

Kerala High Court

K.Sadasivan vs State Of Kerala on 10 August, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 24605 of 2010(A)

1. K.SADASIVAN, S/O.KUMARA PILLAI,
... Petitioner
2. M/S.HOTEL ANANTHASAYANAM PVT.LTD.,

Vs

1. STATE OF KERALA, REPRESENTED BY THE
... Respondent
2. THE DEPUTY COMMISSIONER OF EXCISE,
3. THE CIRCLE INSPECTOR OF EXCISE,
4. THE CIRCLE INSPECTOR OF EXCISE,

For Petitioner :SRI.C.S.MANILAL

For Respondent : No Appearance

The Hon'ble MR. Justice T.R.RAMACHANDRAN NAIR

Dated :10/08/2010

O R D E R

T.R. RAMACHANDRAN NAIR, J.

W.P.(C) No.24605 OF 2010

Dated this the 10th day of August, 2010.

J U D G M E N T

The petitioners are holders of FL 3 licence and are conducting Bar Hotels. The issue that is raised herein relates to the oral instructions given by the officers of the Excise Department directing the petitioners not to have any additional bar counters. It is submitted by the learned counsel for the

petitioners that the petitioners have already remitted an additional amount of Rs.25,000/- over and above the usual rental for the FL 3 licence for the purpose of serving liquor in the restaurant. Exhibit P3, a copy of the Demand Draft, has been produced in support of the above plea. It is also submitted that the bar counters have been provided within the permitted area itself and not beyond the existing bar. Reliance is placed on the decision of this Court in Crl.M.C.No.2292/2009 which is produced as Exhibit P5 herein.

2. Learned Government Pleader on instructions submitted that the relevant Rule namely, Foreign Liquor Rules have been amended as per G.O.(P) No.105/2009/TD dated 17.06.2009 wherein a proviso to sub rule 3C of Rule 13 has been added. It shows that the licensee may be permitted to maintain more than one bar counter within the licensed bar room of the hotel with the prior permission of the Excise Commissioner on payment of an additional annual fee of Rs.25,000/- (Rupees Twenty Five thousand only) for each such bar counter. It appears that the same was published in the Gazette dated 17.06.2009.

3. Since the case of the petitioners is that already the petitioners have remitted Rs.25,000/- which can be treated as payment as per the amended Rules, what is to be considered is only regularisation of the same by the competent authority namely, the Excise Commissioner.

Therefore, the petitioners will have to make appropriate applications before the Excise Commissioner who will consider the same in terms of the amended Rules namely, Rule 13(3C) proviso to Foreign Liquor Rules. Since there is no dispute that the petitioners are having additional bar counters within the licensed bar room, pending orders to be passed by the Excise Commissioner, the Excise Officers will not object to the running of the same as the petitioners have already remitted the amount. Appropriate orders will be passed by the Excise Commissioner expeditiously.

This writ petition is disposed of as above.

T.R. RAMACHANDRAN NAIR JUDGE smp