

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 28TH DAY OF JUNE 2019 / 7TH ASHADHA, 1941

WP(C).No.14842 of 2019

PETITIONER/S:

- 1 P.K.SATHEESAN, AGED 43 YEARS  
S/O. KESAVAN, PATTATHIL KIZHAKKECHIRA,  
CHEMMANATHUKARA, T.V PURAM P.O,  
VAIKOM, DISTRICT. KOTTAYAM-686606.
- 2 RAVEENDRAN B, S/O. BHASKARAN,  
GOURISANKARAM BHAVAN, T.V.PURAM P.O,  
VAIKOM, DIST.KOTTAYAM-686606.

BY ADVS.  
SRI.K.REGHU KOTTAPPURAM  
SRI.MURUKESH REGHU

RESPONDENT/S:

- 1 THE EXCISE RANGE OFFICER  
VAIKOM EXCISE RANGE, VAIKOM,  
DIST.KOTTAYAM-686141.
- 2 THE CIRCLE INSPECTOR OF EXCISE,  
VAIKOM CIRCLE, VAIKOM, DIST.KOTTAYAM-686141.
- 3 THE DEPUTY EXCISE COMMISSIONER,  
KOTTAYAM DIVISION, CIVIL STATION,  
KOTTAYAM-686001.
- 4 THE EXCISE COMMISSIONER,  
COMMISSIONERATE OF EXCISE,  
THIRUVANANTHAPURAM-695001.

W.P.(C). Nos. 14842 & 15780 of 2019

5 THE SECRETARY TO GOVERNMENT.  
TAXES DEPARTMENT, GOVT. OF KERALA,  
THIRUVANANTHAPURAM-695001.

6 SIVANANDAN,  
MOOSARAYIL, VAIKOM P.O.  
DIST.KOTTAYAM-686141.

BY ADVS.  
GOVERNMENT PLEADER  
SRI.BOBBY MATHEW KOOTHATTUKULAM

OTHER PRESENT:

SRI HARISH K.P- SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 28.06.2019, ALONG WITH WP(C).15780/2019, THE COURT ON  
THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). Nos. 14842 & 15780 of 2019

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 28TH DAY OF JUNE 2019 / 7TH ASHADHA, 1941

WP(C).No.15780 of 2019

PETITIONER/S:

K.S.SIVANANDAN, AGED 60 YEARS  
S/O. SUKUMARAN, MOOSARAYIL, KANNUKETTUSSERY,  
T.V.PURAM P.O., VAIKOM VILLAGE, VAIKOM TALUK,  
KOTTAYAM DISTRICT, PIN CODE-686 606.

BY ADVS.  
SRI.BOBMY MATHEW KOOTHATTUKULAM  
SRI.P.M.NATESAN

RESPONDENT/S:

- 1 THE STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
DEPARTMENT OF EXCISE, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.
- 2 THE EXCISE COMMISSIONER  
COMMISSIONERATE OF EXCISE,  
THIRUVANANTHAPURAM-695 001.
- 3 THE DEPUTY EXCISE COMMISSIONER  
KOTTAYAM DIVISION, CIVIL STATION, KOTTAYAM-  
686 001.
- 4 THE CIRCLE INSPECTOR OF EXCISE  
VAIKOM CIRCLE, VAIKOM, KOTTAYAM DISTRICT, PIN  
CODE-686 141.

W.P.(C). Nos. 14842 & 15780 of 2019

- 5      P.K.SATHEESAN  
         S/O. KESAVAN, PATTATHIL KIZHAKKECHIRA,  
         CHEMMANATHUKARA, T.V.PURAM P.O., VAIKOM,  
         KOTTAYAM DISTRICT, PIN CODE-686 606.
  
- 6      RAVEENDRAN.B,  
         S/O BHASKARAN, GOURISANKARAM BHAVAN,  
         T.V.PURAM.P.O, VAIKOM, KOTTAYAM DISTRICT, PIN  
         CODE- 686 606.

BY ADVS.  
SRI.K.REGHU KOTTAPPURAM  
SRI.MURUKESH REGHU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 28.06.2019, ALONG WITH WP(C).14842/2019, THE COURT ON  
THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Since the reliefs sought for in these writ petitions relate to the right to conduct toddy Shop Nos.19 to 25 in Group No. IV of Vaikom Range, the writ petitions are heard and disposed of by this common judgment.

2.1 The petitioners, who are stated to be toddy tappers attached to Toddy Shop Nos.21 and 22 in Group No.IV of Vaikolm Range, who were issued with Exts.P2 to P8 licenses for the period from 13.04.2019 to 26.04.2019 to conduct Toddy Shop Nos. 19 to 25, in respect of which the sixth respondent herein was the licensee till 31.03.2019, have filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding respondents 1 to 5 to enable them to continue as Department Agents for conduct of the said toddy shops until disposal of those toddy shops in accordance with the provisions under the Kerala Abkari Shops Disposal Rules, 2002. The petitioners have also sought an appropriate writ restraining respondents 1 to 5 from restoring or reviving the licenses in respect of toddy shop Nos.19 to 25

in Group No. IV of Vaikom Range, which got expired on 31.03.2019 due to the lapse and failure of the sixth respondent, who was the licensee during 2018-19.

**2.2 W.P.(C).No.14842 of 2019:**

On 30.05.2019, when this writ petition came up for admission, the learned Government Pleader took notice on admission for respondents 1 to 5. Urgent notice on admission by Special Messenger was ordered to the sixth respondent, returnable by 06.06.2019.

2.3 A counter affidavit has been filed by the sixth respondent, opposing the reliefs sought for in this writ petition.

3. **W.P.(C).No. 15780 of 2019:-** This writ petition is filed by the sixth respondent in W.P.(C).No.14842 of 2019, who was the licensee of the toddy shop Nos.19 to 25 of Group No.IV in Vaikom Range, for the period 2018-19, seeking a declaration for having preferential right to get Exts.P1 to P7 licenses in respect of the aforesaid toddy shops extended or renewed under the provisions of the Kerala Abkari Shops

Disposal Rules, 2002. The further relief sought for is a writ of mandamus commanding respondents 2 and 3 to extend the period of license of the petitioner to conduct toddy shop Nos.19 to 25 in Group No.IV of Vaikom Range, covered by Exts.P1 to P7, or in the alternative, a writ of mandamus commanding respondents 2 and 3 to dispose of Ext.P8 application for renewal dated 17.05.2019 pending before the third respondent, within a time limit.

3.1 A counter affidavit has been filed by respondents 5 and 6, who are the petitioners in W.P.(C).No. 14842 of 2019. The petitioner has also filed a reply affidavit.

4. Heard the learned counsel for the petitioners, the learned Government Pleader for official respondents and also the respective counsel for the party respondents.

5. The petitioner in W.P.(C).No.15780 of 2019 was the licensee of toddy shop Nos.19 to 25 in Group No.IV of Vaikom Range for the period 2018-19. He was continuously conducting those toddy shops from the year 2014 onwards, as evidenced by Ext.P1 to P7 licenses. The validity of those

licenses were extended from time to time till 31.03.2019, by virtue of the orders issued by respondents 1 and 2. The case of the petitioner in W.P.(C).No.15780 of 2019 is that, as he was suffering from Chickenpox and Jaundice in March 2019, he could not submit application for renewal of Exts.P1 to P7 licenses, before the expiry of the license period. Immediately after recovering from the disease, he submitted Ext.P8 application before the Deputy Excise Commissioner third respondent in W.P.(C).No. 15780 of 2019, seeking renewal of the licenses. Before that, the petitioners in W.P.(C).No. 14842 of 2019 were issued with license to run those toddy shops for a specified period of fourteen days.

6. As can be seen from Exts.P2 to P8 licenses produced in W.P.(C).No.14842 of 2019, those licenses were issued to the petitioners in that writ petition only for a specified period of fourteen days. Though it is averred in that writ petition that the validity of those licenses were extended further, materials in this regard are not placed on record.

7. This Court need not go into the rival contentions



raised by the petitioners in W.P.(C).No. 14842 of 2019 and the petitioner in W.P.(C).No.15780 of 2019, in exercise of the writ jurisdiction of this Court under Article 226 of the Constitution of India, since Ext.P8 application for renewal of licence made by the petitioner in W.P.(C).No.15780 of 2019 is now pending consideration before the third respondent in that writ petition. Therefore, it is for the said respondent to take an appropriate decision on Ext.P8 application, with notice to both sides.

8. In such circumstances, without going into the merits of the rival contentions, these writ petitions are disposed of by directing consideration of Ext.P8 application made by the petitioner in W.P.(C).No.15780 of 2019 for renewal of Exts.P1 to P7 licenses, by the third respondent Deputy Excise Commissioner, Kottayam with notice to the petitioners in both these writ petitions.

It would be open to both sides to submit written submission before the third respondent in W.P.(C).No.15780 of 2019, which shall also be considered. The third respondent in W.P.(C).No.15780 of 2019 shall pass appropriate order, on

Ext.P8 application, strictly in accordance with law, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment.

Sd/-

**ANIL K.NARENDRAN**  
**JUDGE**

das

**APPENDIX OF WP (C) 14842/2019**

**PETITIONER'S/S EXHIBITS:**

- |            |  |
|------------|--|
| EXHIBIT P1 | THE PHOTOCOPIES OF CHALLAN DATED<br>12.4.2019 FOR RS.2,98,150/- CHELLAN<br>DATED 10.05.2019 FOR RS.S,98,150/- AND<br>CHELLAN DATED 24.05.2019 FOR<br>RS.2,98,150/- |
| EXHIBIT P2 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.19.  |
| EXHIBIT P3 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.20.  |
| EXHIBIT P4 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.21.  |
| EXHIBIT P5 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.22.  |
| EXHIBIT P6 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.23.  |
| EXHIBIT P7 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.24.  |
| EXHIBIT P8 | THE PHOTOCOPIES OF THE 1ST AND LAST<br>PAGE OF THE LICENCE IN RESPECT OF<br>TODDY SHOP NO.25.  |

**RESPONDENT'S/S EXHIBITS:**

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| EXHIBIT-R6 (A) | TRUE COPY OF THE LAWYER NOTICE<br>TERMINATING THE SERVICE OF THE 2ND<br>PETITIONER. |
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W.P.(C). Nos. 14842 & 15780 of 2019

**EXHIBIT-R6 (B)**

**TRUE COPY OF THE IDENTITY CARD OF THE  
2ND PETITIONER ISSUED BY THE KERALA  
TODDY WELFARE FUND ACT.**

**APPENDIX OF WP(C) 15780/2019**

**PETITIONER'S/S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.19 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P2	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.20 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P3	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.21 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P4	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.22 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P5	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.23 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P6	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.24 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P7	TRUE COPY OF THE LICENCE OF TODDY SHOP NO.25 IN GROUP NO.IV IN VAIKOM RANGE.
EXHIBIT P8	TRUE COPY OF APPLICATION FOR RENEWAL DATED 17.5.2019 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.
EXHIBIT P9	TRUE COPY OF ORDER OF THE HON'BLE HIGH COURT OF KERALA DATED 21.5.2019 IN WPC NO.13837/2019.
EXHIBIT P10	TRUE COPY OF THE CLEARANCE CERTIFICATE ISSUED BY KERALA TODDY WORKERS WELFARE FUND BOARD DATED 22.5.2019.
EXHIBIT P11	TRUE COPY OF RELEVANT PAGES OF TREASURY SAVING PASS BOOK.
EXHIBIT P12	TRUE COPY OF ABKARI CLEARANCE CERTIFICATE DATED 22.5.2019

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EXHIBIT P13	TRUE COPY OF CONSENT LETTER DATED 21.5.2019 ISSUE DBY KERALA ABKARI WORKERS WELFARE BOARD.
EXHIBIT P14	TRUE COPY OF INCOME CERTIFICATE DATED 17.5.2019 ISSUED BY VAIKOM VILLAGE OFFICER.
EXHIBIT P15	TRUE COPY OF CERTIFICATE ISSUED BY THE EXCISE INSPECTOR VAIKOM DATED 23.5.2019.
EXHIBIT P16	TRUE COPY OF THE ABKARI CRIME CLEARANCE CERTIFICATE DATED 22.5.2019 ISSUED BY THE 4TH RESPONDENT.
EXHIBIT P17	TRUE COPY OF CERTIFICATE DATED 20.5.2019 ISSUED BY THE STATE TAX OFFICER.
EXHIBIT P18	TRUE COPY OF APPLICATION FROM UNDER RULE 5 (7) OF THE KERALA TODDY SHOP DISPOSAL RULES, 2002.
EXHIBIT P19	TRUE COPY OF ORDER OF THE 2ND RESPONDENT DATED 1.6.2019.