

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 15<sup>TH</sup> DAY OF SEPTEMBER 2021 / 24TH BHADRA, 1943

WP(C) NO. 26628 OF 2020

PETITIONER:

SHITHA P.  
AGED 40 YEARS  
W/O. MURALEEDHARAN, RESIDING AT 'SHIMAHA', KADAMBUR  
P.O., KANNUR-670663.

BY ADVS.  
GEORGE POONTHOTTAM (SR.)  
SRI.ARUN CHANDRAN  
SRI.RIJI RAJENDRAN  
SMT.NISHA GEORGE  
SRI.J.VISHNU  
SRI.VISHNU B.KURUP  
SRI.A.L.NAVANEETH KRISHNAN  
KUM.CHITHRA P.GEORGE

RESPONDENTS :

- 1 STATE OF KERALA,  
REPRESENTED BY ITS SECRETARY, TAXES (H) DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
- 2 THE DIRECTOR OF STATE LOTTERIES,  
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM-695033.

BY ADV.SRI. C.U. UNNIKRISHNAN SPECIAL GPGOVERNMENT  
PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
15.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP (C) NO.26628/2020

2

P.V.KUNHIKRISHNAN, J

-----  
W.P. (C) No.26628 of 2020  
-----

Dated this the 15<sup>th</sup> day of September 2021

**JUDGMENT**

According to the petitioner, she purchased a 'Winwin' lottery ticket bearing No.UBMYA-WNUND-TDJAS (WB-649642). The date of draw was on 28.09.2015. Ext.P1 is the lottery ticket alleged to be purchased by the petitioner. On 28.09.2015, the results of the lottery were published. It is the case of the petitioner that the ticket purchased by the petitioner was declared to have won the 1<sup>st</sup> prize. As the claim amount was more than one lakh, the petitioner presented the claim before the 2<sup>nd</sup> respondent directly. The claim was made within a period of 30 days as provided under the Paper Lotteries (Regulation) Rules, 2005 (hereinafter mentioned as 'the Rules'). The original Ext.P1 was submitted before the 2<sup>nd</sup> respondent on

WP (C) NO.26628/2020

3

15.10.2015. After submitting the original lottery ticket to the 2<sup>nd</sup> respondent along with all necessary documents in terms of Rule 9, the 2<sup>nd</sup> respondent intimated the petitioner that the documents were incomplete. The 2<sup>nd</sup> respondent directed the petitioner to submit a Stamped receipt and attested copy of Ration card/Election Identity card. Ext.P2 is the communication. On receipt of Ext.P2, the petitioner has submitted the residence certificate and stamped receipt. Exts.P4 and P4(a) are the residence certificate and stamped receipt. Though, the required documents were received by the 2<sup>nd</sup> respondent as early as on November 2015, the petitioner submitted that the 2<sup>nd</sup> respondent has not disbursed the prize money of Rs.40,95,000/- (Rupees Forty Lakh Ninety Five Thousand only) after deducting the income tax and agents prize from the 1<sup>st</sup> prize amount of Rs.65,00,000/- (Rupees Sixty Five Lakh only). In such circumstances, the petitioner approached

WP (C) NO.26628/2020

4

this Hon'ble Court by filing W.P. (C)No.15708/2019. Ext.P5 is the counter filed by the 2<sup>nd</sup> respondent in the above writ petition. Thereafter this Court disposed the above writ petition as per Ext.P7 judgment directing the 1<sup>st</sup> respondent to consider the matter and pass appropriate orders. Accordingly, the matter was considered by the 1<sup>st</sup> respondent. The petitioner submitted Ext.P10 written submission also before the 1<sup>st</sup> respondent. Thereafter, the 1<sup>st</sup> respondent passed Ext.P11 order rejecting the claim of the petitioner to get the prize amount of Ext.P1 lottery ticket. Aggrieved by Ext.P11, this writ petition is filed.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader to the Advocate General, Sri.C.U.Unnikrishnan.

3. The learned counsel for the petitioner reiterated his contentions in the writ petition. The learned counsel submitted that Ext.P11 order

is unsustainable for the simple reason that there is no law allowing the Government to pass such an order. The learned counsel submitted that the petitioner purchased the lottery from an agent at Palakkad. Simply because the petitioner is the wife of the owner of a lottery agency named 'Manjoo Lottery Agency', against whom there is some allegations, the prize amount can not be denied to the petitioner.

4. The learned Special Government Pleader submitted that the petitioner is a partner of Manjoo Lottery Agency, of course the same is denied by the learned counsel for the petitioner. The contention of the learned Special Government Pleader is that the petitioner is the wife of P.Muraleedharan, Murali Nivas Kadambur P.O., Kannur who was a lottery agent of lottery Department having agency No.C3387 and also the Managing Partner of Manjoo Lottery Agency. According to the learned Government Pleader, the Agency in the ownership

WP(C) NO.26628/2020

6

of the above person was suspended by the department for involving in unlawful practice in lottery business. For the said reason, the Director of State Lotteries, 2<sup>nd</sup> respondent had declined the claim in respect of the petitioner. The learned Government Pleader also relied on Clause 3 of Ext.P6 circular.

5. After hearing both sides and perusing the documents, I am not in a position to accept the finding in Ext.P11. According to the respondents, the petitioner is the wife of Sri.P. Muraleedharan, who is the Managing Partner of Manjoo Lottery Agency. But that is not a reason to deny the prize money of lottery which according to the petitioner purchased by her from another agent in Palakkad District. I specifically asked the learned Government Pleader to point out a law which authorise the Government to pass Ext.P11 order. The learned Government Pleader takes me through Rule 9(8) of the Kerala Paper Lotteries (Regulation) Rules,

WP(C) NO.26628/2020

7

2005 and fairly conceded that there is no other provision. It will be better to extract the Rule 9(8) of the Kerala Paper Lotteries (Regulation) Rules, 2005 .

*"(8)Prize money shall be paid after ascertaining the genuineness of the Prize ticket. However, payment of prizes above Rs. 100 shall be made after matching it with the concerned counterfoil kept in the office."*

6. From a reading of the above regulation, it is clear that the duty of the authority is only to find out whether the lottery ticket is genuine. Admittedly, there is absolutely no dispute about the genuineness of Ext.P1. In such circumstances, the above Rule is not at all applicable. In the counter affidavit filed on behalf of the 1<sup>st</sup> respondent, it is also conceded that there is no law which prohibit the petitioner from purchasing the lottery tickets either from the husband or from any other person and presenting the same for cash in the event of

WP (C) NO.26628/2020

winning prize. The petitioner was in possession of Ext.P1 lottery ticket and she produced the same before the authority concerned for getting the prize money. Now based on certain surmises and certain observations, the 1<sup>st</sup> respondent rejected the claim of the petitioner. It will be better to extract the relevant portion of Ext.P11:

"ഹിയറിംഗ് സമയത്ത് ബോധിപ്പിച്ച വസ്തുതകൾ, സംസ്ഥാന ഭാഗ്യക്കുറി ഡയറക്ടറുടെ റിപ്പോർട്ട് എന്നിവയുടെ അടിസ്ഥാനത്തിൽ സർക്കാർ ഈ വിഷയം വിശദമായി പരിശോധിക്കുകയുണ്ടായി. ഒരു വ്യക്തി എന്ന നിലയിലാണ് ടിയാൾ ടിക്കറ്റ് സമർപ്പിച്ചിരിക്കുന്നത്. എന്നാൽ മഞ്ജു ലോട്ടറിയുടെ മാനേജിങ് പാർട്ണറിന്റെ ഭാര്യ ആണെന്ന കാര്യം റിട്ട് പെറ്റീഷനിൽ പരാമർശിച്ചിട്ടുള്ളതായി കാണുന്നില്ല. ലോട്ടറി റൂളുകൾക്കും ചട്ടങ്ങൾക്കും എതിരായി പ്രവർത്തിച്ചുവന്നതിനാൽ ഏജൻസി സസ്പെൻഡ് ചെയ്യപ്പെട്ട ശ്രീ.പി. മുരളീധരന്റെ ഭാര്യയായ ശ്രീമതി ഷീത പി.സംശയാസ്പദമായ കാരണങ്ങളാൽ ടിക്കറ്റ് സമർപ്പിക്കപ്പെട്ട സാഹചര്യത്തിലാണ് പ്രസ്തുത ടിക്കറ്റിന്റെ സമ്മാന വിതരണം തടഞ്ഞുവയ്ക്കപ്പെട്ടത്. മഞ്ജു ലോട്ടറി ഏജൻസിയുടെ (C-3387) പേരിൽ നിയമവിരുദ്ധ ഒരു നമ്പർ ലോട്ടറി ചുതാട്ടം നടത്തിയതിന് മഞ്ജു ലോട്ടറിയുടെ മാനേജിംഗ് പാർട്ണറും ഭാഗ്യക്കുറി ഏജൻറുമായ ശ്രീ .പി. മുരളീധരന്റെ ഏജൻസി സസ്പെൻഡ് ചെയ്യുകയും സമ്മാനത്തുക നൽകുന്നത് തടഞ്ഞു വയ്ക്കുകയും ചെയ്തിട്ടുണ്ട്. ടി കാലയളവിൽ ശ്രീ .പി.മുരളീധരന്റെ മേൽ വിലാസത്തിൽ ടിയാന്റെ പല കുടുംബ വ്യക്തികൾ ഒന്നാം സമ്മാനാർഹമായതുൾപ്പെടെ ഉയർന്ന സമ്മാനത്തുകയുള്ള ടിക്കറ്റുകൾ നിരന്തരമായി ഹാജരാക്കുന്നത് ലോട്ടറി



WP (C) NO.26628/2020

പ്രസ്ഥാനത്തിന്റെ വിശ്വാസ്യതയേയും അതിന്റെ നടത്തിപ്പിന്റെ സുതാര്യതയേയും പൊതുജനമധ്യത്തിൽ സംശയത്തിന്റെ നിഴലിൽ വരാൻ ഇടയാകുമെന്ന സാഹചര്യത്തിലാണ് ടി വ്യക്തികൾ സാമ്പത്തിക ക്രമക്കേടുകൾക്ക് വേണ്ടി സമർപ്പിക്കുന്ന ഇത്തരം ക്ലെയിമുകൾ വകുപ്പിന് തടഞ്ഞുവെക്കേണ്ടി വന്നിട്ടുള്ളത്. ലോട്ടറി റൂളുകൾക്കും ചട്ടങ്ങൾക്കും എതിരായും വകുപ്പിന്റെ വിശ്വാസ്യതയ്ക്ക് കളങ്കം വരുത്തുന്ന രീതിയിൽ പ്രവർത്തനം നടത്തിയതിന് ഏജൻസി സപ്ലൈൻറ് ചെയ്യപ്പെട്ട ശ്രീ. പി. മുരളീധരൻ മേൽവിലാസത്തിൽ ഇടർച്ചയായി സമർപ്പിച്ച സമ്മാന ടിക്കറ്റുകളിൽ ഉൾപ്പെടുന്നതാണ് ശ്രീമതി ഷീത.പി. സമർപ്പിച്ച സമ്മാന ടിക്കറ്റ്. ടി കാലയളവിൽ സമ്മാനാർഹ സമർപ്പിക്കുന്ന രണ്ടാമത്തെ ക്ലെയിമാണ് പ്രസ്തുത ടിക്കറ്റ് എന്നും ബോധ്യപ്പെട്ടു . മേൽ പറഞ്ഞ കാരണങ്ങളാലും, സംശയാസ്പദമായ ക്ലെയിം ആയതിനാലും ശ്രീമതി. ഷീത.പി. യുടെ പ്രസ്തുത ടിക്കറ്റിന്റെ സമ്മാന വിതരണം നൽകണമെന്ന ആവശ്യം നിരസിച്ചു ഉത്തരവാകുന്നു.

WP(C) 15708/2019 നു മേൽ ബഹു: ഹൈക്കോടതിയുടെ 30.01.2020 ലെ വിധിന്യായം നടപ്പാക്കിയും ഉത്തരവാകുന്നു."

7. If the above finding is correct, even criminal offence may attract. Admittedly the petitioner produced Ext.P1 ticket before the 2<sup>nd</sup> respondent on 15.10.2015. About 6 years elapsed thereafter. Admittedly, no criminal case is registered against the petitioner at the instance of the respondents even now. If the allegations mentioned in Ext.P11 are true, the

respondents ought to have registered atleast a criminal case against the petitioner. No such case is registered as on today. Moreover, there is no law which authorise the Government to pass an order like Ext.P11. Admittedly, the petitioner was in possession of Ext.P1 lottery ticket and says that, she purchased it from another agent. There is nothing to disbelieve the same, except the wild guess of the 1<sup>st</sup> respondent. She produced the same before the authorities as per the Rules. In such circumstances, the petitioner is entitled the prize money. According to me, Ext.P11 will not stand because it is passed without backing of law. I don't want to make any further observation. All other contentions of the 1<sup>st</sup> respondent against the husband of the petitioner are left open because he is not a party in this proceedings. But when the petitioner produced a lottery ticket in accordance to the Rules with a claim that, it got the first prize, the

WP(C) NO.26628/2020

11

petitioner is entitled the prize amount, if there is no evidence to doubt the genuineness of the prize ticket.

Therefore, this writ petition is allowed in the following manner:

i) Ext.P11 order is set aside.

ii) The 2<sup>nd</sup> respondent is directed to disburse the prize amount which the petitioner is entitled after statutory deductions, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

Sd/-

P.V.KUNHIKRISHNAN  
JUDGE

DM

WP (C) NO.26628/2020

12

**APPENDIX OF WP (C) 26628/2020**

PETITIONER EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE 'WINWIN' LOTTERY TICKET BEARING NO.UBMYA-WNUND-TDJAS (WB-649642) .
- EXHIBIT P2 TRUE COPY OF THE COMMUNICATION NO.PB3/12896/10/2015 ISSUED BY THE 2ND RESPONDENT DATED OCTOBER 21, 2015.
- EXHIBIT P3 TRUE COPY OF THE LETTER DATED OCTOBER 29, 2015 ALONG WITH THE RECEIPT OF POSTING.
- EXHIBIT P4 TRUE COPY OF THE LETTER RESIDENCE CERTIFICATE NO.14848069 DATED 29.10.2015 ISSUED BY THE VILLAGE OFFICER, KADAMBUR.
- EXHIBIT P4 (A) TRUE COPY OF THE STAMPED RECEIPT BEARING FILE NO.PZE PB3/12896/10/2015 DSL, ENCLOSED ALONG WITH EXHIBIT P3.
- EXHIBIT P5 TRUE COPY OF THE COUNTER AFFIDAVIT DATED 18.7.2019 IN W.P.(C)NO.15708 OF 2019 FILED BY THE 2ND RESPONDENT BEFORE THIS HON'BLE COURT.
- EXHIBIT P6 TRUE COPY OF THE CIRCULAR NO.PA2/27938/2017/DSL DATED 24.04.2018 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P7 TRUE COPY OF THE JUDGMENT IN WP(C) NO.15708 OF 2019 DATED 30.1.2020 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P8 TRUE COPY OF THE NOTICE NO.TAXES-H1/61/2020-TAXES DATED 17.3.2020 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P9 TRUE COPY OF THE NOTICE NO.TAXES-H1/61/2020-TAXES DATED 6.8.2020 ISSUED BY THE 1ST RESPONDENT.

WP(C) NO.26628/2020

13

EXHIBIT P10 TRUE COPY OF THE WRITTEN SUBMISSION  
DATED 13.8.2020, WITHOUT ANNEXURES,  
SUBMITTED BY THE COUNSEL VIDE EMAIL.

EXHIBIT P11 TRUE COPY OF THE G.O.  
(RT)NO.732/2020/TAXES DATED 1.11.2020  
ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P12 TRUE COPY OF THE COMMUNICATION  
NO.TRO/CEN/KOCHI/MANJU&CO/2017-18  
DATED 29.11.2017 ISSUED BY THE INCOME  
TAX DEPARTMENT TO THE DIRECTOR OF  
LOTTERIES.

RESPONDENTS EXHIBITS : NIL

//TRE COPY//

PA TO JUDGE