

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 11591 of 2015 (Y)

PETITIONER(S):

**FRANCIS, AGED 63,
S/O.CHEEKKAPPAN, NO. 66, MANJALI HOUSE,
GANDHI NAGAR, ERNAKULAM, KOCHI - 20.**

**BY ADVS.SRI.C.M.NAZAR
SRI.MANSOOR.B.H.**

RESPONDENT(S):

- 1. SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR OF STATE LOTTERIES,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE DISTRICT LOTTERY OFFICER,
DISTRICT LOTTERY OFFICE, ERNAKULAM - 682 030.**
- 4. V.T.XAVIER,
VADAKKEVEETIL, KODALAPPADU, KOOVAPPADY P.O.,
PERUMBAVOOR, PROPRIETOR, MATHA LUCKY CENTRE,
ANGAMALY - 682 260.**

**R1-R3 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN
R4 BY ADVS. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: A TRUE COPY OF THE AGENTS IDENTITY FOLDER OF THE PETITIONER.

EXT.P2: A TRUE COPY OF THE RELEVANT PAGES OF AGENT WISE PURCHASE REPORT IN RESPECT OF THE 4TH RESPONDENT FOR THE PERIOD FROM 1.1.2014 TO 12.12.2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P3: A TRUE COPY OF THE PURCHASE BILL FOR 'POURNAMI' LOTTERY TICKETS FOR THE DRAW ON 01.02.2015 PURCHASED FROM VIGNESWARA AGENCIES, ERNAKULAM HAVING NO.55309 DATED 24.01.2015.

EXT.P4: A TRUE COPY OF ANOTHER BILL FOR AKSHYA LOTTERY TICKETS FOR THE DRAW ON 04.02.2015 PURCHASED FROM VIGNESWARA AGENCIES, ERNAKULAM HAVING NO.56477 DATED 30.01.2015.

EXT.P5: A TRUE COPY OF PURCHASE BILL FOR 'POURNAMI' LOTTERY TICKETS DRAWN ON 01.02.2015 PURCHASED FROM MATHA LUCY CENTRE, ANGAMALY HAVING NO.9510 DATED 31.01.2015.

EXT.P6: A TRUE COPY OF THE AGENT WISE SALES DUTIES OF 'BHAGYANIDHI' LOTTERY FOR THE DRAW DATED 26.12.2014 OF THE DISTRICT LOTTERY OFFICE, ERNAKULAM.

EXT.P7: A TRUE COPY OF THE REPRESENTATION DATED 12.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P8: A TRUE COPY OF FIRST PAGE OF THE AGENT WISE SALE DETAILS ISSUED BY THE 3RD RESPONDENT IN RESPECT OF DRAW NO.191 OF BHAGYANIDHI LOTTERY DTD.5.6.2015.

EXT.P9: A TRUE COPY OF THE NEWS ITEM PUBLISHED IN MALAYALA MANORAMA DAILY DTD.12.6.2015.

RESPONDENT(S)' EXHIBITS:

EXT.R3(a): TRUE COPY OF THE CIRCULAR NO.S1/2231/12/DSL DTD.17.10.2013 ISSUED BY THE 2ND RESPONDENT.

EXT.R3(b): THE RELEVANT PAGE OF LOTTERY RULES.

EXT.R3(c): THE RELEVANT PAGE OF LOTTERY RULES.

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 11591 of 2015

Dated this the 7th day of October, 2015

J U D G M E N T

Petitioner is a lottery agent. He approached this Court with the following relief:-

- “(1) Issue a writ of mandamus or any other writ, order or direction directing the 3rd respondent to issue lottery tickets to the petitioner without any discrimination and in accordance with the stipulations contained in Rule 8 of Keala Paper Lottery (Regulation) Rules, 2005;*
- (2) Issue a writ of mandamus or any other writ, order or direction directing respondents 1 to 3 to ensure the availability of tickets to the petitioner, at the price on which tickets to be issued from the 3rd respondent's office and to take appropriate action against the 4th respondent for levying exorbitant price for the state lottery tickets;”*

Petitioner submits that in the matter of distributing lottery tickets, the third respondent is discriminating among different agents. According to the petitioner, the agents, who are having high volume of business, are being given more lottery tickets than the people like the petitioner. Therefore, it is submitted that there is discrimination. As regards the

Petitioner's second prayer is concerned, according to the petitioner, respondents 1 to 3 shall ensure the availability of the tickets to the petitioner when the tickets were sold by the agents to sub-agents.

2. As far as the first prayer is concerned, this Court is of the view that there shall not be any discrimination in distributing lottery tickets. All agents are to be treated equally by the third respondent in the matter of distribution. If the petitioner approaches the third respondent, the third respondent shall distribute the tickets to the petitioner without any discrimination, depending upon the availability of stock and time factors.

3. However, in respect of second prayer, it is purely a private business of agents. There is no mechanism in any rules or regulations to control the activities of agents in selling the lottery tickets by them. Petitioner already approached in this regard before the second respondent. If different agents are selling at different rates, this Court cannot direct respondents 1 to 3 to take action as there is no regulatory

mechanism to control the activities of the agents. It is for the petitioner to approach the Government to make any regulatory mechanism to control the activities of the agent. Therefore, it is open for the petitioner to approach the first respondent with representation to control the activities of the agents, if they indulge in unfair trade practice in selling tickets.

4. In view of the above, this writ petition is disposed of directing the second respondent to consider Ext.P7, after notice to the petitioner, within three months. It is open for the second respondent to place the matter before the Government, if any action is warranted. With regard to the first prayer, in the matter of distributing lottery tickets, there shall be no discrimination among agents for release of the lottery tickets and the tickets shall be released to the petitioner based on the availability without any discrimination.

MBS/

A.MUHAMED MUSTAQUE,
Judge

