

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 35128 of 2015 (M)

PETITIONER(S):

- 1. M/S.WESTERN INDIA CASHEW COMPANY (PVT.) LIMITED,
P.B. NO 75, BEACH ROAD, KOLLAM - 691 001,
REPRESENTED BY ITS VICE PRESIDENT
(OPERATIONS) MR. THAMPI SENAN.**
- 2. SHRI. HARI KRISHNAN NAIR,
MANAGING DIRECTOR,
M/S.WESTERN INDIA CASHEW COMPANY (PVT.) LIMITED,
P. B. NO 75, BEACH ROAD, KOLLAM - 691 001.**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS
SRI.NAVOD PRASANNAN PATTALI
DR.THUSHARA JAMES**

RESPONDENT(S):

- 1. KULASEKHARAPURAM GRAMA PANCHAYATH,
ADINADU NORTH P.O., 690 542, KOLLAM,
REPRESENTED BY ITS SECRETARY.**
- 2. THE LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS SECRETARY.**

R2 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 35128 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:-TRUE COPY OF THE RENEWED LICENSE DTD 29/5/2014 ISSUED BY THE
IST RESPONDENT TO THE IST PETITIONER COMPANY FOR THE FINANCIAL YEAR
2014-15.**

**P2:-TRUE COPY OF THE APPLICATION FOR RENEWAL OF LICENSE DTD 30/3/2015
SUBMITTED BY THE IST PETITIONER COMPANY TO THE IST RESPONDENT.**

**P3:-TRUE COPY OF THE CASH RECEIPT DTD 31/3/2015 ISSUED BY THE
IST RESPONDENT TO THE IST PETITIONER COMPANY.**

**P4:-TRUE COPY OF THE LETTER DTD 2/6/2015 SUBMITTED BY THE IST PETITIONER
COMPANY TO THE IST RESPONDENT.**

**P5:-TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT DTD 2/6/2015 ISSUED BY THE
IST RESPONDENT TO THE IST PETITIONER COMPANY.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. HARILAL, J.

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W.P. (C) No.35128 of 2015

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Dated this the 26th day of November, 2015

J U D G M E N T

The petitioner is a company, incorporated under the Companies Act, 1956 and the company is having the business of procuring and processing of cashew for export purposes at its factories situated in Puthenthervu, Karunagappilly, falling within the jurisdiction of the 1st respondent/Panchayat. So petitioner had submitted Ext.P2 application, before the 1st respondent, as mandated under Rule 10 of the Kerala Panchayat Raj(Issue of License to Dangerous and Offensive Trades and Factories) Rules, 1996, for the renewal of the licence: In spite of the receipt of Ext.P2 renewal application, the 1st respondent has not renewed the licence of the petitioner so far. So also, the 1st respondent has not raised any objection against Ext.P2

-: 2 :-

application, seeking renewal of the licence. Despite the benefit of the deeming provisions under the Kerala Panchayat Raj Act, the petitioner had sent Ext.P4, reminding the lapses on the part of the respondent, in issuing the renewed licence; but, there was no response from the part of the 1st respondent/Panchayat. According to the petitioner, the petitioner is entitled to get the benefit of the deeming provisions under Section 236(3) of the Kerala Panchayat Raj Act. This Writ Petition is filed with a prayer to declare that Ext.P2 renewal application is deemed to be renewed as the 1st respondent has not objected or rejected Ext.P2 renewal application and also to direct the 1st respondent to issue renewed licence to the petitioner company in its proper format stipulated under Rules 1996, by issuance of a writ of mandamus or any appropriate writ order or direction.

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2. Heard the learned counsel for the petitioner and learned standing counsel appearing for the respondents. Though, notice has been duly served to the 1st respondent, none appears for the 1st respondent. Thus the facts narrated in this Writ Petition stands uncontroverted.

3. The short question that arises for consideration is, whether the petitioner is entitled to get the benefit under the deeming provisions of Section 236(3) of the Kerala Panchayat Raj Act. The learned counsel drew my attention to the deeming operation provided under Section 236(3) of the Kerala Panchayat Raj Act and submits that the petitioner is entitled to get a declaration that the licence of the petitioner's establishment shall be deemed to be renewed by the operation of Section 236(3) of the Kerala Panchayat Raj Act.

-: 4 :-

4. The statutory mandate under sub-clause 3 of Section 236 is that if orders on an application for licence or permission are not communicated to the applicant, within 30 days or such longer time, as may be prescribed in any clause or cases, after the receipt of the application by the Secretary, the application shall be deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed and subject to law, rules bye-laws and all conditions ordinarily imposed. In the instant case, even though, the petitioner has applied for renewal of licence by the application dated 30.03.2015, the same has not been considered so far, despite the receipt of Ext.P4 reminder. It follows that the petitioner is entitled to get benefit of the deeming provision provided under sub-clause (3) of Section 236 of the Kerala Panchayat Raj Act and declared as prayed for.

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5. The 1st respondent/Panchayat is directed to issue renewed licence to the petitioner company in its proper format stipulated under the Rules 1996, within a period of one month, from the date of receipt of a copy of this judgment.

6. It is open to the petitioner to produce the copy of this judgment along with the copy of the Writ Petition, to facilitate an early compliance of the direction in this judgment.

This Writ Petition is disposed of accordingly.

Sd/-
K. HARILAL,
JUDGE

DST

//True copy//

P.A. To Judge