

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 3RD DAY OF APRIL 2018 / 13TH CHAITHRA, 1940

WP(C).No. 25790 of 2017  
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PETITIONERS :

- 1 KERALA BAR HOTELS ASSOCIATION  
REG.NO.K-609/91, KBHA HOUSE,  
SOUTH JANATHA ROAD, PALARIVATTOM,  
COCHIN - 682 025, REPRESENTED BY  
ITS GENERAL SECRETARY,  
SQN.LDR.K.B.PADMADAS.
  - 2 K.M.ALEXANDER  
MANAGING PARTNER, VOLGA TOURIST HOME,  
KADAVANTHRA P.O., KOCHI - 682 020.
  - 3 PAULSON P. VARKEY  
MANAGING PARTNER,  
MATHA ENTERPRISES (HOTEL HILLS PARK),  
KSRTC JUNCTION, ANGAMALY - 683 572.
  - 4 JOSEPH MATHEW  
JOINT MANAGING PARTNER, KOCHIKUNNEL ASSOCIATES,  
HOTEL PANKAJ, KALPETTA, WAYANAD - 673 121.
- BY ADVS.SRI.K.JAJU BABU (SR.)  
SMT.M.U.VIJAYALAKSHMI  
SRI.JOE JOSEPH KOCHIKUNNEL

RESPONDENTS :

1. STATE OF KERALA  
REPRESENTED BY ITS CHIEF SECRETARY,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
2. THE PRINCIPAL SECRETARY TO GOVERNMENT OF KERALA  
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
3. THE SECRETARY TO GOVERNMENT  
EXCISE DEPARTMENT, GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.



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4. THE EXCISE COMMISSIONER  
COMMISSIONERATE OF EXCISE,  
THIRUVANANTHAPURAM - 695 034.

ADDL. R5 IMPEADED :

5. P.T.MATHEW, PLATHOTTAM,  
MUKKUZHI, POONJAR THEKKEKARA P.O,  
KOTTAYAM DIST, PIN-686582.

\*ADDL. R5 IS IMPEADED AS PER ORDER DATED 20/9/2017  
IN IA NO. 13716/2017

R1 TO R3 BY SENIOR GOVERNMENT PLEADER SRI.V.MANU  
ADDL R5 BY SRI. P.T.MATHEW (PARTY IN PERSON)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 03-04-2018, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

bp  
7/4/2018

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**ANU SIVARAMAN, J.**

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**W.P.(C).No.25790 of 2017**  
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**Dated this the 3<sup>rd</sup> day of April, 2018**

**J U D G M E N T**  
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This writ petition is filed with following prayers:

i. *To declare that all the hotels having bar facility as on 31.3.2014 are entitled for the renewal of their FL-3 licenses so long as the Government permits renewal of Bar Licenses of any category existing on that date under the Foreign Liquor Rules, on implementation of Abkari Policy 2017, in view of the decisions of the Hon'ble Supreme Court in Khoday Distilleries case 1995 (1) SCC 547 and Kerala Bar Hotels Association Vs. State of Kerala 2016(1) KLT 134 (SC).*

ii. *Issue writ of mandamus or other appropriate writ order or direction directing the respondents 1 to 3 to consider and dispose of Ext.P6 representation submitted by the 1<sup>st</sup> petitioner association and grant renewal of FL-3 licenses of petitioners' as on 31.3.2014 by renewing/modifying Ext.P4 and P5 to the extent they curtail such renewal in terms of Abkari Policy 2017, after affording an opportunity for hearing to the stake holders.*

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. It is submitted by the Senior counsel appearing for the petitioner that the only prayer sought in this writ petition is for a consideration of Ext.P6 representation preferred by the first petitioner before the Government on 29.6.2017.

4. It is submitted by the learned Government Pleader, on instructions, that the Abkari policy in respect of the year 2018-19 does not permit grant of bar licenses in respect of two star hotels, the application preferred by the petitioner is liable to be rejected. Since Ext.P6 representation is pending before the respondent Government, I am of the opinion that it is for the Government to consider and pass an order. The current policy of the Government shall also be taken note of while considering the representation.

In the result, without expressing any opinion on the merits of the matter, I direct the first respondent to take up, consider and pass orders on Ext.P6 representation preferred by the first petitioner in accordance with law, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is ordered accordingly.

Sd/-

**ANU SIVARAMAN  
JUDGE**

sab

APPENDIX

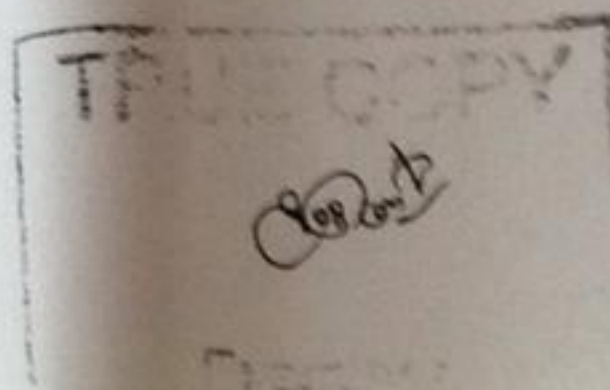
PETITIONER(S) ' EXHIBITS

- EXHIBIT P1 PHOTOCOPY OF THE JUDGMENT IN WA NO. 357/2002 DATED 19.11.2004.
- EXHIBIT P2 PHOTOCOPY OF THE ORDER DATED 14.8.2014 IN WA NO. 1131 OF 2014.
- EXHIBIT P3 PHOTOCOPY OF SRO NO. 815/2014 DATED 30.12.2014.
- EXHIBIT P4 PHOTOCOPY OF THE ABKARI POLICY ISSUED AS GO(MS) NO. 43/2017/TD DATED 13.6.2017.
- EXHIBIT P5 PHOTOCOPY OF SRO NO. 343/2017 DATED 23.6.2017.
- EXHIBIT P6 PHOTOCOPY OF THE REPRESENTATION DATED 30.6.2017 SUBMITTED BY THE 1ST PETITIONER.
- \*EXHIBIT P6: COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE SECRETARY, EXCISE DEPARTMENT, DATED 29/6/2017
- \*EXHIBIT P6 RE-PLACED BY THE ABOVE AS PER ORDER DATED 3/11/2017 IN IA NO. 17429/2017.
- EXHIBIT P7 (A) PHOTOCOPY OF THE NEWS PAPER REPORTED IN INDIAN EXPRESS DAILY DATED 27.5.2014.
- EXHIBIT P7 (B) PHOTOCOPY OF THE NEWS PAPER REPORTED IN INDIAN EXPRESS DAILY DATED 02.7.2014.
- RESPONDENT'S EXHIBITS :
- EXT.R5 (a) : COPY OF LETTER TO THE CHIEF MINISTER DATED 3/6/2014.
- EXT.R5 (b) : COPY OF THE RASTRA DEEPIKA, DATED JUNE 5-2014.
- EXT.R5 (c) : COPY OF REPORT CAME IN THE NEW INDIAN EXPRESS DATED 17 JULY OF 2014.
- EXT.R5 (d) : COPY OF REPORT CAME IN THE NEW INDIAN EXPRESS DATED 26 JUNE 2014.
- EXT.R5 (e) : COPY OF REPORT CAME IN NEW INDIAN EXPRESS DATED 23 AUGUST 2014.

//TRUE COPY//

P.A. TO JUDGE

bp  
7/4/2018



**HIGH COURT OF KERALA  
AT ERNAKULAM**

Year and Number of Suit or  
other Proceedings : WPC 25790 / 2017

Name of Applicant/Advocate : SMT.M.U.VIJAYALAKSH  
MI

Application Number : A 28523/2018

Application Date : 03-04-2018

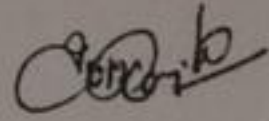
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**Examiner**