

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WA.No. 79 of 2015 () IN WP(C).9155/2013

**AGAINST THE ORDER/JUDGMENT IN WP(C) 9155/2013 of HIGH COURT OF KERALA
DATED 29-08-2014**

APPELLANT(S)/RESPONDENTS IN W.P(C):-:

- 1. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DEPUTY COMMISSIONER OF EXCISE,
ERNAKULAM DIVISION, COCHIN - 682 018.**
- 3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO TAXES DEPARTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**

BY ADV. SPL.GOVERNMENT PLEADER SRI.TOM K.THOMAS

RESPONDENT(S)/PETITIONER:-:

**M/S. P.G.S.HOSPITALITY,
HOTEL NEELAMBARI SUITES, VILLANCHIRA, THALAKODE P.O.
ERNAKULAM - 686 693
REPRESENTED BY ITS MANAGING PARTNER SUBRAMANIAN
S/O.P.G.GANGADHARAN
RESIDING AT PUTHUSSERIKUNNEL EAST MARAADI
MUVATTUPUZHA, ERNAKULAM - 686 673.**

R1 BY ADV. SRI.B.KRISHNA MANI

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WA NO.79/15

APPENDIX

APPELLANT'S EXHIBITS

ANNEXURE A: TRUE COPY OF THE GO(RT) NO.965/2014/TD
DATED 4.12.2014.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
=====

Writ Appeal No. 79 of 2015
=====

Dated this the 5th day of February, 2015

J U D G M E N T

Antony Dominic, J.

This appeal is filed by the respondents in WP(C) No.9155/13. The said writ petition was filed by the respondent herein, who had applied for an FL-3 license. By Ext.P8 dated 19/12/12, the 1st appellant had recommended the application for grant of license. But however, subsequently, by Ext.P4 order dated 19/3/13, the respondent was informed that the application was rejected based on Ext.P5 dated 12/2/13. It was in these circumstances the writ petition was filed seeking to quash Exts.P4 and P5 and to grant the license based on Ext.P8 recommendation dated 19/12/12.

2. By the judgment under appeal, the learned single Judge following the principles laid down by this Court in ***Kallada Hotels and Resorts v. State of Kerala*** [2012 (2) KLT 167] disposed of the writ petition quashing Ext.P4 and directing that consequential orders be passed by the appellants. It is this judgment, which is under challenge before us.

3. We heard the learned Government Pleader appearing for the appellants and also the learned counsel appearing for the respondent.

4. The contention raised by the learned counsel for the appellants is that in view of the subsequent abkari policy introduced on 22/8/14, the conclusion of the learned single Judge is erroneous. We are unable to accept this contention because in the judgment in ***Kallada Hotels and Resorts*** (supra) relied on by the learned single Judge, a Division Bench of this Court held that the application for grant of a liquor licence under the Abkari Act should be considered in the light of the law prevailing on the date of consideration of the application by the Excise Commissioner and not with regard to an anterior or posterior date. If that be so, the policy said to have been introduced on 22/8/14, which is almost one year after Ext.P8, could not have had any impact in so far as the application made by the respondent is concerned.

5. We, therefore, do not find any good ground to interfere with the judgment under appeal.

6. We should also comment on the order dated 4/12/14 produced as Annexure A in this appeal, which is pressed into service by the learned Government Pleader as the order purportedly passed by the third appellant in compliance with the directions of the learned single Judge. On a reading of the judgment, any person reasonably informed, would understand the consequential order that was required to be passed. But, however, the 3rd appellant has chosen to pass an order, which, to say the least, is a perverse one and in fact, it borders on contempt. Therefore, we ignore the order with the contempt that it deserves.

Appeal is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge