

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 10990 of 2013 (W)

PETITIONERS:

1. RADHAKRISHNAN, S/O VELAYUDHAN, MALAKKAD,
NATTUKAL P.O., VALIYAVALLAMPATHI,
CHITTOOR TALUK, PALAKKAD.
2. CHINNASWAMI KOUNDER, S/O SUBBAYA KOUNDER,
VELLARAMKAL MEDU, VALIYAVALLAMPATHI VILLAGE,
VANAMADA, CHITTOOR, PALAKKAD.

BY ADVS.SRI.V.V.ASOKAN
SRI.P.RAHUL

RESPONDENTS:

1. STATE OF KERALA REP. BY THE CHIEF SECRETARY
TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM - 695 001.
3. DEPUTY EXCISE COMMISSIONER, PALAKKAD-678 001.
4. CIRCLE INSPECTOR (EXCISE), CHITTOOR - 678 101.
5. EXCISE RANGE INSPECTOR, CHITTOOR TALUK - 678 101.
6. SUB INSPECTOR OF POLICE, KOZHINJAMPARA - 678 555.
7. REGIONAL TRANSPORT OFFICER,
MOTOR VEHICLES DEPARTMENT, PALAKKAD - 678 001.
8. SREEDHARAN, S/O RANGASWAMY NADAR,
VELLARAMKALMEDU, CHITTOOR, PALAKKAD - 678 101.
9. MAHALINGAM.S, S/O THIRUMOORTHY KOUNDER,
VANAMADA, KOZHIPATHI VILLAGE,
CHITTOOR, PALAKKAD - 678 101.

R1 TO R7 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 10990 of 2013 (W)

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE TODDY TRANSPORT PERMIT GIVEN TO JOHNSON JOSEPH DATGED 04-10-2011

EXHIBIT P1(a) A TRUE COPY OF THE TODDY TRANSPORT PERMIT GIVEN TO K.VELUKUTTY DATED 26-09-2012

EXHIBIT P2 TRUE COPY OF THE REPRESENTAITON GIVEN BY THE CHITTOOR TLAUK KARSHAKA SAMRAKSHANA SAMITHI TO THE 3RD RESPONDENT DATED 06-11-2011

EXHIBIT P3 TRUE COPY OF THE MASS PETITION GIVEN BY THE LOCAL RESIDIENTS OF CHITTOOR TO THE 3RD RESPONDENT WITH COPY TO RESPONDENTS 4, 5 AND 6 DATED 10-01-2013

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.10990 of 2013 W

Dated this the 27th day of November, 2015

JUDGMENT

The petitioners, being the residents of Chittur Talluk, Palakkad District, have a grievance that the vehicles transporting toddy from there have been plying at odd hours causing extreme disturbance to them. Accidents are also occurring owing to the rash and negligent driving of the vehicles.

2. The learned counsel for the petitioners has submitted that initially the first petitioner submitted Exhibit P2 representation to the third respondent complaining against the violation of the toddy transport permits by various vehicle owners or drivers. He has further drawn my attention to Exhibit P3 mass complaint said to have been submitted by many residents of the area to the third respondent.

3. In Exhibit P3, which is in the vernacular, the petitioners and other persons are said to have specified certain instances when the accidents occurred because of the permit holders not following the time schedule.

4. Eventually the learned counsel has urged this Court to allow the writ petition suitably directing the respondents to strictly enforce the timings mentioned in the toddy transport permits issued periodically to the transporters.

5. The learned Government Pleader, on his part, has submitted, in tune with the averments in the counter affidavit filed by the second respondent, that the authorities are strictly enforcing the rules and regulations concerning transport of toddy, including the time schedule, as has been mentioned in each toddy transport permit.

6. Having gone through the record, including the counter affidavit, I do feel that the respondents have not joined the issue, for they have gone on record specifying that they have been enforcing the regulations and ensuring

compliance by the toddy transport permit holders.

7. Be that as it may, given the public interest the writ petition generates—though in the first blush, I must confess, I felt the writ petition is frivolous—it serves the interest of justice if the writ petition is disposed of with suitable directions.

8. To begin with, this Court has no reason to disbelieve the version of the respondent officials either. Nevertheless, from Exhibits P2 and P3 representations it can be gathered that there is some genuine hardship being faced by the petitioners and other residents of the locality. To the credit of the petitioners, in Exhibit P3 mass complaint, they have also narrated the specific instances of accidents occurred, perhaps, owing to the violation, at least, of the timings stipulated in the toddy transport permits, one of which is Exhibit P1.

9. In the facts and circumstances, this Court hereby directs that the respondent officials shall strictly enforce the

timings that have been specified in each and every toddy transport permit. If any accidents are to occur involving the vehicle beyond the time mentioned in the permit issued concerning the said vehicle, it may, prima facie, have to be assumed that the authorities are lax in enforcing the time schedule mentioned in the transport permit. In such an eventuality, it may be taken as dereliction of duty on the part of the officials in enforcing the regulations.

With the above observations, trusting the efficacy of the officials, especially given their explanation in the counter affidavit, this Court disposes of the writ petition. No order as to costs.

Dama Seshadri Naidu, Judge

tkv