

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

TUESDAY, THE 31ST AUGUST 2010 / 9TH BHADRA 1932

WP(C).No. 20412 of 2010(B)  
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PETITIONER:  
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P.R.CHELLAPPAN,  
S/O.RAMAN, PUNNAVELIL,  
MANTHURUTHY P.O., KARUKACHAL, KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM  
SRI.M.MUKESH

RESPONDENTS:  
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1. THE EXCISE COMMISSIONER,  
COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM.
2. THE DEPUTY COMMISSIONER OF EXCISE,  
KOTTAYAM DIVISION, KOTTAYAM.
3. THE DEPUTY COMMISSIONER OF EXCISE,  
PALAKKAD DIVISION, PALAKKAD.
4. THE CIRCLE INSPECTOR OF EXCISE,  
PONKUNNAM, DIST. KOTTAYAM.

GOVT. PLEADER SRI. V. MANU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 31/08/2010, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

WP(C) 20412/2010

***APPENDIX***

***PETITIONER'S EXHIBITS:***

EXT.P1            A TRUE COPY OF TODDY TRANSPORT PERMIT  
                     NO. 128/2010-11/ID/I HY DATED 29.3.2010.

RESPONDENTS' EXHIBITS:

NIL.

// TRUE COPY //

P.S. TO JUDGE.

Knc/-

P.N. RAVINDRAN, J.  
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W.P.(C) No. 20412 OF 2010  
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DATED THIS, THE 2ND DAY OF SEPTEMBER, 2010.

***J U D G M E N T***

The petitioner is the licensee of Toddy Shops Nos. 66 to 70 in Group No. XII of Kanjirappally Range in Kottayam Division, for the current year (2010-11). He holds Ext.P1 toddy transport permit issued by the Deputy Excise Commissioner, Palakkad, dated 29.3.2010, permitting him to transport toddy from Chittur Range to Kanjirappally Range in vehicles bearing Reg. Nos. KL 36A- 2826 or KL5 V-5582 between 6 AM ad 3 P.M. daily once (via) Vadakkancherry - Kombazha - Angamali - Kuruvilangad - Pala - Paika. The said permit is valid till 30.9.2010. This writ petition is filed contending that the petitioner is entitled to transport toddy in both the vehicles on alternate days and that the respondents are not permitting him to transport toddy in both the vehicles. According to the petitioner, it is for him to decide in which vehicle toddy should be transported and that the respondents cannot insist that only one among the two vehicles shall be used.

2. The learned Government Pleader appearing on behalf of the respondents submits that a large number of similar writ petitions raising

similar contentions were filed in this Court and that pursuant to the directions issued by this Court, the Excise Commissioner has passed an order dated 22.7.2010, modifying his earlier order. A copy of the said order has been made available to me and it reads as follows:

"As per the D.O. letter read 1st paper and the proceedings that ensued vide 2nd paper above, it was directed to limit the issue of toddy transport permit to one vehicle only.

Several writ petitions have been filed before the Hon'ble High Court and representations submitted before Government and the Commissionerate by the licensees and Abkari Trade Unions against the said directive. The Hon'ble High Court in its order read as 3rd above, also ordered to consider the representation of the petitioner therein requesting permit for two vehicles in one permit for transporting toddy. A meeting was convened by the undersigned with the licensees of Kottayam District on 17.7.2010 wherein, the difficulties faced as a result of the above directions was discussed.

Accordingly, in partial modification of the order read as 2nd above, it is directed to mention registration numbers of two vehicles in the toddy transport permit, subject to the condition that the licensees could use only one vehicle at a time for transporting toddy, as per the permit. The licensee will be entitled to put to use the other vehicle mentioned in the permit only in the event of any accident, or mechanical failure or otherwise of the vehicle in use after intimating the Deputy Commissioners of the respective Divisions.

The order read 2nd stands modified as above

and all the Deputy Commissioners are directed to scrupulously follow the instructions detailed, without fail."

In the light of the aforesaid development and the fact that the petitioner has not chosen to challenge the said order, I am of the opinion that the writ petition can be disposed of with the observation that the petitioner shall comply with the order passed by the Excise Commissioner on 22.7.2010 while transporting toddy on the strength of Ext.P1 permit.

P.N. RAVINDRAN,  
(JUDGE)

knc/-