

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 30686 of 2012 (S)

PETITIONER(S):

- 1. P.K.CHANDRASEKHARAPILLAI AGED 73 YEARS
VELUR HOUSE, CUSTOMS COLONY, THAMARASSERY ROAD
POONITHURA, COCHIN-682038, ERNAKULAM DISTRICT.**
- 2. S. RUSSEL
SANKARA NIVAS, MUKKOOTIL TEMPLE ROAD, POONITHURA P.O.
PIN-682038.**

**BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.
SRI.JOBI.A.THAMPI
SMT.M.KABANI DINESH**

RESPONDENT(S):

- 1. THE KERALA STATE BEVERAGES CORPORATION LIMITED
REP. BY ITS MANAGING DIRECTOR, P.B.NO. 2263
SASTHA KRIPA OFFICE COMPLEX, SASTHAMANGALAM
THIRUVANANTHAPURAM-695010.**
- 2. THE REGIONAL MANAGER
OFFICE OF REGIONAL MANAGER
KERALA STATE BEVERAGES CORPORATION, TRIPUNITHURA
ERNAKULAM DISTRICT-682301.**
- 3. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.**
- 4. THE EXCISE COMMISSIONER
KERALA, TRIVANDRUM.**

**BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL
BY SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORPORATION**

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.30686/2012

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1- PHOTOCOPY OF THE NOTIFICATION NO. KSBC/SCC/SEC/088/2012-13/110
DATED 12-6-2012.

EXT.P1(a): TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P1.

EXHIBIT P2- PHOTOCOPY OF THE G.O.(MS)NO. 130 OF 2012 DATED 19-07-2012.

EXHIBIT P2(a): TRUE COPY OF THE ENGLISH TRANSLATION OF EXT.P2.

EXHIBIT P3- REPRESENTATION SUBMITTED BY THE PETITIONERS TO THE CHIEF
MINISTER OF KERALA, MINISTER OF EXCISE, SECRETARY TO GOVT. TAXES DEPT &
COMMISSIONER FOR EXCISE DATED 19-10-2012.

RESPONDENTS' EXHIBIS: NIL

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No.30686 of 2012

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Dated this, the 24th day of July, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard Sri.C.S.Ajith Prakash, standing counsel, who appeared of respondents 1 and 2 and learned Government Pleader, who appeared for respondents 3 and 4.

2. This writ petition has been filed as a Public Interest Litigation challenging Ext.P1 by which the Corporation invited an expression of intent from building owners. The said notification dated 12th June, 2012 is as follows;

“INVITING EXPRESSION OF INTENT FROM BUILDING OWNERS

It is intended to create a data bank with respect to the persons who are intending to lease out/sold out the suitable building/land for functioning retail/wholesale Foreign Liquor outlets of Corporation for throughout Kerala. For further information visit to www.Bevcokerala.org

For details call to 94460 00165.

Sd/-

Place:Thiruvananthapuram

Managing Director”

3. Petitioners' case in the writ petition is that Corporation does not require any further premises especially in view of the liquor policy which has now been accepted and approved by the State Government under which, in 10 years, the outlets have to be reduced 10% every year. He submits that in view of the changed liquor policy, requirement of suitable building/land has come to an end. He submits that by Ext.P3, the petitioners have also represented to the Government against Ext.P1, the expression of intent. Learned counsel for the Corporation submits that the application is only inviting expression of intent from building owners who intend to lease out or sell suitable building/land for functioning retail/wholesale foreign liquor outlets of Corporation throughout Kerala. He submits that Corporation has to carry on its business and for reallocation of certain retail and wholesale outlets and the godowns, certain premises are required which is in the exigencies of running of the Corporation. He submits that new liquor policy which has been approved by the Government does not put any restriction on reallocation of premises or obtaining new premises on lease or sale.

4. We have considered the submission of the learned

counsel for the parties and perused the records.

5. The terms and conditions of Ext.P1 expression of intent is only an invitation to the willing building owners to come forward who are ready to lease out or sell suitable building for functioning of retail and wholesale outlets of foreign liquors. One of the condition contained in expression of intent is clause (7), which is to the following effect;

“7) Proposed building should not be in the main junctions or busy junctions or abutting the National Highway”.

6. Corporation has taken care that the proposed building should not be in the main junctions or busy junctions or abutting the National Highway. Such premises can be utilised for reallocating those outlets which are on the highway or busy junction. The liquor policy approved by the State Government as submitted by the learned counsel for the petitioners does not prohibit acquisition of any new premises on lease or sale by the Corporation. Thus, there is nothing inherently wrong in the expression of intent which requires interference by this Court under Article 226 of the Constitution of India. The submission of

the learned senior counsel that the acquisition of premises shall be a burden in the public exchequer are issues which need not be considered at this stage and at appropriate stage when any procedure for acquisition of land under the Land Acquisition Act is initiated, the aggrieved person shall have ample opportunity to raise his objections which can be considered at that stage. In view of the aforesaid, we see no reason to issue any direction in this Public Interest Litigation.

Writ petition is closed with the aforesaid observation.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge