

(2014) 11 KL CK 0029

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 30288 of 2014 (I)

V.R. Sajeevan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 14-11-2014

Acts Referred:

Citation : (2014) 11 KL CK 0029

Hon'ble Judges : K. Surendra Mohan, J

Bench : Single Bench

Advocate : T.A. Shaji, Sr. Adv., M.A. Asif and Namitha Jyothish, Advocate for the Appellant; Tom K. Thomas, Government Pleader, Advocate for the Respondent

Judgement

K. Surendra Mohan, J.—The petitioner had been granted an FL3 licence in respect of a hotel owned by him. His licence has not been renewed after 31.3.2014 for the reason that his establishment comes within the 418 hotels that were identified by the Government as having no sufficient standards for the grant of an FL3 licence. In view of the Abkari Policy 2014-2015, the petitioner's hotel is not entitled to be granted the renewal that has been sought for. The petitioner has therefore sought the following reliefs in this writ petition:-

- i) issue a writ of certiorari quashing the original of Ext. P12;
- ii) declare that Ext. P7 abkari policy as well as the amendment brought into the Foreign Liquor Rules by G.O.(P) No. 141/2014/TD dated 27.8.2014 are ultra vires, arbitrary, inoperative, unenforceable, as well as unconstitutional and strike it down accordingly;
- iii) issue a writ of mandamus or any other order or direction directing the respondents to renew Ext. P1 FL-3 licence of the petitioner;
- iv) issue such other writ, order or direction as this Hon'ble Court deems fit in the facts and circumstances of the case including the cost of the petitioner."

2. According to Senior Counsel, Shri T.A. Shaji as per the judgment dated

30.10.2014 in WPC No. 22195/2014 and connected writ petitions, this Court has sustained the Abkari Policy 2014-2015, to the extent it has provided that hotels having a classification of two star and three star are not eligible to be granted FL3 licences. The said judgment has been stayed by a Division Bench of this Court. As per the interim order passed by the Division Bench it is pointed out that, the status quo as on the date of promulgation of the Abkari Policy has been directed to be maintained. The said order of status quo would confer a right of renewal on the petitioner also.

3. It is further submitted by the counsel that, a Single Bench of this Court has in WPC 10280/2014 and connected cases ordered that, even those hotels included in the 418 non-standard hotels are entitled to the renewal of their FL3 licences, subject to the Abkari Policy of 2014-2015.

4. Heard. The judgment of the Single Bench referred to by the petitioner is not before me. Therefore, I am not in a position to say under what circumstances the directions, if any have been issued in the said case. However, the fact remains that, as per the judgment in WPC 22195/2014 and connected cases the Abkari Policy 2014-2015 in so far as it has excluded the non-standard hotels from the eligibility to seek FL3 licences has been sustained. Therefore, the claims of two star and three star hotels have been found against. It is true that, the Division Bench has admitted appeals filed against the said judgment and has granted interim orders. However, the said interim order cannot confer any benefit on the petitioner or any other person for the reason that, an interim order is passed in the facts and circumstances of each case and would benefit only the parties to the said case. Therefore, the petitioner cannot claim any relief on the basis of the interim order granted in writ appeals filed before the Division Bench by other parties. Secondly, whether the interim order granted by the Division Bench would entitle even the 418 nonstandard hotels whose licences have not been renewed, to claim renewal of their licences is a matter that would have to be decided by the Division Bench itself. As at present, I find no grounds to grant any of the reliefs sought for in this writ petition.

For the above reasons, this writ petition is dismissed following the dictum in the judgment dated 30.10.2014 in WPC 22195/2014 and connected writ petitions.