

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE S.MANU

Tuesday, the 21st day of April 2026 / 1st Vaisakha, 1948

WP(C) NO. 15391 OF 2026

PETITIONERS:

1. HOTEL SOORYA SWAGATH, (A UNIT OF WALAYAR RESORTS PVT. LTD.), NEAR CHECK POST, PUDUSSERY EAST, WALAYAR, PALAKKAD, REPRESENTED BY ITS MANAGING DIRECTOR, N. MANI, AGED 77 YEARS, S/O. NANJAPPA GOUNDER, RESIDING AT SIVASAKTHI ILLAM, PUTHUSSERY EAST VILLAGE, CHANDRAPURAM, WALAYAR, PALAKKAD, PIN - 678624
2. EAST TOWN HOTEL, STATE HIGHWAY 27, KANNIMARI P.O, PALAKKAD - 678 534, REPRESENTED BY ITS MANAGING PARTNER, PRITHVIRAJ R., AGED 28 YEARS, S/O. RAJESH GOPAL, RESIDING AT VELIMPARAMBIL HOUSE, AYYAMPILlichira ROAD, EROOR P.O., ERNAKULAM, PIN - 682306
3. HOTEL GOPALAPURAM INTERNATIONAL, VANNAMADA P.O., GOPALAPURAM, PALAKKAD - 678 555, REPRESENTED BY ITS MANAGING PARTNER, RAJI K.K., AGED 59 YEARS, W/O. PREMANANDAN, RESIDING AT KURATHUPARAMBIL, PATHIRAPALLY P.O., ALAPPUZHA, PIN - 688521

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT, TAXES (A) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
2. THE CHIEF ELECTORAL OFFICER, GOVERNMENT OF KERALA, ELECTION (GENERAL) DEPARTMENT, THIRUVANANTHAPURAM, PIN - 695001
3. THE COMMISSIONER OF EXCISE, EXCISE COMMISSIONERATE, NANDAVANAM, THIRUVANANTHAPURAM, PIN - 695003
4. THE DISTRICT COLLECTOR, CIVIL STATION, PALAKKAD, PIN - 678001
5. THE DEPUTY COMMISSIONER OF EXCISE, EXCISE DIVISION OFFICE, EXCISE TOWER, DURGA NAGAR, KENATHU PARAMBU, KUNNATHOORMEDU, PALAKKAD, PIN - 678001
6. ELECTION COMMISSION OF INDIA, NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI , REPRESENTED BY ITS SECRETARY. (SOUGHT TO BE IMPEADED)
7. THE ADDITIONAL CHIEF SECRETARY, HOME, PROHIBITION AND EXCISE (VI) DEPARTMENT, SECRETARIAT, CHENNAI, TAMIL NADU (SOUGHT TO BE IMPEADED)

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of Ext.P4 order to the extent it prohibits sale of Liquor in (i) Hotel Soorya Swagath, Palakkad (ii) EastTown Hotel Palakkad and (iii) Hotel Gopalapuram International, Palakkad on 21.04.2026 till 12 midnight of 23.04.2026, pending disposal of the writ petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S VIVEK MENON, RANCE R., Advocates for the petitioners and M. AJAY, SC, for R2, the court passed the following:

S. MANU, J.

**W.P.(C). Nos.15342, 15382, 15391, 15536
&
15622 of 2026**

Dated this the 21st day of April, 2026

ORDER

In these writ petitions, challenge is against an order dated 06.04.2026 issued by the Taxes (A) Department of the Government of Kerala. Opening paragraph of the impugned order reads as follows:



“The Chief Electoral Officer, Tamil Nadu and the Chief Electoral Officer Kerala, as per the letters read respectively as 2nd and 3rd papers above, have requested the Government of Kerala to issue orders for declaring dry days from 10.00 AM on 21.04.2026 to 12.00 midnight on 23.04.2026 and on 04.05.2026 in the adjoining areas of districts in Kerala that border with the State of Tamil Nadu in connection with the General Election in Tamil Nadu, since the Election Commission of India, as per the letter read as 1st paper above, accorded sanction for such proposal of the Chief Electoral Officer, Tamil Nadu.”

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

2

The Government directed as under by the impugned order:

“3) During the 'Dry Days', no spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other public or private place of Kerala State falling within 5KM from the border of Tamil Nadu State. No liquor shops, hotels, restaurants, clubs and other establishments selling/serving liquor, are permitted to sell/serve liquor to anyone whosoever, on the aforesaid days. Non-proprietary clubs, star hotels, restaurants etc. and hotels run by anyone, even if they are issued different categories of licenses for possession and supply of liquor, should also not be permitted to serve liquor on these days. The storage of liquor by individuals shall be curtailed during the above period and the restrictions provided in the Excise-law on the storage of liquor in unlicensed premises shall be vigorously enforced. Steps shall also be taken to prohibit sale of liquor so that there is no chance of clandestine movement of liquor from those areas. The storage of liquor by individuals is also prohibited.”

2. Heard Sri.N. Reghuraj, the learned Senior Counsel, Sri.Thomas Abraham and Sri.M.G.Karthikeyan, appearing for

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

3

the petitioners, as also Sri. M.Ajay, appearing for the Election Commission, as well as the learned Government Pleader.

3. The learned Senior Counsel, Sri.N. Reghuraj, submitted that the Government has no authority to issue an order in the nature of the impugned order dated 06.04.2026. He submitted that no provision of the Abkari Act or the Representation of the People Act, 1951 (for short, the RP Act) empowers the Government to issue such an order. He pointed out that Section 135C of the RP Act enables only imposition of prohibition on the sale of liquor within the polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area. Section 135C is extracted hereunder:

“135C. Liquor not to be sold, given or distributed on polling day.—

(1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

4

(2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented, or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.”

4. Sri.N.Reghuraj, the learned Senior Counsel, submitted that, in view of the provisions of Section 135C, the restriction on the sale of liquor can only be for a short period and the same can be imposed only within the polling area. He pointed out that the Government of Kerala has issued the impugned order prohibiting sale of liquor in some parts of the State of Kerala for the reason that polling for Assembly elections in the State of Tamil Nadu will be held on 23.04.2026. The learned Senior Counsel contended that that the Election Commission has no authority to require the State Government to issue an order in the nature of the impugned order exercising the powers under Section 135C of the RP Act.

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

5

He also submitted that no provision in the Abkari Act or the Rules framed therein enables the State Government to issue such an order. Sri.M.G.Karthikeyan as also Sri.Thomas Abraham appearing for the petitioners adopted the contentions of the learned Senior Counsel and added that the impugned order is issued by the Government of Kerala without any authority of law. They submitted that, while issuing the impugned order, the State Government infringed the fundamental rights of the petitioners to carry on trade, without authority of law.

5. The learned Government Pleader submitted that the State Government has issued the impugned order pursuant to the request made by the Chief Electoral Officers of the State of Tamil Nadu and also of the State of Kerala. The learned counsel for the Election Commission of India, Sri.M.Ajay, submitted that the Election Commission has made the request to the State Government to impose restrictions regarding sale of liquor for valid reasons and if sale of liquor is permitted in the nearby areas of the State of Kerala, the same will have an adverse impact in the conduct of polls in the State of Tamil Nadu. He submitted that under Section 54 of

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

6

the Abkari Act it is open to the District Magistrate to require that any shop in which liquor or any intoxicating drug is sold shall remain closed at such times or for such period as he may think necessary for the preservation of the public peace. Referring to the said provision of the Abkari Act, the learned counsel contended that, in view of the power available under the said provision, it is not beyond the authority of the State Government to issue an order in the nature of the impugned order dated 06.04.2026 issued by the Taxes (A) Department. The learned counsel referred to various judgments of this Court to contend that the powers under Section 54 of the Abkari Act can be exercised in appropriate situations. He also contended that the Election Commission has residuary powers to ensure that the elections are conducted appropriately. He, therefore, submitted that it is within the authority of Chief Electoral Officers concerned to make appropriate requests to the State Governments to impose restrictions.

6. The learned Senior Counsel, Sri.N.Reghuraj, produced a Press Note issued by the Election Commission of India dated 20.04.2026. Paragraphs 1 to 4 of the Press Note read as under:

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

7

“1. Election Commission of India (ECI) announced the schedule for the General Election to Legislative Assemblies of Assam, Kerala, Puducherry, Tamil Nadu and West Bengal and bye-elections in 6 states on March 15, 2026.

2. Polling in the State of Tamil Nadu and West Bengal (Phase-I) is scheduled for April 23, 2026 (Thursday), and for West Bengal (Phase-II) it will be conducted on April 29, 2026 (Wednesday), with the counting of votes for all polling States and Union Territories to take place on May 4, 2026 (Monday).

3. Section 135C of the Representation of the People Act, 1951 provides that no spirituous, fermented or intoxicating liquor or other substances of like nature shall be sold, given or distributed at a hotel, eating house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of poll for any election in the polling area.

4. In view of the statutory provision as above, 'Dry day' shall be declared and notified under the relevant State/Union Territory laws as is appropriate during 48 hours, ending with the hours fixed for conclusion of poll with respect to polling day for an election in that polling area where General Election to Legislative Assembly is being held. This will include the date of re-poll, if any.”

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

8

He pointed out that the Election Commission of India has contemplated declaration of 'Dry Day' only for a period of 48 hours in the polling areas. He submitted that, in view of the Press Note issued by the Election Commission of India, which clarifies the position, the restriction imposed by the State Government by issuing the impugned order cannot be justified in any manner.

7. Having heard the respective counsel of the parties and perusing the documents as well as the statutory provisions, I am of the considered view that no provision under the Abkari Act or the RP Act justifies the issuance of an order prohibiting sale of liquor in various parts of the State of Kerala in view of the General Election in the State of Tamil Nadu. Section 135C of the RP Act contemplates restriction of sale of liquor only in the polling area. It is obvious that the Election Commission of India has clarity regarding the statutory provisions. That is why it has issued a Press Note declaring and notifying 'Dry Day' for 48 hours, ending with the hours fixed for conclusion of poll with respect to polling day for an election in that polling area where General Election is being held. The Commission also mentioned that the date of

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

9

re-poll will also be covered by the said direction. Further the Election Commission directed that the date on which counting of votes is to be taken up shall also be declared as 'Dry Day' under the relevant laws in poll going States and Union Territories.

8. By the impugned order, the State Government has prevented sale of liquor from 10.00 AM on 21.04.2026 to 12.00 midnight on 23.04.2026 and on 04.05.2026. It is to be noted that no part of the State of Kerala can be considered as polling area as the General Elections as well as the counting of votes held in the State of Tamil Nadu. Moreover, the Press Note issued by the Election Commission of India shows that what the State Government has done is actually beyond what is required by the Election Commission of India.

9. Though the learned counsel for the Chief Electoral Officer of the State of Kerala placed reliance on Section 54 of the Abkari Act, it is clear that the powers under the said provision is exclusively available to the District Magistrates. In the instant cases, the impugned order is issued by the Additional Chief Secretary to the Government of Kerala. The

W.P.(C).Nos.15342, 15382, 15391, 15536 & 15622 of 2026

10

impugned order cannot be justified even in view of Section 54 of the Abkari Act.

10. In view of the above discussion, I am of the view that a strong *prima facie* case has been established by the petitioners. Therefore the operation of the impugned order shall stand stayed.

11. The learned Standing Counsel for the Election Commission of India submitted that the interim order in these cases may not affect the authority of the Election Commission to direct the appropriate authorities to take adequate measures to ensure proper and peaceful completion of the election process.

12. I clarify that this Court has considered only the *prima facie* sustainability of the impugned order and nothing in this order shall be construed as affecting the authority of the Election Commission to take all appropriate actions in accordance with law for due conduct of elections.

Post on 08.06.2026 for statements/counter affidavit.

sd/-
S.MANU, JUDGE

JV

APPENDIX OF WP(C) 15391/2026

- Exhibit P1** TRUE PHOTOCOPY OF THE FL-3 LICENSE RENEWAL CERTIFICATE DATED 24.03.2026 ISSUED BY THE 5 TH RESPONDENT IN THE NAME OF THE MANAGING DIRECTOR OF THE 1 ST PETITIONER.
- Exhibit P2** TRUE PHOTOCOPY OF THE FL-3 LICENSE RENEWAL CERTIFICATE DATED 21.03.2026 ISSUED BY THE 5 TH RESPONDENT IN THE NAME OF THE PARTNERS OF THE 2 ND PETITIONER.
- Exhibit P3** TRUE PHOTOCOPY OF THE FL-3 LICENSE RENEWAL CERTIFICATE DATED 26.03.2026 ISSUED BY THE 5 TH RESPONDENT IN THE NAME OF PARTNERS OF THE 3 RD PETITIONER.
- Exhibit P4** TRUE PHOTOCOPY OF THE G.O.(RT)NO. 353/2026/TAXES DATED 06.04.2026.

