(2013) 03 KL CK 0057

In the High Court Of Kerala

Case No : Writ Petition (C) No. 7159 of 2013 (T)

Gopalan and Binu K.S. APPELLANT

Vs

The Welfare Fund Inspector, Kerala Toddy Workers Welfare Fund Board and Others RESPONDENT

Date of Decision : 20-03-2013

Acts Referred:

Citation : (2013) 03 KL CK 0057

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : L. Rajesh Narayan, for the Appellant; Renil Anto, S.C., for R1, Sr. Government Pleader and Sri. Joseph George for R2 to R5, for the Respondent

Judgement

Antony Dominic, J.—Heard the learned counsel for the petitioners, learned standing counsel for the first respondent and the learned Government Pleader appearing for respondents 2 to 5. The first petitioner in W.P(C). 7159/13 was the licensee of toddy shop No. 17 of Idukki Excise Range during the period 2003-04 to 2009-10. During the said period, he deposited security as provided in Rule 5 (10) of the Abkari Shops Disposal Rules, 2002 and as on 2.4.2012, Rs. 2,28,072/- is available to his credit. In the writ petition, he says that the said amount is liable to be refunded and therefore, may be adjusted against his liability towards the welfare fund dues and excess amount, if any, may be adjusted towards the welfare fund dues of the second petitioner.

2. In so far as W.P(C). 7178/13 is concerned, here again, the petitioner was the licensee of toddy shop No. 25 of Idukki Excise Range during the period 2003-04 to 2008-09. As on 2.4.2012, Rs. 1,85,061/- is available to his credit towards the amount deposited by him under Rule 5(10) of the Disposal Rules. Here also, the petitioner prays that the amount may be adjusted against his dues towards the welfare fund.

3. Learned Government Pleader who has obtained instructions in the matter confirms the availability of the amounts as stated. However, he says that the

question of appropriation can be considered only after verifying and confirming that the petitioners have no liability towards amounts that are payable to the workers dues. It is stated that if, on such verification, it is confirmed that there is no liability towards the workers or welfare fund, the respondents have no objection in appropriating the amounts as sought for by the petitioners.

4. Therefore, all that is required is that the second respondent shall conduct a verification as stated by the learned Government Pleader and on such verification, if amounts are found to be available for appropriation, there is no reason why it shall not be appropriated in the manner sought for by the petitioners.

5. These writ petitions are, therefore, disposed of directing that within two weeks of production of a copy of this judgment, the second respondent shall verify whether the petitioners in W.P(C). 7159/13 and the petitioner in W.P(C). 7178/13 have any liability towards the workers dues. If it is found that they have any such liability, towards such liability of the petitioners in W.P(C). 7159/13, the amount available to the credit of the 1st petitioner therein will be appropriated. Similarly, on verification, if it is found that there is any liability for the petitioner in W.P(C). 7178/13, appropriation will be made from the amount available to his credit. Once the appropriation, if any, is done as above, the balance amount available will be appropriated towards the welfare fund liability of the 2nd petitioner in W.P(C). 7159/13 and the petitioner in W.P(C). 7178/13. In the mean time, it is directed that revenue recovery proceedings that are initiated against the petitioners in W.P(C). 7159/13 for recovery of the welfare fund dues will stand stayed.

The writ petitions are disposed of as above. The petitioners will produce a copy of this judgment along with copy of the writ petitions before the second respondent for compliance.

