IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 8TH DAY OF APRIL 2026 / 18TH CHAITHRA, 1948

WP(C) NO. 14179 OF 2026

PETITIONER/S:

1 M.K. SURESH KUMAR
AGED 67 YEARS
'KAIVALYAM', THOTTUDA P.O, KANNUR, PIN - 670007

2 K. PADMANABHAN
AGED 60 YEARS
THAYANADATH HOUSE, PALAYAD, THALASSERY,
KANNUR, PIN - 670661

BY ADVS.
SRI.A.ABDUL NABEEL
SRI.ANAND B. MENON

RESPONDENT/S:

1 THE UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF LABOUR AND EMPLOYMENT GOVERNMENT OF INDIA, SHRAM SHAKTI BHAWAN, RAFI MARG, PIN - 110001

2 THE JOINT SECRETARY
THE GOVERNMENT MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA, SHRAM SHAKTI BHAWAN, RAFI MARG, NEW DELHI, PIN – 110001

OTHER PRESENT:

SRI. P. SREEKUMAR (ASGI)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.04.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

'C.R'

J U D G M E N T

The petitioners challenge the provisions of the Industrial Relations Code (Amendment) Act, 2026, as unconstitutional, manifestly arbitrary and *ultra vires* the provisions of the Industrial Relations Code, 2020 (hereinafter referred to as '*the 2020 Code*'). It is contended that the provisions of the amending act, which amends Section 104(1) of the 2020 Code, are violative of Articles 14 and 21 of the Constitution of India.

2. The learned counsel appearing for the petitioners would submit that the petitioners had earlier challenged a notification issued by the Central Government as S.O 5683(E) dated 8.12.2025, providing that notwithstanding the repeal of the Industrial Disputes Act, 1947 existing Labour Courts, Industrial Tribunals and National Tribunals constituted under the Industrial Disputes Act, 1947 shall continue to adjudicate the existing as well as new cases arising under the provisions of the Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946 and 1947 Act as well as the 2020 Code till the constitution of Industrial Tribunals and National Industrial Tribunals under the 2020 Code. It is submitted that this Court, through the judgment reported as ***Suresh Kumar M. K. v. Union of India, 2026 (2) KHC 371***, repelled the challenge to the aforesaid notification. It is

submitted that a writ appeal has been preferred against the judgment in ***Suresh Kumar M. K.*** *(supra)*, and the same is pending before the Division Bench as W.A No.572/2026. It is submitted that on 16.02.2026, the provisions of Section 104(1) of the 2020 Code were amended by the Industrial Relations Code (Amendment) Act, 2026, by incorporating sub-Section (1A). It is submitted that the provisions of the amended Section 104 of the 2020 Code cannot be sustained in law. It is submitted that this writ petition may also be tagged to be heard along with W.A No.572/2026.

3. Sri. P. Sreekumar, the learned Additional Solicitor General who appears for the official respondents, would submit that in the light of the judgment in ***Suresh Kumar M. K.*** *(supra),* this writ petition is only to be dismissed. It is submitted that the amendment of Section 104(1) of the 2020 Code cannot be challenged on the grounds raised in this Writ Petition. It is submitted that this writ petition need not be adjourned to be considered along with W.A No.572/2026.

4. Having heard the learned counsel for the petitioners and the learned Additional Solicitor General, I am of the view that no grounds have been made out to sustain the challenge to the provisions of the Industrial Relations Code (Amendment) Act, 2026, which amends the provisions of Section 104(1) of the 2020 Code. The amended provisions of Section 104(1)

of the 2020 Code read thus:

> *"(1) The following enactments shall stand repealed on and from the date appointed in the notification issued under sub-section (3) of section 1, namely:—*
> *(a) the Trade Unions Act, 1926;*
> *(b) the Industrial Employment (Standing Orders) Act, 1946; and*
> *(c) the Industrial Disputes Act, 1947. 16 of 1926. 20 of 1946. 14 of 1947.*
> *(1A) Notwithstanding such repeal under sub-section (1), the functioning of the Tribunals and statutory authorities functioning under the Acts so repealed shall continue to function till such Tribunals and other statutory authorities becomes functional under this Code."*

A perusal of the grounds raised in the writ petition indicates that the primary contention of the petitioners is that the primary contention taken is that the provisions of the amended Section 104 of the 2020 Code are contrary to other provisions of the same enactment. This cannot be a ground to challenge the provisions of Sub-Section (1A) of Section 104 of the 2020 Code (which, according to the petitioners, is the amending provision) as the said provision starts with a non-obstante clause. Therefore, that provision will operate even if there is any contrary or inconsistent provision in the same enactment. No fundamental right of the petitioners is affected by the impugned amendment. The petitioners have no fundamental right to contend that the adjudication of

disputes under the relevant enactments can only be before adjudicatory bodies constituted under the provisions of the 2020 Code. The petitioners have no case that Parliament does not have the legislative competence to promulgate the provisions that have been challenged. The petitioners have no case that the provisions that have been challenged are contrary to the basic structure of the Constitution of India.

5. The petitioners have raised a contention that the provisions are 'manifestly arbitrary'. ***In Shayara Bano v. Union of India, (2017) 9 SCC 1*** the expression 'manifestly arbitrary' was explained thus:-

> *"87. The thread of reasonableness runs through the entire fundamental rights chapter. What is manifestly arbitrary is obviously unreasonable and being contrary to the rule of law, would violate Article 14. Further, there is an apparent contradiction in the three-Judge Bench decision in McDowell when it is said that a constitutional challenge can succeed on the ground that a law is "disproportionate, excessive or unreasonable", yet such challenge would fail on the very ground of the law being "unreasonable, unnecessary or unwarranted". The arbitrariness doctrine when applied to legislation obviously would not involve the latter challenge but would only involve a law being disproportionate, excessive or otherwise being manifestly unreasonable. All the aforesaid grounds, therefore, do not seek to differentiate between State action in its various forms, all of which are interdicted if they fall foul of the fundamental rights guaranteed to persons and citizens in Part III of the Constitution.*

88. We only need to point out that even after McDowell, this Court has in fact negated statutory law on the ground of it being arbitrary and therefore violative of Article 14 of the Constitution of India. In Malpe Vishwanath Acharya v. State of Maharashtra, this Court held that after passage of time, a law can become arbitrary, and, therefore, the freezing of rents at a 1940 market value under the Bombay Rent Act would be arbitrary and violative of Article 14 of the Constitution of India (see paras 8 to 15 and 31).

89. Similarly in Mardia Chemicals Ltd. v. Union of India, this Court struck down Section 17(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as follows: (SCC p. 354, para 64)

> *"64. The condition of pre-deposit in the present case is bad rendering the remedy illusory on the grounds that: (i) it is imposed while approaching the adjudicating authority of the first instance, not in appeal, (ii) there is no determination of the amount due as yet, (iii) the secured assets or their management with transferable interest is already taken over and under control of the secured creditor, (iv) no special reason for double security in respect of an amount yet to be determined and settled, (v) 75% of the amount claimed by no means would be a meagre amount, and (vi) it will leave the borrower in a position where it would not be possible for him to raise any funds to make deposit of 75% of the undetermined demand. Such conditions are not only onerous and oppressive but also unreasonable and arbitrary. Therefore, in our view, sub-section (2) of Section 17 of the Act*

is unreasonable, arbitrary and violative of Article 14 of the Constitution."

90. In two other fairly recent judgments, namely, State of T.N. v. K. Shyam Sunder, SCC at paras 50 to 53, and A.P. Dairy Development Corpn. Federation v. B. Narasimha Reddy, SCC at para 29, this Court reiterated the position of law that a legislation can be struck down on the ground that it is arbitrary and therefore violative of Article 14 of the Constitution.

91....92....

93. In a recent Constitution Bench decision in Natural Resources Allocation, In re, Special Reference No. 1 of 2012, this Court went into the arbitrariness doctrine in some detail. It referred to Royappa, Maneka Gandhi and Ajay Hasia (and quoted from Ajay Hasia case, SCC p. 741, para 16 which says that "... the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached.") (emphasis supplied). It then went on to state that "arbitrariness" and "unreasonableness" have been used interchangeably as follows: (Natural Resources Allocation case, SCC p. 81, para 103)

"103. As is evident from the above, the expressions "arbitrariness" and "unreasonableness" have been used interchangeably and in fact, one has been defined in terms of the other. More recently, in Sharma Transport v. State of A.P. , this Court has observed thus: (SCC pp. 203-04, para 25)

'25. ... In order to be described as arbitrary, it must be shown that it was not reasonable and manifestly arbitrary. The expression "arbitrarily" means: in an unreasonable manner, as fixed or done capriciously or at pleasure, without adequate determining

> *principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone.' ""*

Tested on the principles laid down in ***Shayara Bano*** *(supra),* I do not find any reason to even hold that the provisions that have been challenged are arbitrary, much less manifestly arbitrary.

Thus, I find no ground made out for the grant of the reliefs sought. I also find no reason to adjourn this Writ Petition to be heard along with W.A No.572/2026, as the issues in that case are completely different. This Writ Petition will stand dismissed *in limine.*

Sd/-
GOPINATH P.
JUDGE

AMG

APPENDIX OF WP(C) NO. 14179 OF 2026

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE NOTIFICATION NO.S.O. 5320 (E) DATED 21.11.2025**
Exhibit P2	**A TRUE COPY OF THE NOTIFICATION NO.S.O. 5683 (E) DATED 08.12.2025**
Exhibit P3	**A TRUE COPY OF THE NOTIFICATION NO.S.O. 464 (E) DATED 02.02.2026**
Exhibit P4	**A TRUE COPY OF THE NOTIFICATION NO.S.O. 465 (E) DATED 02.02.2026**
Exhibit P5	**A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO.824/2026 DATED 17.02.2026**
Exhibit P6	**A TRUE COPY OF THE INDUSTRIAL RELATIONS CODE (AMENDMENT) ACT, 2026 DATED 16.02.2026 PUBLISHED BY THE 1ST RESPONDENT IN THE GAZETTE OF INDIA**