

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

WP(C).No. 25377 of 2011 (V)

PETITIONER :

HOSDURG RANGE KALLU-CHETHU THOZHILALI
VYAVASAYA SAHAKARANA SANGHAM LTD;NO.S.310, KUNNUMMAL
KANHANGAD P.O., REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.S.P.PARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND

RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM PIN 695 001.
2. THE PRINCIPAL SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM
PIN 695 001.
3. THE COMMISSIONER OF EXCISE,
EXCISE COMMISSIONERATE, THIRUVANANTHAPURAM.
PIN 695 033.
4. THE DISTRICT COLLECTOR,
KASARAGOD, PIN 671 121.
5. THE DEPUTY COMMISSIONER OF EXCISE,
KASARAGOD, PIN 671 121.

R1-R5 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

EXT.P1 TRUE COPY OF THE RELEVANT EXTRACT OF THE RECOMMENDATIONS IN
UDAYABHANU COMMISSION REPORT.

EXT.P2 TRUE COPY OF THE PHOTOCOPY OF THE ABKARI POLICY FOR THE
YEAR 2007-2008.

EXT.P3 TRUE COPY OF THE TRUE PHOTOCOPY G.O.(M.S) NO. 107/2011/TD
DATED 17.8.2011.

EXT.P4 TRUE COPY OF THE TRUE PHOTOCOPY OF THE KERALA ABKARI SHOPS
(AMENDMENT) RULES, 2011.

EXT.P5 TRUE COPY OF THE TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE
NOTIFICATION IN G.O(P) NO.127/2011/TD DATED 07.09.2011.

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

DAMA SESHADRI NAIDU, J.

W.P.(C).No.25377 of 2011

Dated this the 2nd day of December, 2015.

J U D G M E N T

The petitioner has filed this writ petition impugning two proceedings : (1) challenging Ext.P3 Abkari Policy and (2) quashing Ext.P4 amendment effected to the Kerala Abkari Shops Disposal Rules 2002.

2. The learned counsel for the petitioner has submitted that in the light of subsequent developments, the prayer concerning Ext.P3 has not survived. He has, nevertheless, submitted that this Court may leave open the challenge laid against Ext.P4 amendment. According to the learned counsel, as and when the petitioner has the necessary cause of action; it may, then, question Ext.P4 amended rules.

In view of the above facts and circumstances, the writ petition is disposed of as having not survived for further consideration; however, it is made clear that the petitioner's right to lay challenge against Ext.P4 remains intact. No order as to costs.

Sd/-
DAMA SESHADRI NAIDU,
JUDGE