

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No. 10326 of 2011 (M)

PETITIONER:

SUSEELAN.T.S, AGED 62 YEARS,
S/O.SANKARAN, THAIVALAPPIL HOUSE,
KANDASSANKADAVU PO, THRISSUR.

BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.P.M.RAFIQ
SRI.V.C.SARATH

RESPONDENTS:

1. STATE OF KERALA REP.BY SECRETARY TAXES
(A) DEPARTMENT, GOVERNMENT OF KERALA
GOVT. SECRETARIAT, THIRUVANANTHAPURAM 695001.
2. THE EXCISE COMMISSIONER, COMMISSIONERATE
OF EXCISE, THIRUVANANTHAPURAM 695 001.
3. THE DEPUTY COMMISSIONER OF EXCISE,
THRISSUR 680 001.
4. THE EXCISE INSPECTOR, EXCISE RANGE OFFICE,
KOZHIKODE RANGE, THRISSUR 680 001.

BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-10-2015 ALONG WITH WPC. 2521/2012, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX IN WPC 10326/2011

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE CRIME AND OCCURRENCE REPORT IN
C.R.NO.6/11 OF KOLAZHI EXCISE RANGE

EXT. P2 TRUE COPY OF THE CHEMICAL ANALYSIS REPORT DATED
20.12.2010

EXT. P3 TRUE COPY OF THE NOTIFICATION G.O.(P)NO.24/07/TD DATED
14.02.2007

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)Nos.10326 of 2011
and 2521 of 2012

Dated this the 6th day of October, 2015

JUDGMENT

Both the writ petitions have been filed with identical prayers, which read as follows:

“(i) declare that Exhibit P3 notification/rule to the extent it includes starch as an article prohibited under Section 29(2) (k) of the Abkari Act.

(ii) declare that Exhibit P3 to the extent it includes starch as an article prohibited under Section 29(2)(k) of the Abkari Act as arbitrary, vague, unreasonable, unworkable and unenforceable.

(iii) call for the records leading to Exhibit P1 and quash the same to the extent it proceeds except for offence under Section 56(b) of the Abkari Act by issuing a writ of certiorari or other appropriate writ, order or direction. And

(iv) issue such other writ, order or direction which this Honourable Court may deem fit and proper in the light of the facts and circumstances of the case so as to secure the ends of justice.”

2.Sri.M.G.Karthikeyan, the learned counsel for the petitioner in W.P.(C)No.2521/2012 has fairly submitted that

the issue raised in the writ petitions has already been considered by a learned Division Bench of this Court and the judgment in W.A.No.548/2015 went against the petitioners.

In the light of the definitive judicial pronouncement of a learned Division Bench of this Court in W.A.No. 548/2015, both the writ petitions are dismissed. No order as to costs.

Dama Seshadri Naidu, Judge

tkv