

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 22ND DAY OF JANUARY 2021 / 2ND MAGHA, 1942

WP(C).No.5277 OF 2014(S)

PETITIONERS :

- 1 T. FOUSIYA
FOUSIYAS, P O MOWANCHERY,
KANNUR DISTRICT, PIN-670613
- 2 T CHANDRAN
KANNAN NIVAS, KOYYODE P O,
KANNUR DIST, PIN-670621
- 3 M MUSTHAF A MASTER
MEMBER WARD NO 3,
CHEMBILODE GRAMA PANCHAYATH,
P O MOWANCHERY, KANNUR DISTRICT-670613

BY ADVS.
SRI.P.M.PAREETH
SRI.MOHAMMED SHAMEEL
SMT.SONIA GEORGE

RESPONDENTS :

- 1 STATE OF KERALA
REP BY CHIEF SECRETARY TO GOVT.OF KERALA,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001
- 2 DEPUTY EXCISE COMMISSIONER
KANNUR DIVISION, CIVIL STATION,
KANNUR-670002
- 3 ASSISTANT EXCISE COMMISSIONER
KANNUR RANGE, CIVIL STATION,
KANNUR-670002

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- 4 DISTRICT COLLECTOR, KANNUR
COLLECTORATE, CIVIL STATION,
KANNUR-670002
- 5 CHEMBILODE GRAMA PANCHAYATH
REP BY ITS SECRETARY, P O MOWANCHERRY,
KANNUR DIST, PIN-670613
- 6 AJITH BABU
LICENCEE, TODDY SHOP NO 25,
POOVATHUMTHARA, P O MOWANCHERY,
KANNUR DIST, PIN-670613

SRI. SURIN GEORGE IPE SR GP FOR R1 TO R4,
SRI.I.V.PRAMOD FOR R5,
SRI.P.NARAYANAN FOR R6

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22-01-2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 22nd day of January, 2021

S. Manikumar, CJ.

Petitioners have sought for a direction calling for the records leading to rule 7(2) of Kerala Abkari Shops Disposal Rules 2002 to the extent it permits running of toddy shops in busy residential areas and strike down the same as unconstitutional and ultravires of Article 19(d) (e) and Article 21 of the Constitution of India. Petitioners have also sought for a mandamus directing the 2nd respondent to recall the sanction granted to the 6th respondent for shifting toddy shop No.25 from ward No.2 to building No.296 in ward No.3 of 5th respondent Panchayat.

2. On this day, when the matter came up for hearing, learned counsel for the petitioner submitted that the toddy shop has already been shifted.

3. On going through the material on record as well as the statutory provisions, we find that the petitioners have not made out a case to declare rule 7(2) of Kerala Abkari Shops Disposal Rules 2002 as ultravires of Constitution of India. Hence both prayers cannot be granted. Writ petition is dismissed.

Sd/-
S. Manikumar,
Chief Justice

Sd/-
Shaji P. Chaly,
Judge

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 P1:-A TRUE PHOTOCOPY OF THE MASS
PETITION DTD 31/12/2013 SUBMITTED BY
THE CITIZENS OF WARD NO 3 BEFORE THE
EXCISE COMMISSIONER
- EXHIBIT P1 (a) :- A TRUE ENGLISH TRANSLATION OF EXT.P1
- EXHIBIT P2 :- A TRUE PHOTOCOPY OF THE RESOLUTION
DTD. 5/1/2014 PASSED BY THE GRAMA
SABHA OF WARD NO 3 OF 5TH RESPONDENT
PANCHAYATH
- EXHIBIT P2 (a) :- A TRUE ENGLISH TRANSLATION OF EXT P2
- EXHIBIT P3 :- A TRUE PHOTOCOPY OF THE REPRESENTATION
DTD 13/1/2014 SUBMITTED BY THE FIRST
PETITINER BEFORE THE 4TH RESPONDENT
- EXHIBIT P3 (A) :- A TRUE ENGLISH TRANSLATION OF EXT P3