

Midhila Regency, vs the Excise Commissioner,

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/21444/2023

Appellant : Midhila Regency,

Respondent : The Excise Commissioner,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945 WP(C) NO. 21444 OF 2023 PETITIONER: M/S. MIDHILA REGENCY, (A UNIT OF CHERPULASSERY HOTELS (P) LTD), PATTAMBI ROAD, CHERPULASSERY, PIN- 679 503, PALAKKAD DISTRICT, REPRESENTED BY ITS MANAGING DIRECTOR, SREEDAS, AGED 53 YEARS, S/O. SANKUNNY MENON, SREENIVAS HOUSE, MELMURY P. O, PIN - 679 307, PALAKKAD DISTRICT. BY ADVS. M.G.KARTHIKEYAN NIREESH MATHEW RESPONDENTS: 1 THE EXCISE COMMISSIONER, COMMISSIONERATE OF EXCISE, EXCISE HEAD QUARTERS,

NANDAVANAM, THIRUVANANTHAPURAM, PIN - 695 033. 2 THE DEPUTY COMMISSIONER OF EXCISE, EXCISE DIVISION OFFICE, EXCISE TOWER, DURGA NAGAR, KENATHUPARAMBU, KUNNATHOORMEDU, PALAKKAD, PIN - 678 001. 3 STATE OF KERALA, REPRESENTED BY SECRETARY, TAXES (A) DEPARTMENT, EXCISE, GOVT. SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. SRI. SREEJITH - GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner company is conducting a four-star classified hotel. It is stated that there are three Directors for the company namely, Sri.Sreedas (Managing Director), Smt.Jalaja Ramesh (additional Director) and Smt.Rajitha Rajesh (additional Director). The petitioner filed Ext.P2 application before the 1st respondent for prior sanction for changing the name of the personnel to represent the FL-3 licence from Sri.Sreedas to Smt.Jalaja Ramesh and also to designate her as the Managing Director. However, Ext.P2 application was rejected by the 1st respondent by Ext.P4 order stating that Sri.Sreedas is an accused in an Abkari case and that the reason that could be inferred for the request made in Ext.P2 is to avoid the cancellation of licence of the petitioner in the event of conviction of Sri.Sreedas, the present Managing Director.

2. The reason stated in Ext.P4 for rejecting

Ext.P2 application is not plausible. At this stage the respondents are not to see as to whether the trial will end in conviction or not. Ext.P4 order is passed without application of mind.

3. Accordingly, Ext.P4 order is set aside and the 1st respondent is directed to reconsider Ext.P2 in accordance with law, within a period of one month from the date of receipt of a certified copy of this

judgment.

The writ petition is disposed of with the above direction. Sd/- MURALI PURUSHOTHAMAN JUDGE SPR APPENDIX PETITIONERS EXHIBITS:-

EXHIBIT P1 TRUE PHOTOCOPY OF THE SANCTION ORDER

DATED 17.12.2022 PASSED BY THE 1ST RESPONDENT. EXHIBIT P2 TRUE PHOTOCOPY OF THE APPLICATION DATED 16.05.2023 SENT TO THE 1ST RESPONDENT THROUGH PROPER CHANNEL. EXHIBIT P3 TRUE PHOTOCOPY OF THE RESOLUTION DATED 03.05.2023 OF THE PETITIONER COMPANY.

EXHIBIT P4 TRUE PHOTOCOPY OF THE ORDER

NO.EXC/2583/2023-XC6 DATED 07.06.2023 PASSED BY THE 1ST RESPONDENT. RESPONDENTS EXHIBITS: NIL.

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