

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 30114 of 2015 (L)

PETITIONER:

M/S.JOY'S THE BEACH RESORTS PVT.LTD.
(THE TRAVANCORE HERITAGE), CHOWARA P.O.,
THIRUVANANTHAPURAM - 695 001 REP. BY
ITS MANAGING DIRECTOR, T.C.PAUL,
AGED 61 YEARS, S/O CHACKO.

BY ADVS.SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW
SRI.C.C.THOMAS (SR.)

RESPONDENTS:

1. THE EXCISE COMMISSIONER,
COMMISSIONORATE OF EXCISE,
THIRUVANANTHAPURAM-695 033.
2. THE DEPUTY COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM-695 033.
3. STATE OF KERALA REP. BY SECRETARY,
TAXES (A) DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
4. THE REGIONAL DIRECTOR (SOUTH),
INDIA TOURISM (CHENNAI),
GOVT. OF INDIA, SOUTHERN REGIONAL OFFICE,
154, ANNA SALAI, CHENNAI - 600 002.

R4 BY ADV. SMT.C.G.PREETHA
R4 BY SRI.N.NAGARESH, ASST. SOLICITOR GENERAL
R1 TO R3 BY SR.GOV'T. PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 30114/2015

PETITIONER'S EXHIBITS:

EXT. P1 PHOTOCOPY OF THE FL-11 LICENCE ISSUED TO THE PETITIONER COMPANY DATED 14.7.2010

EXT. P2 PHOTOCOPY OF THE PROVISIONAL RENEWAL EXT. P1 LICENCE ON 7.4.2015 TILL 6.10.2015

EXT. P3 PHOTOCOPY OF THE STAR CLASSIFICATION CERTIFICATE DATED 29.1.2003 ISSUED BY THE MINISTRY OF TOURISM, CHENNAI

EXT. P4 PHOTOCOPY OF THE STAR CLASSIFICATION CERTIFICATE DATED 17.1.2007 ISSUED BY THE MINISTRY OF TOURISM, CHENNAI

EXT. P5 PHOTOCOPY OF THE APPLICATION DATED 16.5.2015 SENT TO THE FOURTH RESPONDENT

EXT. P6 PHOTOCOPY OF THE NOTIFICATION GO(P)NO.211/2014/TD DATED 30.12.2014 ISSUED BY THE FIRST RESPONDENT

EXT. P7 PHOTOCOPY OF THE ACKNOWLEDGEMENT OF THE APPLICATION AND THE DIRECTION TO PRODUCE VALID STAR CLASSIFICATION

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.30114 of 2015 L

Dated this the 5th day of October, 2015

JUDGMENT

The petitioner, a resort with three-star classification, has FL-11 licence to have Beer & Wine Parlour. As can be seen from Exhibits P3 and P4, the three star classification had been in force up to 2012, when the petitioner is said to have made an application to the fourth respondent for renewal of that classification. In the meanwhile, the petitioner also had his Beer & Wine Parlour licence renewed through Exhibit P2 for the year 2015-16, lasting up to 31.03.2016.

2. Nevertheless, Exhibit P2 imposes a condition that the licence thus renewed for Beer & Wine Parlour shall be subject to the petitioner producing a certificate of three star classification on or before 06.10.2015. Accordingly, the

petitioner submitted Exhibit P5 application before the fourth respondent for the classification certificate. As the fourth respondent did not take a decision on its application expeditiously, the petitioner has filed the present writ petition.

3. The learned Senior Counsel for the petitioner has submitted that since 2012 the petitioner has been approaching the fourth respondent for renewal of its three star classification but without much success. In that regard, he has drawn my attention to Exhibit P5 'new application' dated 16.05.2015 submitted by the petitioner along with all necessary documents before the fourth respondent. The petitioner needs a direction to the fourth respondent to consider its Exhibit P5 application expeditiously. According to the learned Senior Counsel, unless there is an interim direction extending the period originally fixed in Exhibit P2 for production of a certificate from the fourth respondent

concerning classification, the petitioner would be put to hardship.

4. The learned Assistant Solicitor General, on instructions, has submitted that the petitioner's application is being considered and that the fourth respondent will take an appropriate decision at the earliest, at any rate, within three months.

5. The learned Government Pleader, on his part, has submitted that Exhibit P2 is unexceptionable and it cannot be found fault with. According to him, it is a pre-condition to have the renewal of star classification if the petitioner has to have FL-11 licence.

6. Heard the learned Senior Counsel for the petitioner and the learned Assistant Solicitor General, as well as the learned Government Pleader, apart from perusing the record.

7. Indeed, the petitioner, in terms of Exhibits P3 and P4, earlier had three star classification. It seems when it came to an end in 2012, the petitioner applied for renewal of the classification. It is the contention of the learned Senior Counsel that notwithstanding the earlier applications filed by the petitioner, it also submitted another application in Exhibit P5 along with all necessary documents. It is for the fourth respondent to take an appropriate decision at the earliest point of time.

8. Exhibit P2 shows that the petitioner's FL-11 licence was extended up to 31.03.2016 subject to the condition of the petitioner's producing a certificate of three star classification on or before 06.10.2015.

9. It is quite evident that Exhibit P2 cannot be found fault with. At the same time, the petitioner cannot be blamed for the delay on the part of the fourth respondent in considering the petitioner's application for renewal of its

classification. Since the petitioner has enjoyed the three star classification earlier too, and the period came to an end only by efflux of time, further renewal, be it in terms of Exhibit P5 or otherwise, is at best, in my view, technical in nature.

10. In the above factual background, it meets the ends of justice if a direction is given to the fourth respondent to consider the petitioner's application expeditiously and in the meanwhile extend the period originally provided in Exhibit P2 for production of the certificate by three more months.

In the facts and circumstances, having regard to the respective submissions of the learned Senior Counsel for the petitioner, the learned Assistant Solicitor General and the learned Government Pleader, this Court disposes of the writ petition with a direction to the fourth respondent to consider the petitioner's Exhibit P5 application and pass

appropriate orders thereon as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment, as has been undertaken by the learned Assistant Solicitor General. In the meanwhile, the period originally fixed in Exhibit P2 for production of the certificate stands extended by three more months. No order as to costs.

Dama Seshadri Naidu, Judge

tkv