

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 4899 of 2014 (J)

PETITIONERS:

1. BIJU K.G., AGED 44, S/O.GOPALAKRISHNAN NAIR,
KALAMPUKATTU HOUSE, KOMAAPURAM VILLAGE,
AVULUKKUNNU P.O, ALAPPUZHA DISTRICT.
2. VIJAYASREE, W/O.SUNILKUMAR, KARUVELITHAYYIL
HOUSE, MAYITHRA MARKET P.O, KANJIKKUZHI VILLAGE,
CHERTHALA, ALAPPUZHA DISTRICT.
3. T.U.HARIDAS, S/O.DIVAKARAN, KALAPPURACKAL HOUSE,
CHERTHALA SOUTH P.O, CHERTHALA TALUK,
ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW

RESPONDENTS:

1. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE
THIRUVANANTHAPURAM 695 033.
2. THE DEPUTY COMMISSIONER OF EXCISE,
ALAPPUZHA 686 001.
3. THE CIRCLE INSPECTOR OF EXCISE,
CHERTHALA, ALAPPUZHA DISTRICT 688 584.
4. THE EXCISE INSPECTOR, EXCISE RANGE,
CHERTHALA, ALAPPUZHA DISTRICT 688 584.
5. STATE OF KERALA REPRESENTED BY SECRETARY,
TAXES A DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001.

BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 4899 of 2014 (J)

PETITIONER'S EXHIBITS:

EXHIBIT P1. PHOTOCOPY OF THE CRIME AND OCCURRENCE REPORT IN CR.NO.74/13 OF CHERTHALA EXCISE RANGE.

EXHIBIT P2. PHOTOCOPY OF THE CHEMICAL ANALYSIS CERTIFICATE DATED 23.11.10 ISSUED BY THE ASSISTANT CHEMICAL EXAMINER TO GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

EXHIBIT P3. PHOTOCOPY OF THE CHEMICAL ANALYSIS CERTIFICATE DATED 24.8.13 ISSUED BY THE ASSISTANT CHEMICAL EXAMINER TO GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

EXHIBIT P4. PHOTOCOPY OF THE ORDER NO.XA7-19763/13 DATED 5.8.2013 PASSED BY THE IST RESPONDENT.

EXHIBIT P5. PHOTOCOPY OF THE ORDER NO.XA7-32658/10 DATED 20.5.11 PASSED BY THE IST RESPONDENT.

EXHIBIT P6. PHOTOCOPY OF THE ORDER NO.XA6-13768/2012 DATED 21.8.12 PASSED BY THE EXCISE COMMISSIONER.

EXHIBIT P7. PHOTOCOPY OF THE ORDER DATED 4.9.13 IN WPC NO.21966/13 PASSED BY THIS HONOURABLE COURT.

EXHIBIT P8. PHOTOCOPY OF THE FINAL REPORT IN CR.NO.74/13 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, CHERTHALA.

EXHIBIT P9. PHOTOCOPY OF THE ORDER DATED 14.3.13 IN CRLMC NO.1233/2013 PASSED BY THIS HONOURABLE COURT.

EXHIBIT P10. PHOTOCOPY OF THE ORDER DATED 27.6.13 IN CRL.MA NO. 5024/2013 IN CRLMC NO.2511/2013 PASSED BY THIS HONOURABLE COURT.

EXHIBIT P11. PHOTOCOPY OF THE ORDER DATED 24.9.13 IN CRMA NO. 7446/2013 IN CRLMC NO.4118/2013 PASSED BY THIS HONOURABLE COURT.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.4899 of 2014 J

Dated this the 13th day of October, 2015

JUDGMENT

As is the case with W.P.(C)No.21966/2013 in the present writ petition, too, the same persons are the petitioners. In both instances the subsequent steps taken by the authorities on the strength of the chemical analysis of Sample A have sought to be annulled on account of the contrary findings regarding Sample B.

2. In fact, the final report filed by the authorities and the consequential criminal proceedings taken against the petitioners were nullified as they had been discharged in C.C.No.971/2014 on the file of the Judicial First Class Magistrate Court-II, Cherthala.

In the facts and circumstances, for the reasons recorded in W.P.(C)No.21966/2013, this Court allows the present writ petition as well.

Dama Seshadri Naidu, Judge

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