rt)No.511/2018/Labour, dated 30.04.2018 - copy of which is available on file as Ext.R9(a) - reiterating that demands for "Nokku Kooli" is illegal and that no

Trade Union or registered workers can indulge in the same.

16. March forward to the year 2021, when this Court is now considering this writ petition, and it is really tragic that, in spite of the afore interventions, not much has changed and that entrepreneurs, employers and even common citizens are being forced to come to this Court, seeking orders for "Police Protection", on the allegation that they are obstructed in their activities by the registered "Headload Workers" and the Trade Unions, demanding "Nokku Kooli".

17. The facts presented herein is no different. In fact, in this case, the petitioner says that he is willing to engage the registered workers in the "Pools" maintained by the Welfare Board, but that on account of the internecine disputes between two politically motivated sections between them, not merely is he being not

allotted workers, but that he is being forced to pay "Nokku Kooli" to both of them.

18. Noticing the factual assertions and factors presented by the petitioner and after hearing both sides in detail, I admitted this case on 03.09.2021 and indited the following order:

*"I find that complaints relating to demand for gawking charges ('nookukooli') have been coming before this Court on a regular basis. This is surprising because I am aware that the Government has already issued an order banning such demand from any Trade Union.*

*Therefore, this can only prima facie mean that the said Government Order has not been effectively implemented by the competent Authorities.*

*I, therefore, deem it appropriate to direct the learned Government Pleader to obtain necessary instructions from the State Police Chief, as to why this order has not been implemented - if it has not been - and as to the steps taken by the Police Authorities at the various levels to do so.*

*For this purpose, I suo motu implead the Director General of Police, State Police Headquarters, Vellayambalam, Thiruvananthapuram - 695 010, as an additional respondent in this Writ Petition and record that the learned Government Pleader takes notice on his behalf.*

19. When this matter was, thereafter, called on 10.09.2021, the learned Government Pleader - Sri.E.C.Bineesh, submitted that a memo had been filed by him on the same day, producing therewith a Report of the Additional Director General of Police, Law and Order, Kerala, affirming that the Government was also against the menace of "Nokku Kooli", and averring that certain specific steps have been taken to stop it. The measures aforementioned are available in paragraphs 8 to 12 and 14 of the said report which, for the necessity of complete reading, is extracted as under:

*"8. In the light of many of such instances in the State, the State Police Chief, Kerala vide Circular No.07/2012 dated 26.03.2012 has issued strict instruction to all the District Police Chief for taking stringent legal action against the unlawful demand of "Nokkukooli". In the said Circular, it is also specified that "Demand*

for "Nokkukooli" accompanied by either an express or implied threat of criminal use of force or use of force or harm or injury to any person is a clear violation of several laws and attract the criminal provisions of law under section 383, 503 & 149 of Indian Penal Code and also other relevant sections as the case may be.

9. Further, the State Police Chief, Kerala, subsequently vide No.D1-169028/2016/PHQ dated 14.10.2016 has issued an Advisory Memorandum to all District Police Chiefs directing to strictly comply with the directions issued vide Circular No.No.07/2012 dated 26.03.2012 without any laxity. In the above Advisory Memorandum, the State Police Chief reminded the District Police Chief that, any lethargic attitude of officers towards the unhealthy practice of Nokkukooli will promote this menace and this deep irresponsiveness amounts to dereliction of duty. Hence, all the District Police Chiefs were instructed to strictly comply the directions in the former Circular in order to eliminate the menace of Nokkukooli from Kerala Society.

10. In order to curtail the unhealthy practice of Nokkukooli, the 7<sup>th</sup> respondent has already issued strict instructions to the District Police Chief for initiating stringent legal action. The State Police Chief has viewed the unlawful practice of Nokkukooli as a great menace in the Kerala Society and repeatedly issued strict directions to curtail the same. It is also submitted that, the 7<sup>th</sup> respondent as the Chief of the Police force, in the Circular No.07/2012 dated 26.03.2012 clearly specified the section of law under which the FIRs are to be registered against offenders for demanding Nokkukooli.

11. Whereas, the unhealthy practice of

Nokkukooli prevailing in Kerala broadly criticized and questioned by the public in large, the same came to the notice of the Government and the Hon'ble Chief Minister of Kerala convened a meeting with the head of the concerned departments and the representatives of the trade union and discussed about the measures to be implemented for curbing this menace. Resulting which, the Department of Labour, Government of Kerala vide GO(Rt) No.511/2018/Labour dated 30.04.2018 has issued orders containing 10 instructions for abolishing the unhealthy practice of Nokkukooli. In the above Government Order, the 3<sup>rd</sup> direction, the Government declared that, at any circumstances, no wages can be demanded or accepted by the workers of trade union for the work not done by them. Such activities shall be treated as unlawful and legal action will be initiated accordingly against the responsible persons.

12. In pursuance of the instructions issued by the 7<sup>th</sup> respondent, the Station House Officers are taking legal action against the unlawful practice of Nokkukooli when report. Accordingly, for the period from 2018 to till date, 11 Criminal cases have been registered in Kerala against demanding Nokkukooli under the provisions of the Kerala Loading and Unloading (Regulations of Wages and Restriction of Unlawful Practices) Act, 2002 and also under India Penal Code (Thiruvananthapuram Rural - 1, Kollam City-1, Alappuzha-1, Kottayam-1, Idukki-1, Ernakulam Rural-2 Palakkad-1, Kozhikode City-2 and Wayanadu-) The police is taking legal action against actionable incidents of Nokkukooli. No laxity is noticed in this regard.

14. It is also submitted that, the 7<sup>th</sup> respondent has already issued strict

*instructions to all District Police Chiefs to take stringent legal action against the unlawful practice of Nokkukooli when reported."*

20. Noticing the report, I issued an order on 10.09.2021, the relevant portions of which are as below:

*"3. As I have indicated in my earlier order, the allegations of demands for 'gawking charges' (nooku kooli) - whether substantiated or otherwise - have dealt a serious blow to reputation of our State as an investor friendly destination. The stated position of the Government, as has been conceded to by the learned Government Pleader - Shri.E.C.Bineesh, is that Kerala is an investor friendly destination and that efforts are being taken to promote this impression around the country, if not the world.*

*4. However, when information reaches the public, whether that be through the social media or through the mainline media, about deleterious conduct like demand for 'gawking charges' (nooku kooli), it is not merely the individual businesses which are affected, but the collective reputation of our State as a whole.*

*5. These cases certainly project the rival interests of the investors on one side and the headload workers on the other, with both of them claiming that they obtain protection under the applicable laws.*

*6. The Kerala Headload Workers Act, 1978*

(herein after referred to as 'the Act' for short), was certainly brought into force with the purpose of resolving disputes between the rival sides amiably and through an institutional mechanism, answering the constitutional ethos of this Country; but in practice, it is often found that the mechanisms therein fail on account of either delay or ineffectiveness.

7. To take the case at hand as an example, the petitioner says that though he is willing to employ members of the various Unions - who have been arrayed as respondents - there are internecine disputes between them; and that consequent thereto, his business is being blocked and demands for 'gawking charges' (nooku kooli) being made.

8. Normally, going by the Act, either of the parties ought to have moved the Assistant Labour Officer (ALO) under it, which would have then set in motion a Conciliation Proceedings, leading to an order under Section 21 thereof. The parties certainly have a further remedy under the Act, by approaching the competent Appellate Authority, if they are dissatisfied.

9. However, as is demonstrated in this case, some of the Trade Unions say that they have approached the ALO, but that no action has been yet taken and consequently, this strife between the petitioner on one hand and the Trade Unions on the other continue without a resolution.

10. This is not the way Rule of Law ought to be implemented because, when there is a statutory mechanism, then both sides are bound to comply with the same; and even if a Trade Union or a headload worker obtains a grievance that they have been denied their legitimate employment, they cannot be

allowed to take law into their own hand or to cause obstacles in the running of the business, but should invoked their remedies, as are available under the Act.

11. The irony of what we see now commonly is that, for enforcement of their statutory rights, the parties break the law.

18. To paraphrase, unless the Dispute Resolution Systems under the Act are sufficiently armed to quickly deal with disputes and unless the orders issued by the competent Authorities therein are effectively implemented, neither the head load workers or their employers will have any confidence in the said systems.

19. To illustrate, even when some of the Trade Unions in this case say that they have approached the ALO, no action appears to have been taken thereon - though I am aware that the learned Government Pleader says that an order has already been issued on 07.09.2021, but not produced on record. However, the allegations of threat, intimidation and demands of extortion are still made by the petitioner.

20. I have, therefore, no doubt that the ball is now in the court of the Government, to come out with a concrete proposal before this Court as to the manner in which the disputes will have to be averted, dealt with and resolved in terms of the Act.

21. As far as the State of Kerala is concerned, we have to now ensure that the disputes between the head load workers and businesses do not spiral to such extent, as has been done in these days; and that its reputation is not further impaired.

22. This is more so why the Government must now act swiftly and quickly and disclose to

*this Court how they propose to make Kerala a truly Investor Friendly Destination, from the angle involved herein.*

*23. This is certainly the need of the hour and we cannot afford any further time to be lost for this purpose."*

21. Thereupon, the 8<sup>th</sup> respondent - Welfare Board, filed a counter affidavit on 23.09.2021, denying the allegations of the petitioner; but expressly agreed that the demand of "Nokku Kooli" is illegal and requires to be stopped with all necessary force.

22. Pertinently, the 9<sup>th</sup> respondent - Additional Chief Secretary (Labour and Skills), Government of Kerala, Thiruvananthapuram, then filed a statement - produced along with the memo of the learned Government Pleader dated 04.10.2021 - specifying the measures put in place by the State to ensure that no "Headload Worker" demands unlawful wages, including "Nokku Kooli". The said measures are in seriatim as under:

*"The measures and actions taken with regard to issues related to unlawful demanding of wages by the Head Load Workers are submitted herein;*

1. The Labour Department has set up Call Center in the office of the Labour Commissioner in the State to take immediate action on the issues related to unlawful demand of wages by the Head Load Workers including Nokkukooli. The number is 155215 and the toll free number is 180042555214.

2. When complaint is received through the Call Centers, the Assistant Labor Officers will intervene to solve the issue and recover the inappropriate or overcharged loading and unloading wages if any and take strict action against the workers in matters related to over payment. Whenever a complaint of Nokkukooli is received, the Assistant Labour Officers, Deputy Labour Officers and District Labour Officers will intervene and recover the excess wages if claimed.

3. In case of any serious irregularities on the part of the workers, action will be taken including cancellation of the registration card of the Head Load Workers as per Section 26A (4) of the Kerala Headload Workers Act.

4. In addition, complaints of harassment, intimidation or assault by the employer are referred to the police and appropriate legal action is taken. In order to solve the problems related to loading and unloading wages in the Head Load Sector, unified loading and unloading wages for each category in the Head Load sector at the district level has been published in the website of Labour Commissioner

[www.lc.kerala.gov.in](http://www.lc.kerala.gov.in)) and have been implemented in all the 14 districts.

5. Boards displaying the loading and unloading charges have been set up at major intersections in all the districts in association with the Residence Associations to bring the notice of the public regarding the loading and unloading rates and those who require the services of Head Load Workers can avail the services of workers from the Kerala Headload Workers Welfare Board at this rate.

6. As a part of putting an end to the unhealthy practices that prevails in the loading and unloading sector, the State Government have issued order (G.O. (Rt).No.511/2018/LBR dated 30.04.2018) detailing few conditions that are to be implemented in order to generate an improved work culture (True copy of the G.O.(Rt).No.511/2018/LBR dated 30.04.2018 produced herewith and Marked as Annexure R9(a)) in the sector. One of the main points in the order is that the headload workers shouldn't claim wages without doing the work.

7. The State Police Chief has also issued Circular instructions No. S8/5044/2012 dated 26.03.2012 (True copy of the Circular No. S8/5044/2012 dated 26.03.2012 produced herewith and Marked as Annexure R9(b) urging the police personnel to take all possible measures to curb the practice of Nokkukooli and to ensure peace and tranquility."

23. On 07.10.2021, when this Court considered the afore statement, appreciating the

measures extracted supra, I issued a further order on that day, directing the jurisdictional Police Authorities to take stringent and necessary action, including under the provisions of the IPC.

24. Thereafter, on 01.11.2021, the learned Government Pleader submitted that necessary and strong measures had been taken to obliterate the concept of "Nokku Kooli", and that the Hon'ble Minister in charge, has personally taken an initiative for this purpose.

25. Sri.Siju Kamalasanan - learned Standing Counsel, appearing for the Welfare Board added to this by saying that the "Headload Workers" are being now offered awareness about the legal provisions and cautioned that any unlawful demand, including "Nokku Kooli" would expose them to prosecution under the Penal Laws.

26. I, therefore, adjourned this matter

to be called on 22.11.2021, calling for an "Action Taken Report" from the Government, as well as the Welfare Board in furtherance of the various orders from this Court.

27. On 23.11.2021, the learned Government Pleader submitted that all the observations and suggestions of this Court have been accepted by the Government and that they intent to amend the "Act", granting powers to the competent Authority to expel a registered worker, if he is established to have demanded "Nokku Kooli", along with imposition of heavy penalties. I recorded this in the order indited on that day and directed the State Police Chief to issue a Circular to all the Station House Officers under his command to register cases for extortion, along with other applicable offences, every time a complaint is received by them relating to the demand for "Nokku Kooli" by a Trade Union or its members.

28. The State Police Chief complied with the afore order and issued Ext.R9(g) Circular dated 26.11.2021, instructing all District Police Chiefs to register First Information Reports (FIR), including for the offence of extortion, as and when any genuine petition is received regarding the demand of "Nokku Kooli". The learned Government Pleader also affirmed that a draft amendment proposal has been placed before the Government, namely Ext.R9(f) to amend the "Act", so as to enable the Welfare Board to initiate disciplinary measures against the workers.

29. On being so told, this Court further adjourned this matter to enable the Government to inform within what time frame the afore amendment can be brought into effect.

30. It is in such factual scenario, that this matter has been heard by me finally today.

31. The afore narrative of the facts and relevant circumstances would require no further expatiation that the Government and the Welfare Board are in unison with the opinion of this Court that "Nokku Kooli", in all its variations, is illegal, unlawful and deserving to be put down under the might of law. Since the Government have issued Circulars banning it and they propose to amend the "Act" appropriately granting disciplinary powers to the Welfare Board over workers who demand illegal wages, it is limpid that this Court will be justified in disposing of this matter with apposite orders.

32. That so said, what is interesting at this time is that there are specific provisions under the "Scheme", which would render the demand for illegal wages or "Nokku Kooli" virtually impossible. These provisions are contained in Clauses 21 to 24 of the "Scheme", which requires

an Employer to request sufficient number of workers from the "Pool" maintained by the Welfare Board and which regulates the conditions of work of such workers, as also the payment of wages to them.

33. In fact, Clause 24 is of great importance because, it mandates that all wages to a registered worker be paid by the employer only through the Committee of the "Pool" of workers and that it shall be disbursed to them by its Convener or any other Officer authorized by the Chairman through Bank or in a manner specified by the Welfare Board, within seven days after expiry of each month.

34. Apodictically, therefore, no Union or a "Headload Worker" can demand any wages directly from the employer or contractor and the chance of an illegal demand, therefore, becomes virtually not available.

35. However, the above provisions are sometimes not effectively implemented, which has now given rise to all the unfortunate tendencies as are noticed.

36. But, before I issue final directions, and though aside, I feel it necessary to add a thought on the role of the "Act" in the present day milieu.

37. I am sure that this Court will not be faulted, if I am to record that the carrying of heavy loads of 55 kgs or more by any person on his head or body on a regular basis would cause irreversible musculoskeletal and cervical spine issues.

38. I do not think that there can be two ways about this because, Sri.Siju Kamalasanan - learned Standing Counsel for the Welfare Board, has made available - at the request of this Court

- the details of injuries sustained by various Headload Workers; and that of the claims and cases pending at their instance before the jurisdictional Compensation Court, which indubitably disclose the gruesome impact of continuous manual labour. The information perspicuously shows that most of the victims suffered from cardiac issues, including heart attacks, fractures on account of falls and accidents and spinal injuries, exacerbated by instances of the load slipping and handled inattentively, leading to severe cervical spine compressions and injuries.

39. This Court, therefore, believes that the time has come to modernize the industry, so that all those registered workers, whose livelihood depends on the work of loading and unloading, must be given requisite technological and mechanical assistance, which would obviate

their physical trauma; and this is a matter which will unexpendably require to be considered by the Welfare Board and the Government in a proactive manner.

40. I am making the afore exhortation, because the Act had its parturition in the late 1960s when the "Headload Workers" - a very vulnerable section of the society at that time - required to be protected from exploitation. The concept of a Headload Worker, as defined statutorily, takes in a person engaged for loading or unloading or carrying on head or in a trolley any article using manual labour. Unfortunately, this reinforces the engaging of a person to carry loads on his/her head; but though the various amendments brought in over the years, several exceptions have been carved out, including with respect to articles which can be handled only by mechanised processes and are "delicate or

sophisticated", which, in turn, are defined to mean those which require to be handled by "trained or skilled persons".

41. Hence, when mechanised means began to replace manual labour over the years, "Headload Workers" began to be denied employment under the ambit of the "Act" itself and this became the main cause of strife and thus fuelled deleterious tendencies like "Nokku Kooli", through which the workers and unions began to demand "wages", even when they are not entitled, as per the "Act", to be engaged.

42. Inevitably, when our country marches through the present century, the registered workers need to be trained scientifically and equipped with the assistance of machines and other technologies to ease their physiological stress and trauma.

43. Though this Court cannot command, it

can certainly commend, that the Government must now consider the modernization of the work force, as also the "Act", by transforming the "Headload Workers" into "Loading and Unloading Workers", without confining them to Manual Labour alone. If this is done, the industry will become a more organized and regulated one; with unsavory tendencies like assaults, strifes and illegal demands, to a very large extent, controlled or even done away with.

The afore being said, I now proceed to dispose of this writ petition with the following directions:

(a) The demand for "Nokku Kooli" (Gawking Charges), in any form, manner, colour or manifestation, by any person, Trade Union, or registered worker, is hereby declared illegal and unconstitutional.

(b) Axiomatically and in terms of the directions of this Court and the Circulars afore referred, particularly Ext.R9(g) dated 26.11.2021, all District Police Chiefs and the Station House Officers under their command, will register necessary FIRs, after making essential preliminary enquiry as to its genuineness, immediately after any complaint is received regarding the demand for "Nokku Kooli", under the applicable provisions of the IPC, treating it as a case of extortion, thus within the ambit of Section 383, along with Sections 503 and 149 of the IPC, and any other which becomes discernible during investigation. Such cases shall be investigated and

charge sheeted with top priority.

(c) Additionally, any person or entity faced with such illegal demand is at full liberty to report the same to the Office of the Labour Commissioner, through phone number - 155215 and the Toll-Free number 1800 425 55214, which have been set up by the competent Authority and which is reflected in the statement of the Secretary to the Department of Labour and Skills, the relevant portions of which have been extracted in paragraph 22 above. As and when any complaint is received in the above manner, the jurisdictional Assistant Labour Officers, Deputy Labour Officers and District Labour Officers will intervene as is necessary,

including for recovery and return of any excess demand made.

(d) I call upon and request the Government to carry out the amendments as now suggested by them in Ext.R9(f) 'Draft Amendment Proposal', as early as is possible so that necessary disciplinary control can be achieved over the industry as a whole.

(e) The welfare Board shall constantly ensure that the provisions of Clauses 21 to 24 of the "Scheme", are implemented without violation and that the payment of wages and other welfare benefits are regulated under it without fail, which this Court feels will go a long way in curtailing illegal tendencies like

"Nokku Kooli".

(f) Finally, in tune with my observations above, I request the Welfare Board and Government of Kerala, to deliberate upon and devise methods and measures for modernizing the industry of "Headload Workers" and to equip them for the loading and unloading activities of the future, by offering them necessary training, scientific support and mechanical and other ameliorative systems to reduce the physical burden of their employment to the extent possible; and I record that Sri.Siju Kamalasanan - learned Standing Counsel for the Welfare Board, submits that steps in this regard have already been initiated and will

be completed in a progressive manner.

(g) Since the directions above are not confined to the facts of this case alone - it having been issued in rem - I leave liberty to any individual or entity to approach this Court through an appropriate application, if the complaint preferred by him/them under directions (b) and (c) above is not adverted to or dealt with as is required under law. On such application being preferred, the Registry shall place it appropriately before the Bench for apposite orders.

akv

**Sd/-  
DEVAN RAMACHANDRAN  
JUDGE**

**APPENDIX OF WP(C) 17866/2021**

**PETITIONER EXHIBITS**

- EXHIBIT P1** TRUE COPY OF THE BUILDING PERMIT VIDE  
NO.C2-BA (139974) 2021 DATED 27.05.2021  
ISSUED BY PANCHAYATH
- EXHIBIT P2** TRUE COPY OF THE PETITION DATED  
30.08.2021 TO 2ND RESPONDENT
- EXHIBIT P3** TRUE COPY OF THE RECEIPT VIDE  
NO.667/21/PTN/ACL DATED 30.08.2021  
ISSUED BY THE 2ND RESPONDENT

**RESPONDENT EXHIBITS**

- EXHIBIT R8 A** TRUE COPY OF LETTER DATED 13/9/2021  
SENT TO THE PETITIONER.
- EXHIBIT R8B** TRUE COPY OF REPLY DATED 20/9/2021  
GIVEN BY THE PETITIONER TO THE  
SECRETARY OF THE SUB OFFICE, ANCHAL
- EXHIBIT R3(a)** THE PHOTOSTAT COPY OF THE IDENTIY CARD  
OF THE 3FD RESPONDENT.
- EXHIBIT R3(b)** THE TRUE COPY OF THE COMPLAINT DATED  
01.09.2021 ISSUED TO THE CHAIRMAN HEAD  
LOAD WORKERS WELFARE BOARD, SUB OFFICE,  
ANCHAL, KOLLAM.
- ANNEXURE R9(c)** TRUE COPY OF THE REPORT OF THE CHIEF  
EXECUTIVE, KERALA HEADLOAD WORKERS  
WELFARE BOARD DATED 28.10.2021.
- ANNEXURE R9(d)** TRUE COPY OF MINUTES OF THE MEETING  
HELD BY THE HON'BLE MINISTER (GENERAL  
EDUCATION & LABOUR) ON 27.10.2021.

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- ANNEXURE R9(f) TRUE COPY OF THE DRAFT AMENDMENT PROPOSALS.**
- ANNEXURE R9(g) TRUE COPY OF THE CIRCULAR 32/2021/PHQ ISSUED BY THE STATE POLICE CHIEF.**
- ANNEXURE R10(a) TRUE COPY OF SCHEDULE OF THE AWARENESS PROGRAMME CONDUCTED BY THE BOARD AND ALSO A REPORT ON AWARENESS PROGRAMME SUBMITTED BEFORE THE GOVERNMENT.**

**//TRUE COPY//  
P.A. TO JUDGE**