

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 27817 of 2015 (S)

PETITIONER(S) :

K.V.JACOB,
NO.605 (1/423, KAITHAKOOMBIL,
5, MALLAYIDUMTHURUTHU, KIZHAKKAMBALAM PANCHAYAT,
ERNAKULAM DISTRICT.

BY ADVS.SRI.N.NANDAKUMARA MENON (SR.)
SRI.P.K.MANOJKUMAR
SMT.SMITHA S.PILLAI

RESPONDENT(S) :

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT,
SECREETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE KIZHAKKAMBALAM GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
KIZHAKKAMBALAM, ERNAKULAM DISTRICT-683 562.
3. THE COMMISSIONER OF EXCISE,
OFFICE OF COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM-695 001.
4. THE DEPUTY COMMISSIONER OF EXCISE,
EXCISE DIVISIONAL OFFICE,
POWER HOUSE ROAD, ERNAKULAM,
(LICENSING AUTHORITY), KOCHI-682 018.
5. KERALA STATE BEVERAGES CORPORATION LIMITED,
(MANUFACTURING AND MARKETING),
P.B.NO.2263, SASTHAKRIPA OFFICE COMPLEX,
SASTHAMANGALAM P.O., THIRUVANANTHAPURAM-695 010,
REPRESENTED BY ITS MANAGING DIRECTOR

R1, R3 AND R4 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL
R5BY SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORPORATION
SRI.P.SATHISAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: PHOTOSTAT COPY OF THE REPRESENTATION DATED 4.9.2015 SUBMITTED BY THE PETITIONER TO THE EXCISE COMMISSIONER, TRIVANDRUM.

EXHIBIT P2: COPY OF REPRESENTATION DATED NIL SUBMITTED BY THE GENERAL PUBLIC BEFORE THE HON'BLE CHIEF MINISTER.

EXHIBIT P2(a): ENGLISH TRANSLATION OF EXHIBIT P2.

EXHIBIT P3: COPY OF REPRESENTATION DATED NIL SUBMITTED BY THE GENERAL PUBLIC BEFORE THE HON'BLE MINISTER FOR EXCISE, TRIVANDRUM.

EXHIBIT P3(a): ENGLISH TRANSLATION OF EXHIBIT P3.

EXHIBIT P4: COPY OF MINUTES OF THE SECOND RESPONDENT PANCHAYAT DATED 26.6.2014.

EXHIBIT P4(a): ENGLISH TRANSLATION OF RELEVANT PORTION OF EXHIBIT P4.

EXHIBIT P5: COPY OF REPRESENTATION DATED 4.9.2015 SUBMITTED BY THE PETITIONER TO THE SECRETARY, (TAXES), TVM.

EXHIBIT P6: COPY OF REPRESENTATION DATED 4.9.2015 SUBMITTED BY THE PETITIONER TO THE SECRTARY, GRAMA PANCHAYAT, KIZHAKKAMBALAM.

EXHIBIT P7: COPY OF REPRESENTATION DATED 4.9.2015 SUBMITTED BY THE PETITIONER TO THE FOURTH RESPONDENT.

/TRUE COPY/

PS TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.P.(C) No.27817 of 2015

Dated this the 15th day of September 2015

J U D G M E N T

Shaffique, J.

The petitioner has approached this Court by filing a public interest litigation inter alia seeking for a direction for closure of a Retail Foreign Liquor shop situated in Building No.XII/443 of Kizhakambalam Grama Panchayat. It is inter alia contended by the petitioner, who is a member of the Panchayat that the licence had been granted by the Excise Commissioner without complying with the statutory provisions as there is a temple as well as a church situated within 150 meters from the said retail shop. It is submitted that the 5th respondent has not obtained any licence under the provisions of the Kerala Panchayat Raj Act for running a retail outlet. The petitioner also contends that the said retail outlet is causing substantial nuisance to the public at large. On these grounds, the petitioner had submitted a representation to the Excise Commissioner on 4.9.2015, but so far no action has been taken in the matter.

2. Learned Standing Counsel appearing on behalf of the 5th respondent submits that since the Panchayat having failed to issue initial licence, the 5th respondent had approached this Court by filing W.P.(C) No.27483 of 2015, in which, they had sought for an interim direction to the Panchayat not to take any coercive action or step against the aforesaid shop pending disposal of the trade licence application and this Court on 11.9.2015 by an interim order, directed to maintain status quo for a period of two months. That apart, it is stated that another writ petition, W.P.(C) No.35351 of 2014, with reference to trade licence for the previous year is also pending consideration. It is further submitted that the petitioner has come up with a public interest litigation stating that he is a member of the Panchayat and he has not filed any affidavit in terms of Rule 46A of the High Court Rules.

3. The facts being so and having regard to the fact that the issue relating to the trade licence of the retail outlet is pending consideration before this Court, we do not think it necessary to entertain the present writ petition as a public interest litigation. If the petitioner is aggrieved by any order

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passed by this Court in the earlier writ petition, he can approach the said Court and take all necessary contentions as are available and as projected in this writ petition as well.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt/18.9.2015.