

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WA.No. 2085 of 2015

AGAINST THE JUDGMENT DATED 6.4.2015 IN WP(C)NO.11046/2015.
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APPELLANT/PETITIONER:

**PACHU @ SAJEEV, AGED 44 YEARS,
S/O. RAJAPPAN, VADAKKEKARA P.O.,
MUNAMBAMKAVALA, NORTH PARAVOOR,
ERNAKULAM.**

BY ADV. SRI.SREEKANTH S.NAIR

RESPONDENT(S)/RESPONDENTS:

- 1. THE STATE OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS CHIEF SECRETARY.**
- 2. THE CHIEF SECRETARY.
GOVERNMENT OF KERALA, SECRETARIAT.
THIRUVANANTHAPURAM-695 001.**
- 3. THE KERALA STATE BEVERAGES (M & M) CORPORATION LTD.,
SREESASTHAKRIPA OFFICE COMPLEX,
SASTHAMANGALAM P.O., THIRUVANANTHAPURAM-695 010,
REPRESENTED BY ITS' CHAIRMAN AND MANAGING DIRECTOR.**

**R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.P.I.DAVIS
R3 BY SRI.C.S.AJITH PRAKASH,SC**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' ANNEXURES:

- ANNEXURE A1 : TRUE COPY OF NEWS SREPORTED IN MALAYALA MANORAMA.
- ANNEXURE A2 : TRUE ENGLISH TRANSLATION OF ANNEXURE A1.
- ANNEXURE A2(A) : TRUE COPY BILL BEARING INVOICE NO.03910 ISSUED BY
3RD RESPONDENT.
- ANNEXURE A2(B) : TRUE COPY BILL BEARING INVOICE NO.03015 ISSUED BY
3RD RESPONDENT.
- ANNEXURE A2(C) : TRUE COPY BILL BEARING INVOICE NO.45599 ISSUED BY
3RD RESPONDENT.
- ANNEXURE A2(D) : TRUE COPY BILL BEARING INVOICE NO.45882 ISSUED BY
3RD RESPONDENT.
- ANNEXURE A3 : TRUE COPY OF G.O.(MS)NO.130/2012/NV DATED 19.7.2012.
- ANNEXURE A4 : TRUE ENGLISH TRANSLATION OF ANNEXURE A3.
- ANNEXURE A5 : TRUE COPY OF CHAPTER V OF THE RAJASTHAN EXCISE
RULES, 1956.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 2085 of 2015

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Dated this, the 17th day of November, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard the learned counsel for the appellant.

2. This writ appeal has been filed against judgment dated 6th April, 2015 in WP(C) No.11046/15. Appellant had filed the writ petition seeking for a direction to the 3rd respondent to provide public place near the 3rd respondent's outlet to consume alcohol. Petitioner's case is that the Government is collecting huge taxes on sale of alcohol and is interested in increasing the revenue from the sale of liquor. It is submitted that monopoly has been created in favour of the 3rd respondent to sell the liquor from its different outlets. The grievance of the appellant/writ petitioner is that no places have been provided where alcohol can be consumed. He submits that he want to consume alcohol at such place and do not want to do the same at his residence so that his family life is

not affected.

3. Learned Single Judge after noticing the prayers made in the writ petition has dismissed the petition observing that no law is brought to the notice of the Court casting a duty upon the respondents in any manner to provide place for consumption of liquor. The State is fully entitled to frame policy regarding sale and distribution of liquor and the manner of such sale. The State having appointed the 3rd respondent, the Kerala State Beverages Corporation for sale through its outlet and further also to close 10% of the shop every year, it is for the State to frame the policy regarding the sale of liquor and the manner and procedure to implement the same. In event, State has not taken a decision to provide public place for consumption of the liquor, we see no right on the petitioner to seek a mandamus directing the State to earmark or provide a public place for liquor consumption. It is to be noted that licensed five star hotels have been permitted to run the bars.

4. Be that as it may, learned Single Judge did not commit any error in refusing to exercise the discretionary jurisdiction under Article 226 of the Constitution of India. Petitioner failed to

W.A.No.2085/15

-:3:-

bring to our notice any statutory provision or any Scheme under which the State can be compelled to provide adequate place for consumption of liquor. We do not find any error in the judgment of the learned Single Judge which may warrant interference in exercise of appellate jurisdiction.

Writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

17/11/2015

//True Copy//

PS to Judge