

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 1332 of 2015 (N)

PETITIONER:

KERALA STATE BEVERAGES (MANUFACTURING & MARKETING)
CORPORATION LIMITED,
P.B.NO.2263, SASTHAKRIPA OFFICE COMPLEX,
SASTHAMANGALAM.P.O., TRIVANDRUM-695 010
REPRESENTED BY ITS COMPANY SECRETARY
MR.JOHN JOSEPH.

BY ADV. SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORPORATION

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE GRAMA PANCHAYATH COUNCIL,
KODAKARA GRAMA PANCHAYATH, KODAKARA.P.O.,
THRISSUR-680 684, REPRESENTED BY ITS SECRETARY.
3. THE SECRETARY,
KODAKARA GRAMA PANCHAYATH, KODAKARA.P.O.,
THRISSUR-680 684.

R2-R3 BY ADV. SRI.SHEEJO CHACKO
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

- P1- TRUE COPY OF THE LICENCE ISSUED BY THE EXCISE DEPARTMENT.
- P2- TRUE COPY OF THE LICENCE UNDER FORM 'C' ISSUED BY THE DESIGNATED OFFICER, THRISSUR DISTRICT.
- P3- TRUE COPY OF THE LATEST RENT AGREEMENT DATED 26.06.2013.
- P4- TRUE COPY OF THE CONSENT LETTER ISSUED BY THE OWNER OF THE BUILDING SMT.LATHA BALAKRISHNAN.
- P5- A TRUE COPY OF THE PROFESSIONAL TAX RECEIPT DATED 28.10.2014 ISSUED BY THE RESPONDENT PANCHAYAT, WHICH SHOWS THE PAYMENT OF PROFESSIONAL TAX FOR EMPLOYEES IN THE PETITIONER'S SHOP.
- P6- TRUE COPY OF THE RECEIPT ISSUED BY THE GRAMA PANCHAYATH DATED 14.3.2013 FOR THE PERIOD 2012-2013.
- P7- A TRUE COPY OF THE JUDGMENT DATED 25.10.2011 IN W.A.NO.628/10.
- P8- A TRUE COPY OF THE D & O LICENCE APPLICATION DATED 7.8.2014 FOR THE PERIOD 2014-15 SUBMITTED BY THE PETITIONER.
- P9- A TRUE COPY OF THE POSTAL RECEIPT DATED 8.8.2014.
- P10- A TRUE COPY OF THE LETTER NO.A4-6895/14 DATED 16.8.2014 ISSUED BY THE RESPONDENT PANCHAYAT.
- P11- A TRUE COPY OF THE NOTICE NO.A4R-6895/14 DATED 23.10.2014 ISSUED BY THE RESPONDENT GRAMA PANCHAYAT.
- P12- A TRUE COPY OF THE REPLY DATED 30.10.2014 SUBMITTED BEFORE THE RESPONDENT PANCHAYAT.
- P13- A TRUE COPY OF THE RECEIPT NO.8927/2014 DATED 30.10.2014 ISSUED BY THE RESPONDENT PANCHAYAT.
- P14- A TRUE COPY OF THE JUDGMENT DATED 5.11.2014 IN W.P[C]NO.29121/14.
- P15- A TRUE COPY OF THE NOTICE NO.A4-6895/14 DATED 31.12.2014 ISSUED BY THE RESPONDENT GRAMA PANCHAYAT.
- P16- A TRUE COPY OF THE JUDGMENT IN W.A.NO.1143/2012 DATED 21.6.2012.
- P17- A TRUE COPY OF THE INTERIM ORDER DATED 02.04.2013 IN W.P[C] NO.9184/13.
- P18- A TRUE COPY OF THE INTERIM ORDER IN W.P[C]NO.22015/12 DATED 24.09.2012.

RESPONDENTS' EXHIBITS : NIL

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 1332 of 2015 (N)

Dated this the 24th day of March, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Grama Panchayath, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. The petitioner, having a retail shop FL-1-8021 at Kodakara within the territorial limits of the second respondent Panchayat, submitted an application to the said Grama Panchayat for trade licence for the year 2014-2015. Initially, as the respondent Panchayath did not accept the said application, the petitioner sent the application by registered post. On receipt of the said application, the respondent Panchayath has directed, through Ext.P10, the petitioner to produce certain documents, which are said to have already been submitted.

3. The respondent Grama Panchayat has, however, served Ext.P11 notice on the petitioner asking him to show cause why the

FL-1 shop conducted by the petitioner should not be closed down for having not obtained the trade licence in the beginning. Despite the petitioner's Ext.P12 explanation, as has been evidenced by Ext.P13 acknowledgement, when the respondent Grama Panchayat has not passed any orders, it filed W.P.(C) No. 29121 of 2014 and invited Ext.P14 judgment dated 05.11.2014.

4. Before the respondent Grama Panchayath could have the advantage of going through Ext.P14 judgment, it issued Ext.P15 order of rejection on 31.12.2014, evidently without reference to the petitioner's Ext.P12 explanation.

5. As could be seen from Ext.P14 judgment of this Court, there is a direction to the following effect:

“In view of the above, this writ petition is disposed of directing respondents 2 and 3 to consider Ext.P14 reply submitted by the petitioner in the light of the documents produced along with Ext.P12 and to consider and pass final orders on the proceedings initiated by Ext.P13. Until further orders are passed in the matter, no coercive action to close down the FL-1 shop conducted by the petitioner shall be initiated.”

6. Had the Grama Panchayath gone through Ext.P14 judgment, it would not have passed Ext.P15, more particularly without

considering the reply of the petitioner. The learned counsel for the respondent has fairly submitted that the Grama Panchayath has passed Ext.P15 only being unaware of Ext.P14 judgment.

7. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the respondent Grama Panchyath, this Court hereby sets aside Ext.P15 order of the respondent Grama Panchayath and consequently directs the respondent Grama Panchayath to consider the petitioner's application in the manner indicated in Ext.P14 judgment and pass appropriate orders thereon, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. It is made clear that until the respondent Grama Panchayath takes a decision, as has been indicated above, it shall not take any coercive steps concerning the business of the petitioner within its territorial limits.

This writ petition is disposed of.

sd/-DAMA SESHADRI NAIDU, JUDGE.

