

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU**

**THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936**

**WP(C).No. 1849 of 2015 (E)**  
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**PETITIONER:**  
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**SALIS BIJAR, S/O. BALAKRISHNAN,  
ATHIKOTTIL HOUSE, KAVUNGAL,  
MALAPPURAM P.O., MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR,  
SRI.K.RAKESH.**

**RESPONDENTS:**  
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- 1. THE COMMISSIONER OF EXCISE,  
COMMISSIONERATE OF EXCISE,  
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. THE DEPUTY COMMISSIONER OF EXCISE,  
MALAPPURAM, PIN-676 505.**

**BY GOVT. PLEADER SMT.C.K. SHERIN.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**rs.**

WP(C).No. 1849 of 2015 (E)

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

**EXHIBIT P1- TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT  
DATED 20-10-2010 AS NO. XAI-24811/10.**

**EXHIBIT P2- TRUE COPY OF THE ORDER DATED 31-03-2011 ISSUED BY  
THE 2NDE RESPONDENT AS NO. M5-6000/09.**

**EXHIBIT P3- TRUE COPY OF THE JUDGMENT DATED 25-10-2014 IN  
S.C.NO. 45/2012 OF THE SESSIONS COURT, MANJERI.**

**RESPONDENT'S EXHIBITS:-**

**NIL.**

**//TRUE COPY//**

**P.A TO JUDGE**

**rs.**

**DAMA SESHADRI NAIDU, J.**

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**W.P.(c) No. 1849 of 2015**  
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Dated this the 29<sup>th</sup> day of January, 2015

**JUDGMENT**

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents, 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. Briefly stated, the petitioner, who was a licensee of Toddy Shops group No.1/2010-2011 of Parappanangadi Range, faced criminal proceedings in Crime No. 354/2010 for the offences punishable under Sections 55(g) and 56(b) of the Abkari Act. While the criminal proceedings were pending, the petitioner's licence was cancelled. Eventually, the petitioner was acquitted through Exhibit P3 judgment in S.C. No. 45/2012 on 25.10.2014. Having sought restoration of his licence and having failed, the petitioner has

approached this Court.

3. The learned Government Pleader has submitted that the petitioner's licence was cancelled in 2010 when the crime was registered, but the petitioner earned his acquittal only in 2014. According to her, in the interregnum the Government went ahead with auctioning of the licence of those particular shops and awarded it to another person who was the successful bidder. Since at present there is a licensee for the Toddy shops in question, the petitioner's claim could be considered only for the next Abkari year, subject to other statutory parameters.

4. At this juncture, the learned counsel for the petitioner has submitted that in the meanwhile if there is any auctioning of other licences concerning shops in the vicinity, the petitioner may be given preferential treatment, if he participates. At any rate, this Court cannot give such an omnibus direction. It is, however, evident that if there is any statutory provision that protects the rights of the petitioner on his acquittal, he can as well take advantage of the same.

5. In the facts and circumstances, having regard to the

respective submission of the learned counsel for the petitioner and the learned Government Pleader, without adverting to the merits of the matter, this Court disposes of the writ petition with a direction to the respondents to consider the petitioner's claim for restoration or for issuance of fresh licence in the next Abkari year, subject to the petitioner's fulfilling all other statutory requirements.

With the above observation, this writ petition is disposed of.

**DAMA SESHADRI NAIDU  
JUDGE**

DMR/-