

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 15TH DAY OF FEBRUARY 2021 / 26TH MAGHA, 1942

WP(C).No.29084 OF 2020(I)

PETITIONER/S:

- 1 BHARAT SERUM VACCINES LIMITED,  
3RD FLOOR, LIBERTY TOWER, PLOT NO K-10, BEHIND  
RELIABLE PLAZA, KALWA INDUSTRIAL ESTATE, AIROLI,  
NAV MUMBAI-400 708, REPRESENTED BY ITS PRESIDENT  
(HUMAN RESOURCES), SRI AKHILESH MISHRA.
- 2 SREEJITH M,  
AGED 34 YEARS,  
S/O MURALEEDHARAN NAIR, REGIONAL BUSINESS MANAGER  
(SERAVACC), ROOM NO.1. NADUVILAPARAMBIL APARTMENT,  
NR. MANORAMA JN., S.A ROAD, ERNAKULAM-682 016.
- 3 K.N. RAJESH,  
AGED 47 YEARS,  
S/O NARAYANAN, REGIONAL BUSINESS MANAGER, (WOMEN'S  
HEALTH), DAVAZHIATH HOUSE, CHERANALLORE P.O.,  
NEAR BHAGAWATI TEMPLE, ERNAKULAM-682 034.
- 4 SINEESH A.C.,  
AGED 37 YEARS,  
S/O CHIDAMBARAN M.V., TERRITORY BUSINESS MANAGER,  
(SERAVACC) ANANDA BHAVANAM, KURUPPANKULANGARA P.O.,  
CHERTHALA, ALLEPPY-688 551.
- 5 J. SAKTHIDASAN,  
AGED 38 YEARS,  
S/O JAGANATHAN T, REGIONAL BUSINESS MANAGER  
(FEMINORA), NO.15/33, MUTHAIA COMPLEX, ROOM NO.17,  
MELA AVANI MOOLAYEEDAI MADURAI, TAMIL NADU-625 001.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENT/S:

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,  
HOME DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.

- 2 THE DIRECTOR GENERAL OF POLICE AND STATE POLICE CHIEF, (LAW AND ORDER )POLICE HEAD QUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM-695 010.
- 3 THE COMMISSIONER OF POLICE, THIRUVANANTHAPURAM CITY, POLICE GROUND, CV RAMAN PILLAI ROAD, THYCAUD, THIRUVANANTHAPURAM-695 014.
- 4 THE DISTRICT POLICE CHIEF, THIRUVANANTHAPURAM RURAL, UNIVERSITY OF KERALA SENATE HOUSE CAMPUS, PALAYAM, THIRUVANANTHAPURAM-695 033.
- 5 THE COMMISSIONER OF POLICE, KOLLAM CITY, MUNDAKKAL, KOLLAM-691 001.
- 6 THE DISTRICT POLICE CHIEF, KOLLAM RURAL, KARBALA, KOLLAM-691 001.
- 7 THE DISTRICT POLICE CHIEF, PATHANAMTHITTA, THAZHEVETIPRAM, PATHANAMTHITTA-689 645.
- 8 THE DISTRICT POLICE CHIEF, ALAPPUZHA, CCSB ROAD, MUKHAM PURAYIDOM, CIVIL STATION WARD, ALAPPUZHA-688 012.
- 9 THE DISTRICT POLICE CHIEF, IDUKKI, THODUPUZHA-PULIYANMALA ROAD, IDUKKI COLONY POST, CHERUTHONI, IDUKKI-685 602.
- 10 THE DISTRICT POLICE CHIEF, KOTTAYAM, DISTRICT POLICE OFFICE, KOTTAYAM-KUMILY ROAD, COLLECTORATE, KOTTAYAM-686 002.
- 11 THE COMMISSIONER OF POLICE, KOCHI CITY, ABDUL KALAM MARG, MARINE DRIVE, ERNAKULAM-682 011.
- 12 THE DISTRICT POLICE CHIEF, ERNAKULAM RURAL, DISTRICT POLICE OFFICE, SH 16, OPP. POWER HOUSE, ALUVA, ERNAKULAM-683 101.
- 13 THE COMMISSIONER OF POLICE, THRISSUR CITY, RAMAVARMAPURAM ROAD, PALLIMOOLA, MANNUMKAD, RAMAVARMAPURAM, THRISSUR-680 631.

- 14 THE DISTRICT POLICE CHIEF,  
THRISSUR RURAL, KALYAN NAGAR, AYYANTHOLE,  
THRISSUR-680 003.
- 15 THE DISTRICT POLICE CHIEF,  
PALAKKAD, PUDUPALLI THERUVU, NURANI,  
PALAKKAD-678 001.
- 16 THE DISTRICT POLICE CHIEF,  
MALAPPURAM, FEROKH PALAKKAD HIGHWAY-(NH-213) ,  
UP HILL, MALAPPURAM-676 504.
- 17 THE COMMISSIONER OF POLICE,  
KOZHIKODE CITY, PAVAMANI ROAD, KOZHIKODE-673 004.
- 18 THE DISTRICT POLICE CHIEF,  
KOZHIKODE RURAL, VADAKARA, VADAKARA,  
KOZHIKODE-673 104.
- 19 THE DISTRICT POLICE CHIEF,  
WAYANAD, OPP DOORADARSHAN RELAY CENTRE,  
KALPATTA-673 122.
- 20 THE DISTRICT POLICE CHIEF,  
KANNUR, TALAP, KANNUR, KERALA-670 002.
- 21 THE DISTRICT POLICE CHIEF,  
KASARGODE, PARAKATA, VIDYANAGAR-ULIYATHADKA ROAD,  
KUDLU, KASARAGOD-671 123.
- 22 THE DEPUTY COMMISSIONER OF POLICE,  
(LAW AND ORDER AND TRAFFIC), REVENUE TOWER,  
KOCHI-682 035.
- 23 KERALA MEDICAL AND SALES REPRESENTATIVES  
ASSOCIATION (KMSRA) ,  
(CITU) , REPRESENTED BY ITS SECRETARY, BTR BHAVAN,  
CEMETERY JUNCTION, ERNAKULAM-682 010.
- 24 ARUN KUMAR K.R,  
AGED 30 YEARS,  
S/O RADHAKRISHNAN K.A. , KEY ACCOUNT MANAGER,  
KALATHIPARAMBIL (H) , MULAVUKAD (PO) ,  
ERNAKULAM-682504.

- 25        SATHEESH PAI,  
            AGED 41 YEARS,  
            S/O J. RAMANANDA PAI, TERRITORY BUSINESS MANAGER,  
            SIVA PARAMBIL (H), SIVALAYAM ROAD, THAMMAM P.O,  
            ERNAKULAM -682 032.
- 26        VARGHESE POOKKADEN,  
            AGED 47 YEARS,  
            S/O P.K.JACOB POOKKADEN, TERRITORY BUSINESS  
            MANAGER, PODKATTU, KAMMANA POST, MANANTHAVADY,  
            WAYANAD-670 645.

SRI PP THAJUDEEN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
15.02.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

Bharat Serum Vaccines Limited, the 1st petitioner herein is a Company registered under the Indian Companies Act, 1956 and is engaged in manufacturing and marketing of pharmaceutical and lifesaving products. The petitioners 2 to 5 are the senior officers of the Company. Though their Regional Office is situated at Ernakulam, the company has business interest in all districts in the State of Kerala.

2. The petitioners state that in the month of October, 2020, on account of administrative reasons as well as business exigencies, the petitioners had to redeploy their Territory Branch Managers to other parts of the country. The service conditions clearly state that the employees are transferable, the transfer being an incidence of service. Though most of the employees accepted the transfer and joined the respective Stations, the respondents 24 to 26 refused to oblige. With the aid of the 23rd respondent, the Association of Medical and Sales Representatives, the party respondents caused obstruction to the managerial staff, Regional Business Managers and Sales Representatives in carrying on their business. They also approached the Labour Commissioner, Mumbai, raising their grievance.

3. The petitioners contend that on 23.11.2020, Sri.K.N.Rajesh, the

Regional Business Manager, was obstructed while he was discharging his duty along with one Aneesh. Immediately Ext.P4 complaint was lodged before the Station House Officer, Kasba police station. On 27.11.2020, another Manager was obstructed while he was discharging his duty at the Welcare Hospital. According to the petitioners, the party respondents as well as the Union have raised an open threat that the petitioners will not be permitted to carry on their business activities in the State unless their demands are met with. In the said circumstances, the petitioners are stated to have filed Ext.P5 complaint before the SHO, Maradu police station. The petitioners state that similar incidents were reported at Thrissur, Calicut and Parappanangadi and threats are being made that the entire business of the petitioners will be brought to a standstill. In the afore circumstances, the Deputy General Manager lodged a complaint before the senior police officers. However, no action was taken. The petitioners also refer to Ext.P9 complaint lodged before the State Police Chief. According to the petitioners, no assistance was rendered and the party respondents are having a field day intimidating and threatening the employees of the 1st petitioner and disrupting their business. It is in the afore circumstances that the petitioners are before this Court seeking a direction to respondents 2 to 22 to afford sufficient protection to the petitioners, their managerial/supervisory officers and field staff as to enable them to perform

their duties without being obstructed or prevented or threatened in any manner by the respondents 23 to 26 or their men.

4. By an interim order dated 29.12.2020, this Court had passed an order directing the police to ensure that no obstruction is created for the ingress and egress of the managerial and supervisory staff of the petitioners to enter their premises.

5. Though notice was served on respondents 23, 25 and 26, they have failed to appear.

6. Sri.K.Praveen Kumar, the learned counsel appearing for the petitioners, submitted that it is the duty of the police to protect the life, liberty and property of all individuals and they are bound to instil a sense of security among people in general. He would point out that the police were duty bound to take effective steps to ensure that law and order is maintained and the 1st petitioner and its employees are permitted to carry on their business without any threat or intimidation from the party respondents. According to the learned counsel, though the party respondents have every right to carry out demonstration or to strike, no amount of violence can be resorted to in the pretext of a strike. The willing workers as well as the management have the right to pursue their avocation without any threat or intimidation from the striking workers.

7. Sri.P.P.Thajudeen, the learned Government Pleader submitted

that a complaint was lodged by the 2nd petitioner before the Station House Officer, Maradu Police Station on 28.11.2020 alleging that one Aneesh Varghese had threatened some of the Managerial Staff. On receipt of the complaint, the aforesaid Aneesh was summoned by the Station House Officer, Maradu Police Station and he was warned. The learned Government Pleader submits that the petitioners have arrayed the District Police Chiefs of almost all the Districts of the State as respondents in this writ petition. It is submitted that no untoward incidents have been reported in the areas within their jurisdiction. It is further stated that except for having an office at Ernakulam, the 1st petitioner has no other establishments in other parts of the State.

8. I have anxiously considered the submissions advanced. A labour dispute has arisen between the respondents 24 to 26, who are the employees of the 1st petitioner when they were transferred to a unit out of the State. The petitioners have stated that the said employees have already approached the Labour Commissioner to redress their grievance. There cannot be any doubt that the workers have the right to resort to strike or dharna to effectively bargain with the management and to ensure that unfair labour practices are avoided. However, in the guise of a strike, the union leaders as well as the striking workers cannot resort to strong arm tactics and violence to intimidate and force the management to succumb to



their demands. Even if the demand is legitimate, if the management for one reason or the other do not accede to their demand, the only option is to resolve the dispute in a manner known to law. Under no circumstances can the respondents resort to violence to further their cause. That would infringe the rights of the petitioners to carry on their business. From the submissions advanced by the learned counsel appearing for the petitioners it appears that the Regional office of the petitioners is situated at SA Road, Ernakulam. The learned Government Pleader has submitted that as and when complaints have been received, swift action has been taken against the party respondents and that the police shall continue to do so.

In that view of the matter, while making the interim order absolute, this writ petition is disposed of directing the petitioners to approach the jurisdictional police station, if any threat or intimidatory tactics is adopted by respondents 23 to 26. If any such complaint is received, the concerned officer shall enquire the same and if it is found genuine, appropriate action shall be taken against the concerned persons.

sd/-

**RAJA VIJAYARAGHAVAN V**

**JUDGE**

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

- EXHIBIT P1 TRUE COPY OF THE TRANSFER PROCEEDINGS DATED 3.10.20 ISSUED TO 24TH RESPONDENT.
- EXHIBIT P2 TRUE COPY OF THE TRANSFER PROCEEDINGS DATED 3.10.20 ISSUED TO 25TH RESPONDENT.
- EXHIBIT P3 TRUE COPY OF THE TRANSFER PROCEEDINGS DATED 3.10.20 ISSUED TO 26TH RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE COMPLAINT DATED 23.11.2020 FILED BY K.N.RAJESH TO STATION HOUSE OFFICER, ERNAKULAM TOWN NORTH POLICE STATION.
- EXHIBIT P5 TRUE COPY OF THE COMPLAINT DATED 28.11.2020 FILED BY SHRI. SREEJITH M BEFORE THE STATION HOUSE OFFICER, MARAD POLICE STATION.
- EXHIBIT P6 TRUE COPY OF THE RECEIPT DATED 2.12.2020 SHOWING COMPLAINT FILED BY THE 5TH PETITIONER BEFORE THE THRISSUR TOWN WEST POLICE STATION.
- EXHIBIT P7 TRUE COPY OF THE RECEIPT DATED 3.12.2020 SHOWING COMPLAINT FILED BY THE 5TH PETITIONER BEFORE THE PARAPPANANGADI POLICE STATION, MALAPPURAM.
- EXHIBIT P7 (a) TRUE COPY OF THE RECEIPT DATED 7.12.2020 SHOWING COMPLAINT FILED BY THE 5TH PETITIONER BEFORE THE NADAKKAVU POLICE STATION, CALICUT.
- EXHIBIT P8 TRUE COPY OF THE COMPLAINT DATED 30.11.2020 FILED BY THE DEPUTY GENERAL MANAGER OF 1ST PETITIONERS BEFORE THE 22ND RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE REPRESENTATION DATED 30.11.2020 SENT BY THE DEPUTY GENERAL MANAGER OF THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

**RESPONDENT'S EXHIBITS : NIL**