

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 31088 of 2013 (I)

PETITIONER : -

M. SHAJAHAN,
S/O. LATE MOHAMMED ISMAIL,
RESIDING ATTC-L/1738, RIVER VIEW HOUSE,
MUDAVANMUGAL, POOJAPPURA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.N.RAGHURAJ
SMT.K.AMMINIKUTTY

RESPONDENTS :-

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY, TAXES (A) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. THE COMMISSIONER OF EXCISE,
EXCISE COMMISSIONERATE, THIRUVANANTHAPURAM - 695 001.
3. THE DEPUTY COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM - 695 001.
4. THE CIRCLE INSPECTOR OF EXCISE
THIRUVANANTHAPURAM - 695 001.
5. SURENDRAN @ YAMAHA SURENDRAN,
PROPRIETOR, HOTEL SABARI PARK, TC-XVII/1744,
POOJAPPURA P.O., THIRUVANANTHAPURAM,
RESIDING AT SUKANYABHAVAN, TC-XII/582, VADAYAKADU,
KUNNUKUZHI, THIRUVANANTHAPURAM DISTRICT - 695 018.

R5 BY ADV.SRI.BENNY GERVACIS
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE PHOTOCOPY OF THE ORDER BEARING NO XC7-6390/08
DATED 7/9/2009.

EXHIBIT P2 : TRUE PHOTOCOPY F THE COMMON JUDGMENT DATED 22/12/2009
IN WPC NO 27360/2009 AND CONNECTED CASES.

EXHIBIT P3 : TRUE PHOTOCOPY OF THE ORDER OF THE 2ND RESPONDENT
DATED 24/12/2010.

EXHIBIT P4 : TRUE PHOTOCOPY OF THE ORDER BEARING NO GO(P)NO
192/2011/TD DATED 9/12/2011.

EXHIBIT P5 : TRUE PHOTOCOPY OF THE ORDER BEARING NO GO(RT)NO
171/2012/TD DATED 1/3/2012.

EXHIBIT P6 : TRUE PHOTOCOPY OF THE JUDGMENT DATED 10/8/2012 IN WPC
NO 7293/2012.

EXHIBIT P7 : TRUE PHOTOCOPY OF THE ORDER BEARING GO(RT)NO
435/2013/TD DATED 29/5/2013.

EXHIBIT P8 : TRUE PHOTOCOPY OF THE JUDGMENT DATED 16/11/2007 IN WPC
NO 27123/2007.

EXHIBIT P9 : TRUE PHOTOCOPY OF THE ROUGH SKETCH SHOWING THE LIE
AND LOCATION OF HOTEL SABARI PARK, AYURVEDA COLLEGE
HOSTEL, ITS GATE AND THE ZEBRA CROSS.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 31088 of 2013

Dated this the 20th day of July, 2015

JUDGMENT

Exhibit P7 impugned order granting FL-3 licence to the fifth respondent seems to have become inoperative in the light of change of Government's Abkari Policy. At any rate, the petitioner in the present writ petition has raised the issue of distance norm. At this juncture, deciding the issue of distance norm in the face of the very Exhibit P7 becoming inoperative is a mere academic exercise without true consequences flowing therefrom.

In the facts and circumstances, the writ petition is closed as having become infructuous, leaving it open for the petitioner to revive the issue of distance norm as and when the case of the fifth respondent is to be considered for any Abkari licence.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-