

Broad Bean vs State of Kerala

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Court : Kerala

Decided On : Mar-04-2021

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : WP(C)/12633/2020

Appellant : Broad Bean

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V THURSDAY, THE 04TH DAY OF MARCH 2021 / 13TH PHALGUNA, 1942 WP(C).No.12633 OF 2020(D) PETITIONER/S: M/S.BROAD BEAN, KANNUR CENTRAL BUS TERMINAL COMPLEX, THAVAKKARA,KANNUR DISTRICT,PIN-670001, REPRESENTED BY ITS MANAGING PARTNER, K.K.MOHANDAS,AGED 61 YEARS,S/O K.K.KUNHIRAMAN (LATE). BY ADVS. SRI.M.G.KARTHIKEYAN SRI.NIREESH MATHEW RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY SECRETARY, TAXES(A)DEPARTMENT, GOVT.SECRETARIAT,

THIRUVANANTHAPURAM-695001. 2 THE EXCISE COMMISSIONER, COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM-695033. 3 THE DEPUTY COMMISSIONER OF EXCISE, KANNUR,PIN-670001. 4 THE HOTEL AND RESTAURANTS APPROVAL AND CLASSIFICATION COMMITTEE (HRACC), MINISTRY OF TOURISM, C1-HUTMENTS, DALHOUSIE ROAD, NEW DELHI-110011, REPRESENTED BY ITS MEMBER SECRETARY. 5 THE HOTEL AND RESTAURANTS APPROVAL AND CLASSIFICATION COMMITTEE(HRACC)(SOUTH), REPRESENTED BY ITS REGIONAL DIRECTOR AND CONVENER, SOUTHERN REGIONAL OFFICE,154,ANNA SALAI,CHENNAI- 600002. R4 & R5 BY SRI.M.A.VINOD, CGC R4 & R5 BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA R1 TO R3 SMT SHEEJA C S SENIOR GOVERNMENT THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

04.03.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No.12633 OF 2020(D) 2

JUDGMENT

The petitioner firm is running a four star hotel by name Broad Bean at Thavakkara, Kannur. Ext.P2 is the FL-3 licence granted to the petitioner under Rule 13(3) of the Foreign Liquor Rules. Though the certificate is due to expire only on 31.3.2021, the same was renewed provisionally on 31.5.2020 subject to the condition that the petitioner shall produce the star classification certificate on or before 30.6.2020. According to the petitioner, though the inspection was scheduled to be

held on 15.3.2020, the same was postponed due to the restrictions

imposed owing to the pandemic. The petitioner states that it is not due to any fault of the petitioner that the respondents 4 and 5 had not inspected

the hotel to issue the classification certificate. It is in the afore circumstances, the petitioner has approached this Court seeking a declaration that the petitioner firm is entitled to continue with the conduct of the bar for the year 2021 till a decision is taken by the 4th respondent on the application for reclassification of the hotel and for incidental reliefs. In the course of proceedings, an application for amendment of the relief portion was filed and the same was allowed.

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2. When this matter came up for hearing, Sri.

M.G.Karthikeyan, the learned counsel appearing for the petitioner submitted that the petitioner is pressing only relief (ia) which reads as follows: (ia) issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents 4 and 5 to finalize the reclassification proceedings of the petitioners hotel pending as per the track application status at the earliest, within a time limit to be fixed by this Honble Court.

3. Smt. Sheeja.C.S, the learned Government Pleader

submitted that the Government, taking note of the prevalent situation, has granted the licensees time till 30.9.2021 to produce the classification order from the respondents 4 and 5. However, this benefit would only be available to such persons who renew the permit on or before its expiry.

4. I have considered the submissions advanced. This Court, by

order dated 25.6.2020, had granted an interim order permitting the

petitioner to continue the conduct of the licence till a decision is taken by respondents 4 and 5. It appears that the Government has extended the period till 30.9.2021. The only prayer of the petitioner is for a direction to

the respondents 4 and 5 to conduct an inspection and take a decision as regards the issuance of the classification certificate.

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5. Having considered the facts and circumstances, this writ

petition is disposed of directing respondent Nos.4 and 5 to inspect M/s.Broad Bean Hotel at Thavakkara, Kannur District covered under Ext.P1 and finalize the reclassification proceedings expeditiously, at any rate within a period of three months from the date of receipt of a copy of this judgment. It is made clear that this order will not enable the petitioner to conduct the bar after the period stipulated in Ext.P2 without obtaining renewal of licence from respondents 1 to 3. The petitioner shall produce a copy of the writ petition along with the judgment before the respondents to ensure compliance.

SD/- RAJA VIJAYARAGHAVAN V JUDGE DSV WP(C).No.12633 OF 2020(D) 5
APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 PHOTOCOPY OF THE CLASSIFICATION CERTIFICATE ISSUED BY THE 4TH RESPONDENT, DATED 21.07.2015. EXHIBIT P2 PHOTOCOPY OF THE FL-3 LICENSE RENEWAL CERTIFICATE DATED 31.05.2020. EXHIBIT P3 PHOTOCOPY OF THE TRACK APPLICATION STATUS. EXHIBIT P4 PHOTOCOPY OF THE LETTER DATED 12.03.2020 ISSUED BY THE 4TH RESPONDENT EXHIBIT P5 PHOTOCOPY OF THE LETTER DATED 26.03.2020 ISSUED BY THE ADDL.CHIEF SECRETARY TO THE EXCISE COMMISSIONER. EXHIBIT P6 PHOTOCOPY OF THE JUDGMENT DATED 27.07.2017 IN WP(C)NO.23930/2017 PASSED BY THIS HON'BLE COURT. EXHIBIT P7 PHOTOCOPY OF THE ORDER DATED 20.03.2020 IN WP(C)NO.3825/2020 PASSED BY THIS EXHIBIT P8 PHOTOCOPY OF THE ORDER DATED 12.02.2020 IN WP(C)NO.3883/2020 PASSED BY THIS EXHIBIT P9 PHOTOCOPY OF THE ORDER DATED 28.03.2020 IN WP(C)NO.5972/2020 PASSED BY THIS RESPONDENT'S/S EXHIBITS: NIL //TRUE COPY// P.A.TO JUDGE