

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9595 of 2015 (Y)

PETITIONERS:

1. BROOKSIDE CLUB, KOLENCHERY - 682 311
REP. BY ITS SECRETARY SRI.BIJU PAUL
2. SRI.BIJU PAUL, SECRETARY,
BROOKSIDE CLUB, KOLENCHERY - 682 311.

BY ADVS.SRI.ANIL THOMAS(T)
SMT.K.V.RESHMI

RESPONDENTS:

1. STATE OF KERALA REP. BY ITS SECRETARY
TO GOVERNMENT (EXCISE & TAXES),
DEPARTMENT OF TAXES, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. THE COMMISSIONER OF EXCISE,
EXCISE HEADQUARTERS,
THIRUVANANTHAPURAM - 695 033.
3. JOINT COMMISSIONER OF EXCISE,
CENTRAL ZONE, ERNAKULAM - 682 018.
4. DEPUTY COMMISSIONER OF EXCISE,
ERNAKULAM - 682 018.
5. CIRCLE INSPECTOR OF POLICE,
KUNNATHUNADU - 683 544.

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 9595/2015

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE REGISTRATION CERTIFICATE NO.ER 923 DATED 10.12.2003 ALONG WITH TRUE TRANSLATION IN ENGLISH

EXT. P2 TRUE COPY OF THE APPLICATION DATED 1.7.2014 (1st PETITIONER GIVEN TO THE 2nd RESPONDENT) (WITHOUT ITS ENCLOSURES)

EXT. P3 TRUE COPY OF THE REPORT DATED 11.9.2014, 5th RESPONDENT TO THE 4th RESPONDENT, NO.KC-177/2014 (WITHOUT ITS ENCLOSURES)

EXT. P4 TRUE COPY OF THE REPRESENTATION DATED 8.10.2014 NO.E5-9463/14, 4th RESPONDENT TO THE 5th RESPONDENT (WITHOUT ITS ENCLOSURES)

EXT. P5 TRUE COPY OF THE RECOMMENDATIONS OF THE 3rd RESPONDENT DATED 15.10.2014 NO.CZ3-2993/14 (WITHOUT ITS ENCLOSURES)

EXT. P6 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE HON'BLE MINISTER FOR EXCISE AND FISHERIES DATED 28.10.2014

EXT. P7 TRUE COPY OF THE REPORT DATED 9.2.2015 (OBTAINED UNDER THE RTI ACT), 4th RESPONDENT TO THE 2nd RESPONDENT

EXT. P8 TRUE COPY OF THE ORDER NO.XC6-29394/2013 DATED 9.6.2014 PASSED BY THE 2nd RESPONDENT COMMISSIONER

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.9595 of 2015 Y

Dated this the 25th day of March, 2015

JUDGMENT

Heard the learned counsel for the petitioners 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 second petitioner, the Secretary of a Club, made Exhibit P2 application to the second respondent on 01.07.2014 seeking FL-4A licence. The second respondent, in turn, is said to have directed respondents 3 to 5 to enquire into the issue in terms of Rule 13(4A) of the Foreign Liquor Rules and submit reports. The said respondents, acting on the direction of the second respondent, enquired into the issue and submitted Exhibits

P3 to P5 and P7 reports. Ventilating their grievance that despite positive recommendations made by respondents 3 to 5, the second respondent has not so far taken any action, the petitioners have filed the present writ petition.

3. The learned counsel for the petitioners has submitted that all the recommendations by respondents 3 to 5 in Exhibits P3 to P5 and P7 are favourable. She has also submitted that the very second respondent, through Exhibit P8, granted the necessary permit to another club, which is similarly situated. According to her, the petitioners cannot be discriminated against.

4. The learned Government Pleader has fairly submitted that the second respondent is willing to consider the petitioner's Exhibit P2 application in the light of Exhibits P3 to P5 and P7 submitted by respondents 3 to 5.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the

petitioners and the learned Government Pleader, this Court, without expressing any opinion on the merits of the matter, disposes of the writ petition with a direction to the second respondent to consider Exhibit P2 application of the petitioner in accordance with law, keeping in view Exhibits P3 to P5 and P7, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Dama Seshadri Naidu, Judge

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