

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 6TH DAY OF APRIL 2016/17TH CHAITHRA, 1938

WP(C).No. 12508 of 2016 (K)  
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PETITIONER : -  
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JAYAPRAKASH, AGED 40 YEARS,  
S/O.RAJAPPAN, PUTHENPARAMBIL HOUSE,  
KUNNUMMA VILLAGE, KAVALAM.P.O,  
ALAPPUZHA DISTRICT.

BY ADVS. SRI.C.C.THOMAS (SR.)  
SRI.M.G.KARTHIKEYAN  
SRI.NIREESH MATHEW

RESPONDENTS : -  
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1. THE EXCISE COMMISSIONER  
COMMISSIONERATE OF EXCISE,  
THIRUVANANTHARUAM-695 033.
2. THE DEPUTY COMMISSIONER OF EXCISE, ALAPPUZHA.
3. THE CIRCLE INSPECTOR OF EXCISE,  
KUTTANADU, ALAPPUZHA DISTRICT.
4. THE DISTRICT COLLECTOR, ALAPPUZHA.
5. THE CHIEF ELECTORAL OFFICER,  
LEGISLATIVE COMPLEX, PALAYAM  
THIRUVANANTHAPURAM-695 033.

BY SR. GOVERNMENT PLEADER SRI. V. VIJULAL  
BY SRI.MURALI PURUSHOTHAMAN, SC,ELE.COMMN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
06-04-2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12508 of 2016 (K)  
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**APPENDIX**

PETITIONER'S EXHIBITS : -  
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EXT P1 :       PHOTOCOPY OF THE ORDER NO.XA7-20145/2014 DATED 23.5.2014  
                  PASSED BY THE 1ST RESPONDENT.

EXT P2 :       PHOTOCOPY OF THE ORDER NO.XA7-20145/2013 DATED 30.6.2015  
                  PASSED BY THE 1ST RESPONDENT.

EXT P3 :       PHOTOCOPY OF THE JUDGMENT DATED 29.1.2016 IN WP(C)  
                  NO.20871/2015 PASSED BY THIS HON'BLE COURT.

EXT P4 :       PHOTOCOPY OF THE JUDGMENT DATED 9.3.2016 IN WA.NO. 236/2016  
                  PASSED BY THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS : - NIL.  
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// TRUE COPY //

P.A. TO JUDGE

DMR/-

**DAMA SESHADRI NAIDU, J.**

**W.P.(c) No. 12508 of 2016**

Dated this the 06<sup>th</sup> day of April, 2016

**JUDGMENT**

The petitioner, an erstwhile licensee, initially seems to have had the preference wrongly denied to him; but later, on the strength of the order of the Commissioner of Excise, he has staked a claim for the extension of privilege in his favour. In that context, the first respondent issued Exhibit P2 order directing a fresh allotment of toddy shops in Group No.XXI of Kuttanadu Excise Range for the Abkari year 2014-2017.

2. As seen from the record, the second respondent addressed a communication dated 31.03.2016 to the fourth respondent requiring him to allot date and time for the sale of the toddy shops. In turn, the fourth respondent through his communication dated 02.04.2016, as has been submitted by the learned Government Pleader, replied that he could not proceed further with the matter because the election code has come into force. Aggrieved, the petitioner has filed the writ petition.

3. In response to the submissions made by the learned counsel for the petitioner, the learned Standing Counsel for the election commission, the fifth respondent, has fairly submitted that, going by the record, the authorities seem to have taken a decision prior to the enforcement of the election code. In that context, the code may not come in the fourth respondent's way to proceed further.

4. The learned Government Pleader, on his part, has submitted that this Court may dispose of the writ petition with a suitable direction to the fourth respondent to intimate fresh date and time for sale of the toddy shops.

5. In reply, the learned counsel for the petitioner has submitted that it is only a question of recognizing the petitioner's privilege; and, as such, there may not be any sale in real terms.

6. Be that as it may, this Court does not intend to go into the merits of the matter. Suffice it to hold that the fourth respondent may take expeditious steps as have been required by the second respondent.

7. As a result, the fourth respondent shall inform the second respondent convenient date and time for putting the toddy shops in question for auction, as expeditiously as possible.

With the above observations, the writ petition stands disposed of. No order as to costs.

**DAMA SESHADRI NAIDU  
JUDGE**

DMR/-