

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

WP(C).No. 9280 of 2013 (H)

PETITIONER : -

M/S.CHAPRI RESORTS & HOTELS PVT.LTD.,
HUDA, GURGAON, HARYANA,
(NNELESHWAR HERMITAGE, KASARAGODE DISTRICT 671 314)
REPRESENTED BY ITS MANAGING DIRECTOR,
SRI.ALTHAF HUSSAIN CHAPRI, AGED 43 YEARS, S/O.YOUSUFF CHAPRI.

BY ADVS.SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW
SRI.C.C.THOMAS (SR.)

RESPONDENTS :-

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1. THE KANHANGAD MUNICIPALITY,
KANHANGAD PO, KASARAGOD DISTRICT,
REPRESENTED BY ITS SECRETARY 671 315.
 2. THE SECRETARY,
KANHANGAD MUNICIPALITY, KANHANGAD PO.,
KASARAGOD DISTRICT 671 315.
 3. STATE OF KERALA,
REPRESENTED BY SECRETARY, TAXES (A) DEPARTMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM 695 001.
 4. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM 695 001.
 5. THE DEPUTY COMMISSIONER OF EXCISE,
VIDHYANAGER, KASARAGOD - 671 121.
 6. THE CIRCLE INSPECTOR OF EXCISE,
KOSDURG, KASARAGOD DISTRICT 671 121.

R1-R6 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : PHOTOCOPY OF THE STAR CLASSIFICATION CERTIFICATE DATED \ 26/6/2009 ISSUED BY THE MINISTRY OF TOURISM , NEW DELHI.

EXHIBIT P2 : PHOTOCOPY OF THE APPLICATION DATED 5/1/2010 SUBMITTED BEFORE THE 2ND RESPONDENT THROUGH PROPER CHANNEL.

EXHIBIT P3 : PHOTOCOPY OF THE ORDER NO.XCI-32808/11 DATED 2/1/2013 PASSED BY THE 2ND RESPONDENT.

EXHIBIT P4 : PHOTOCOPY OF THE CHALAN DATED 25/3/2013 EVIDENCING THE PAYMENT OF RS.4 LAKHS.

EXHIBIT P5 : PHOTOCOPY OF THE APPLICATION DATED 18/1/2013 SUBMITTED BEFORE THE 1ST RESPONDENT.

EXHIBIT P6 : PHOTOCOPY OF THE LETTER DATED 27/3/2013 SUBMITTED BEFORE THE 2ND RESPONDENT.

EXHIBIT P7 : PHOTOCOPY OF THE NOTICE DATED 27/3/2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P8 : PHOTOCOPY OF THE NOTIFICATION NO.9239/LEG.CI/2012 /LAW DATED 25/11/2012 ISSUED BY THE GOVT. OF KERALA.

EXHIBIT P9 : PHOTOCOPY OF THE LETTER DATED 13.5.2013 ISSUED BY THE SECRETARY, KANHANGAD MUNICIPALITY ALONG WITH THE DECISION OF THE MUNICIPAL COUNCIL.

EXHIBIT P10 : PHOTOCOPY OF THE LETTER DATED 18.11.2011 SENT BY THE 5th RESPONDENT TO THE 4th RESPONDENT.

EXHIBIT P9 : PHOTOCOPY OF THE REPOT DATED 15.3.2012 SENT BY THE 4th RESPONDENT TO THE 3rd RESPONDENT.

EXHIBIT P10: PHOTOCOPY OF THE CHECKLIST-CUM-VERIFICATION REPORT TAKEN AS PER THE RIGHT TO INFORMATION ACT.

EXHIBIT P11: PHOTOCOPY OF THE ORDINANCE No.33/2013 ISSUED BY THE GOVT. OF KERALA.

EXHIBIT P12 : PHOTOCOPY OF THE JUDGMENT DATED 14.6.2013 IN WP(C) No. 8170/2013 PASSED BY THIS HONOURABLE COURT.

WP(C).No. 9280 of 2013 (H)

EXHIBIT P13 : PHOTOCOPY OF THE JUDGMENT DATED 18.2.2014 IN W.A. No.
1215/2013 PASSED BY THIS HONOURABLE COURT.

EXHIBIT P14 : PHOTOCOPY OF THE ORDER No. XC7-19059/07 DATED 5.12.2012
PASSED BY THE EXCISE COMMISSIONER.

RESPONDENTS' EXHIBITS : -

EXHIBIT R3(a) : TRUE COPY OF THE ORDER No.7507/A2/12/TD DATED
06.12.2012.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9280 of 2013

&

W.P.(c) No. 14029 of 2013

Dated this the 18th day of December, 2015

JUDGMENT

In the light of the ratio laid down by a learned Division Bench of this Court in **State of Kerala and Others v. M.P. Shiju**¹ which is said to have been followed by another learned Division Bench in its judgment dated 12.08.2014 in W.A. No.950 of 2014, both the writ petitions raising identical issues under similar circumstances have been allowed. As a result, Exhibit P3 in both cases stands set aside to the extent of its requiring the petitioners to obtain clearance certificates from the local authorities for the issuance of FL-11 licence.

Addressing the apprehension of the learned counsel for the petitioners that the authorities may not take into account the fee paid earlier, this Court further directs that the respondent authorities shall take into account the fee said to have already been deposited by the petitioners and process their applications further. Consequently, Exhibit P14 in W.P. (C) No. 14029/2013 is also set aside.

DAMA SESHADRI NAIDU
JUDGE

DMR/-