

Kannan (C) Vs. Superintendent of Police

LegalCrystal Citation : legalcrystal.com/721444

Court : Kerala

Decided On : May-03-1974

Reported in : (1975)ILLJ83Ker

Judge : Subramonian Poti, J.

Appellant : Kannan (C)

Respondent : Superintendent of Police

Judgement :

Subramonian Poti, J.

1. The petitioner is the president of the Kerala State Committee of the Centre of Indian Trade Unions (CITU) and the president of the Azhicode Power-loom Mills Workers Union, Azhicode. The question raised in this petition concerns the conduct of the police in regard to satyagraha and other forms of agitation resorted to by the workmen of Ravikrishna Mills and Usha Textiles, both at Azhicode, to press, what according to them are, their legitimate demands. The petitioner complains of certain mass retrenchments of workmen which, according to him, was mala fide and unjustified. It is said that the District Labour Officer called conciliation conference on 13th February, 1974, but the management refused to attend it. The District Labour Officer called a conference a second time and then the management is said to have refused to attend the conference, It is said that in these circumstances the union was compelled to call for a strike on 26th February, 1974. It is the petitioner's complaint that as a revenge against the strike the management declared lock-out of the factories from 27th February, 1974.

2. The complaint in the petition is that the workers who have a right to perform satyagraha are not allowed to do so and are effectively obstructed by being asked to remain 200 yards away from the gate and not to go anywhere near the premises of the factories for performing satyagraha or holding demonstrations. It is said that the workers who approach the factory gates for performing satyagraha are being arrested by the police. The challenge is mainly to the conduct of the police prohibiting the workmen from going anywhere near 200 yards of the gate.

3. A counter-affidavit has been filed by the Sub-Inspector of Police, Baliapatam. Reference is made to an order passed by this Court to afford police protection to the management as against the workers in O.P. No. 1222 of 1974. It is said that pursuant to that order the police removed the workers who were in the premises of the factory and after this there was no occasion for the police to interfere with the peaceful demonstration of the workers before the factory gate.

4. Petitions seeking orders from this Court to the police to give adequate police protection to managements of Industrial and business concerns as against their workmen is one of common occurrence in this Court. But it is rarely that workmen or their unions come up to this Court seeking similar protection from the police against the management. Thus this petition is unique.

5. It is strange that in O.P. No. 1222 of 1974 the petitioner did not seek to obtain orders with the workmen also as parties to the petition. Evidently, therefore, the workmen had no voice at the time such order was obtained. That order of course did not in any way enable the police to prevent satyagraha by the workmen in front of the factory gate.

6. Every citizen in this country is entitled to protection from authorities on whom the duty to maintain law and order is imposed so as to enable him to carry on his lawful avocation. Resort to this Court for securing police protection cannot be a matter of course. The power conferred on this Court under Article 226 of the Constitution of India is an extraordinary power and is to be invoked only where circumstances are exceptional and do warrant the exercise of such power.

7. Strikes, lock-outs, satyagrahas and demonstrations are nothing new in our country. Promotion of social justice over the last few decades was, to a considerable extent, due to militant and agitation approach of the workmen and not, to any appreciable degree, due to condescension by management. It is but true that in the process of securing to the workmen more amenities and privileges and better conditions of service the Industrial Tribunal, Labour Courts and the Courts of this country have played a vital role. A negative approach to lawful agitation by the working class to secure higher wages and better living conditions cannot be justified by resort to the plea of maintaining law and order in the industrial sector.

8. I am particularly referring to these because I am afraid police protection ordered by this Court might have been used at times to crush lawful and peaceful strikes and demonstrations. The order of this Court for police protection is capable, in the hands of unscrupulous managements, of turning into vicious instruments of suppression of legitimate agitations. It is particularly so when the police may need the order of this Court only as a disguise or cover for suppressing the agitation by the workmen in furtherance of their legitimate demands.

9. I have referred to this situation only to highlight the necessity of extreme caution in dealing with an application for police protection. It appears to me that the Court must safeguard against abuse of its order and ensure that the order is not exploited for any purpose other than that intended by the Court.

10. It is true that managements placed in perilous circumstances and denied protection by the police may have to seek assistance from this Court and it may then be the duty of this Court to pass necessary orders to protect the life and property of such management. But such orders, it appears, to me, shall not be permitted to be used by the police in any way to prejudicially affect the lawful agitation by the workmen. It is no doubt true that any demonstration and any satyagraha would cause inconvenience to the management. It may very often cause considerable embarrassment too. It is impossible to conceive of any demonstration or strike which is not intended to bring pressure upon the management to concede to the workmen's demands. But it is not the role of this Court to interfere with the right of the workmen

to carry on their agitation, so long as it is peaceful, so long as it does not turn violent- If, as complained of by the petitioner here, workmen are asked to be 200 yards away from the factory premises any satyagraha would have no meaning. A lawful demonstration or satyagraha would lose all significance if the workmen are asked to choose a place far away from the business premises for their operation. The management can of course claim that the ingress and egress to their business premises should be protected from obstruction and if there is imminent danger or peril to life or property police should afford that much protection as is necessary to avert such harm. I make it clear that beyond this the police shall not interfere in the matter of the satyagraha or the strike carried on by the workmen. I am glad that learned Counsel Sri T.C.N. Menon has undertaken that the police shall act in the spirit of what has been said here.

11. The original petition is allowed to the above extent. No costs.

LegalCrystal - Indian Law Search Engine - www.legalcrystal.com