

Premdas Vs. State of Kerala

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Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Premdas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN FRIDAY, THE 27TH DAY OF SEPTEMBER 2013 5TH ASWINA, 1935 WP(C).No. 23674 of 2013 (H) ----- PETITIONER: ----- N.SUDHAKARAN M/S.JEEVAN AYURVEDIC HEALTH RESORT KOVALAM, VIZHINJAM P.O., THIRUVANANTHAPURAM. BY ADVS.SRI.DEVAN RAMACHANDRAN SRI.K.M.ANEESH SRI.S.NIKHIL SANKAR SRI.ADARSH KUMAR RESPONDENT(S): ----- 1. THE REGIONAL DIRECTOR (SOUTH) INDIA TOURISM, SOUTHERN REGIONAL OFFICE, 154, ANNA SALAI, CHENNAI-02.

2. THE DEPUTY COMMISSIONER OF EXCISE EXCISE COMMISSIONARATE, THIRUVANANTHAPURAM.

3. THIRUVANANTHAPURAM CORPORATION REPRESENTED BY ITS SECRETARY. R1 & R2 BY SR.GOVERNMENT PLEADER SMT.C.K.SHERIN R3

BY SRI.N.NANDAKUMARA MENON (SR.) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-09-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 23674 of 2013 (H)

----- APPENDIX PETITIONER(S)' EXHIBITS

----- EXT.P1 - TRUE COPY OF THE CERTIFICATE OF CLASSIFICATION ISSUED BY THE 1ST RESPONDENT EXT.P2 - TRUE COPY OF THE LETTER DATED 20-5-2013 EXT.3- TRUE COPY OF THE DECISION DATED 25-3-2013 OF THE 3RD RESPONDENT EXT.P4- TRUE COPY OF THE

ORDER

DATED 29-6-2013 EXT.P5- TRUE COPY OF THE

JUDGMENT

IN WPC.NO.21742/2012 DATED 9-11-2012 EXT.P6- TRUE COPY OF THE FL 11 LICENSE GRANTED BY THE 2ND RESPONDENT. EXT.P7- TRUE COPY OF THE

JUDGMENT

IN WPC.NO.10118/2013 DT.3-7-2013 EXT.P8- TRUE COPY OF THE LETTER DATED 21-01-2013 ISSUED BY THE 1ST RESPONDENT RESPONDENT(S)' EXHIBITS: NIL TRUE COPY P.A.TO JUDGE dsn K.SURENDRA MOHAN, J.

----- W.P.(C)No.23674 Of 2013
----- DATED THIS THE 27th DAY OF
SEPTEMBER, 2013

JUDGMENT

The petitioner is the owner in possession of an item of immovable property, in which he is conducting a hotel and restaurant. He was having two star classification for his establishment, issued by the 1st respondent-Tourism Department. On the strength of the star classification granted to the petitioner, he was also granted a beer parlour licence to sell beer and wine by the Excise Department. When the petitioner applied for the renewal of his Trade Licence to the 3rd respondent, his application was rejected. Such rejection was also confirmed in appeal. The petitioner has challenged the said proceedings Exhibit

P3, in Revision Petition No.107/2013 before the Tribunal for Local Self Government Institutions, Thiruvananthapuram (hereinafter referred to as the 'Tribunal' for short). As per Exhibit P4, the Tribunal has granted an interim order of stay of Exhibit P3.

2. In the meantime, the two star classification granted to the petitioner had expired on 12.11.2012. Though, the petitioner had WPC.No.23674/13 -2- applied for renewal of the star classification, the same was returned by the 1st respondent, without passing any orders thereon. Therefore, the petitioner had approached this Court by filing W.P.(c)No.21742/2012. As per judgment dated 9.11.2012, the 1st respondent was directed to dispose of the application within two months. Meanwhile, the FL.11 licence granted to the petitioner had been renewed by the 2nd respondent on condition that the petitioner produced the two star classification certificate on or before 30.6.2013. But, the petitioner could not obtain renewal of his certificate of two star classification before the said date. Therefore, the petitioner again approached this Court by filing W.P.(C)No.10118/2013. The said Writ Petition was disposed of by me granting the petitioner three months' further time from 30.6.2013. In the meantime, by Exhibit P8 proceedings dated 21.1.2013, the petitioner's application for the renewal of his star classification has been rejected. It has been found that his application suffers from a number of defects, that are listed in Exhibit P8. Therefore, while rejecting his application, the petitioner has been given the liberty to apply afresh with all necessary documents, after WPC.No.23674/13 -3- rectifying the defects, that are pointed out. The petitioner, in the above circumstances, is faced with a situation where he is not in a position to obtain renewal of the FL.11 licence that he was all along being issued with for the past 10 years. The petitioner seeks the grant of further time of six weeks for production of the star classification certificate. Meanwhile, he seeks the issue of appropriate directions for the renewal of his FL.11 licence, without insisting on production of the star classification certificate.

3. The learned Government Pleader appears for respondents 1 and 2. Advocate Sri P.K.Manoj Kumar appears for the 3rd respondent.

4. Heard.

5. The petitioner is conducting a resort at Kovalam. The two star classification of the resort expired on 12.11.2012. Though, his star classification had expired, the petitioner's FL.11 licence had been renewed on condition that he produced a valid star classification certificate on or before 30.6.2013. It is an extension of the said time limit that is sought for by him. I notice from Exhibit P7 judgment that the time limit had been extended on 3.7.2013 up to 30.9.2013, so as WPC.No.23674/13 -4- to enable the petitioner to produce a valid two star classification certificate. It was also directed that an FL.11 licence would be issued without insisting on production of such a star classification certificate. It has been specifically stipulated in Exhibit P7 that the petitioner would not be entitled to claim any further extension of the time limit. In the meanwhile, the petitioner's application for star classification has been rejected and the file closed by Exhibit P8. The petitioner's application for a D&O licence has also been rejected by Exhibit P3. Of course, Exhibit P3 is the subject matter of a revision before the Tribunal for Local Self Government Institutions, Thiruvananthapuram. It is also true that as per Exhibit P4 interim order, the impugned proceedings Exhibit P3 have been stayed by the Tribunal. However, the interim order of stay of the order of rejection cannot have the effect of granting a licence to the petitioner. The resultant situation, therefore, is that the petitioner's establishment does not have either a certificate of star classification or a D&O licence, after 30.9.2013. In the above circumstances, I am not satisfied that any further extension of time could be granted to the petitioner to produce the star classification WPC.No.23674/13 -5- certificate, as sought for in this Writ Petition, by treating the interim order Exhibit P4 as grant of a D& O licence. It is for the petitioner to sort out the issues once and for all and to apply for an FL.11 licence, after obtaining a valid two star classification certificate and a D&O licence.

6. At this juncture, the learned counsel for the petitioner seeks the issue of a direction to the Tribunal for Local Self Government Institutions to dispose of Revision Petition No.107/2013 expeditiously. I am satisfied that the request can be granted. There shall, therefore, be a direction to the Tribunal to dispose of the Revision Petition expeditiously. With the above observations, this Writ Petition is disposed of. Sd/-(K.SURENDRA MOHAN), JUDGE. dsn