SUPREME COURT OF INDIA

The Kerala Bar Hotels Association & Anr.

Vs.

State of Kerala & Ors.

C.A.No.4157 of 2015

(Vikramajit Sen and Shiva Kirti Singh,JJ.)

29.12.2015

JUDGMENT

Vikramajit Sen, J.

1. These Appeals call into question the legal correctness of the Judgment of the Division Bench of the High Court of Kerala dated 31.3.2015 by which several Writ Appeals filed by some of the Writ Petitioners assailing the Judgment of the learned Single Judge came to be dismissed and the Writ Appeals filed by the State came to be allowed. The writ petitioners, which include hotels which have been classified as Two Star, Three Star, Four Star and Heritage hotels, challenged the Abkari Policy for the year 2014-15 as well as the amendments to the Foreign Liquor Rules. While dismissing the writ petitions, the learned Single Judge carved out an exception vis-a-vis the eligibility of Four Star and Heritage category hotels to the grant of FL-3 licence, finding their exclusion to be arbitrary and violative of Article 14 of the Constitution. This holding resulted in the filing of appeals on behalf of the State. The impugned Judgment has reversed this conclusion of the learned Single Judge and consequently only Five Star hotels in the State of Kerala are presently permitted to serve alcohol in their bars i.e. in public.

2. The Abkari Act, 1077 was introduced in the erstwhile State of Cochin in 1902 and came to be extended throughout the State of Kerala in 1967. The Foreign Liquor Rules were promulgated by virtue of Sections 10 and 24 to 29 of the Abkari Act, relating to the sale of Indian Made Foreign Liquor (IMFL). As at present, the private sector is not permitted to manufacture IMFL and there is only one State owned distillery. Previous to the extant policy, FL-1 licences i.e. retail of licence sale of foreign liquor, were auctioned by the State to private parties, which practice, as is obvious, has been discontinued. It may also be relevant to mention that the State of Kerala made a futile foray into prohibition, but this was withdrawn in 1967. The existence of a Union Territory, Mahe, within the State of Kerala, and boundaries with the States of Karnataka and Tamil Nadu where the sale or consumption of liquor is not prohibited indubitably makes it almost impossible for the State to venture into prohibition.

3. It has not been disputed that the State of Kerala is facing an acute social problem because of the widespread and excessive consumption of alcohol. It appears that almost 14 per cent of the national consumption of alcohol occurs in this comparatively territorially small State (indeed a dubious distinction), which also justifiably boasts of 100 per cent literacy. Faced with this social malaise, the State Government appears to have considered that banning the consumption of hard alcohol in public may have the effect of bringing down and arresting the ever escalating addiction to liquor. But we must immediately record our reservation inasmuch as FL-11 licences for the sale of consumption of beer and wine are rampantly issued. If the addiction to alcohol or introduction into this pernicious habit is to be combated, there seems to us to be no justification to allow beer or wine to be publically consumed. There cannot be any caveat to the opinion that permitting the consumption of beer and wine is a gateway to the consumption of hard liquor, and indeed is a social malaise in itself. In 1992, the grant of FL-3 licence was restricted to hotels having Two Star and above classification. This was followed in 1996 by the banning of sale of arrack. In 2002, Rule 13(3) was amended thereby restricting grant of FL-3 licences to hotels possessing Three Star and above ratings; existing Two Star hotels possessing FL-3 licences were however renewed on the understanding that this was their bounden right. This policy was taken to the courts and was eventually settled by the decision of this Court in *State of Kerala v. B.Six Hotels Resort Private Ltd*[1]. which had upheld that policy. Obviously encouraged by this success, the State of Kerala in 2011 introduced further amendments to Rule 13(3) whereby only hotels with Four Star and above classifications were eligible for fresh FL-3 licenses. Again, on the predication that existing FL-3 license holders were legally entitled to their renewal, this exception was recognized in the Rules. "Distance criteria" was raised and rejected and we are now no longer concerned therewith. In *State of Kerala v. Surendra Das*[2], this Court upheld the policy challenged by several writ petitioners insofar as it declined issuance of fresh FL-3 to Three Star hotels; the "distance criteria" was struck down. In the duration of this litigation the State Government had also made it known that it intended to extend the discontinuance of FL-3 licenses to Four Star hotels, but this Court thought it appropriate to interdict that proposal till such time as the Report of the One-man Commission was published and considered and till the State took action against non-standard hotels. In what avowedly is the anticipated and logical progression, the State Government has now restricted FL-3 licences to Five Star hotels alone, and has also decided not to renew all existing FL-3 licences to any of the other hotels.

4. We think it expedient to reproduce the relevant portion of said Order dated 22.8.2014:

"7. The Government being convinced the fact that in order to achieve the goal of "Liquor-Free Kerala", strict and urgent measures are to be adopted, the Abkari Policy 2014-15 is hereby declared subject to the following criteria.

1. Hereinafter Bar licenses will be issued only to 5 star hotels. The licenses of existing bar hotels which are functioning on the basis of provisional renewal of licenses except the licenses of 5 star hotels will be cancelled. The Government has decided not to renew the licenses of 418 non standard bar hotels mentioned in the Judgment of the Supreme Court.

2.10% of outlets out of 338 FL-1 outlets of Kerala State Beverages Corporation and 46 outlets of Consumer Fed will be closed each year from 2nd October, 2014 onwards.

3. The sale of high strength alcoholic liquor through Beverages Corporation will be gradually reduced.

4. In order to rehabilitate the employees who lose their job due to the closing of bar and to rehabilitate the persons who are alcoholically addicted a special plan namely "Punarjani 2030" will be commenced. For that purpose, 5% Cess will be imposed on the liquor which selling through the K.S.B.C.

5. The Liquor-Free propaganda program will be strengthened in the society at large and especially in educational institutions.

6. All Sundays will be declared as dry-day. This will implement from the Sunday of 5th October, 2014.

7. The traditional toddy tapping business will be protected and job security will be ensured for toddy tappers.

8. In order to rehabilitate the employees of closing bars and employees engaged in the job of affixing stickers, measures will be adopted. Kerala Alcohol Education Research, Rehabilitation & Compensation Fund (KAERCF) Fund will be formed in order to protect the retrenched employees. The said fund will be utilized for the following purposes such as making propaganda against drinking of alcohol, for collection of data regarding this matter, to protect those who destroyed themselves by alcohol consumption, rehabilitation of the persons who lost job. The fund for this purpose will also be found out from public.

9. To implement the order urgently, the Excise Commissioner, K.S.B.C. Managing Director have to take measures to submit the recommendations urgently to the Government.

By order of Governor
A. Ajithkumar
Secretary

5 The first paragraph of sub-rule (3) of Rule 13 was substituted by way of G.O.(P) No. 141/2014 and now reads as follows:

> "(3) Foreign Liquor 3 Hotel (Restaurant) license. - License in this form may be issued by the Excise Commissioner under orders of Government, in the interest of promotion of tourism in the State, to hotels which have obtained Five Star, Five Star Deluxe classifications from the Ministry of Tourism, Government of India, where the privilege of sale of foreign liquor in such hotels has been purchased on payment of an

annual rental of 23,00,000 (Rupees Twenty-three lakhs only). However, no such license shall be issued to hotels if located within 200 (two Hundred) metres from any educational institution, temple, church, mosque, burial ground or scheduled caste/scheduled tribe colony. The applicant shall produce from the Abkari Workers' Welfare Fund Inspector, a Certificate to the effect that he has remitted before the date of application for license/renewal of license, the arrears of contributions if any payable up to the 31st day of December of the preceding year."

The sixth proviso to the Rule was amended to read as follows:

> "Provided also that the licences which have been renewed temporarily from 1st April, 2014, other than those of the hotels having Five Star classifications shall be cancelled."

6. Litigation pertaining to or challenging liquor policies is legion in our land. In his inimitable style Justice V.R. Krishna Iyer commenced the Judgment of the Three-Judge Bench in *PN. Kaushal v. Union of India*[3] thus:

> "A raging rain of writ petitions by hundreds of merchants of intoxicants hit by a recently amended rule declaring a break of two "dry" days in every "wet" week for licensed liquor shops and other institutions of inebriation in the private sector, puts in issue the constitutionality of Section 59(f)(v) and Rule 37 of the Punjab Excise Act and Liquor Licence (Second Amendment) Rules, (hereinafter, for short, the Act and the Rules). The tragic irony of the legal plea is that Articles 14 and 19 of the very Constitution, which, in Article 47, makes it a fundamental obligation of the State to bring about prohibition of intoxicating drinks, is pressed into service to thwart the State's half-hearted prohibitionist gesture. Of course, it is on the cards that the end may be good but the means may be bad, constitutionally speaking. And there is a mystique about legalese beyond the layman's ken!
>
> 2. To set the record straight, we must state, right here, that no frontal attack is made on the power of the State to regulate any trade (even a trade where the turn-over turns on tempting the customer to take reeling roiling trips into the realm of the jocose, belliocose, lachrymose and comatose)."

7. A plethora of precedents on the subject in which we are presently concerned compels us, in order to avoid prolixity, to refer to only a few decisions of this Court. We have already a mentioned two of these - B.Six Hotels and Surendra Das to which we will revert later. The Constitution Bench decision in *Krishan Kumar Narula v. State of Jammu and Kashmir*[4] concerned the challenge to the refusal to renew licences for the year 1966-67 in respect of the liquor shop of that petitioner. This Court observed that "dealing in liquor is business and a citizen has a right to do business in that commodity, but the State can make a law imposing reasonable restrictions on the said right, in public interest".

8 This very conundrum once again received the attention of the Constitution Bench in *Khoday Distilleries Ltd. v. State of Karnatka*[5] where the constitutional provisions pertinent to transacting business in liquor were considered in minute detail, along with decisions which had already been rendered by this Court. The paragraph extracted below contains a precis and commends reading:

> "60. We may now summarise the law on the subject as culled from the aforesaid decisions.
>
> (a) The rights protected by Article 19(1) are not absolute but qualified. The qualifications are stated in clauses (2) to
>
> (6) of Article 19. The fundamental rights guaranteed in Article 19(1)(a) to (g) are, therefore, to be read along with the said qualifications. Even the rights guaranteed under the Constitutions of the other civilized countries are not absolute but are read subject to the implied limitations on them. Those implied limitations are made explicit by clauses (2) to (6) of Article 19 of our Constitution.
>
> (b) The right to practise any profession or to carry on any occupation, trade or business does not extend to practising a profession or carrying on an occupation, trade or business which is inherently vicious and pernicious, and is condemned by all civilised societies. It does not entitle citizens to carry on trade or business in activities which are immoral and criminal and in articles or goods which are obnoxious and injurious to health, safety and welfare of the general public, i.e., res extra commercium, (outside commerce). There cannot be business in crime.
>
> (c) Potable liquor as a beverage is an intoxicating and depressant drink which is dangerous and injurious to health and is, therefore, an article which is res extra commercium being inherently harmful. A citizen has, therefore, no fundamental right to do trade or business in liquor. Hence the trade or business in liquor can be completely prohibited.
>
> (d) Article 47 of the Constitution considers intoxicating drinks and drugs as injurious to health and impeding the raising of level of nutrition and the standard of living of the people and improvement of the public health. It, therefore, ordains the State to bring about prohibition of the consumption of intoxicating drinks which obviously include liquor, except for medicinal purposes. Article 47 is one of the directive principles which is fundamental in the governance of the country. The State has, therefore, the power to completely prohibit the manufacture, sale, possession, distribution and consumption of potable liquor as a beverage, both because it is inherently a dangerous article of consumption and also because of the directive principle contained in Article 47, except when it is used and consumed for medicinal purposes.

(e) For the same reason, the State can create a monopoly either in itself or in the agency created by it for the manufacture, possession, sale and distribution of the liquor as a beverage and also sell the licences to the citizens for the said purpose by charging fees. This can be done under Article 19(6) or even otherwise.

(f For the same reason, again, the State can impose limitations and restrictions on the trade or business in potable liquor as a beverage which restrictions are in nature different from those imposed on the trade or business in legitimate activities and goods and articles which are res commercium. The restrictions and limitations on the trade or business in potable liquor can again be both under Article 19(6) or otherwise. The restrictions and limitations can extend to the State carrying on the trade or business itself to the exclusion of and elimination of others and/or to preserving to itself the right to sell licences to do trade or business in the same, to others.

(g) When the State permits trade or business in the potable liquor with or without limitation, the citizen has the right to carry on trade or business subject to the limitations, if any, and the State cannot make discrimination between the citizens who are qualified to carry on the trade or business.

(h) The State can adopt any mode of selling the licences for trade or business with a view to maximise its revenue so long as the method adopted is not discriminatory.

(i) The State can carry on trade or business in potable liquor notwithstanding that it is an intoxicating drink and Article 47 enjoins it to prohibit its consumption. When the State carries on such business, it does so to restrict and regulate production, supply and consumption of liquor which is also an aspect of reasonable restriction in the interest of general public. The State cannot on that account be said to be carrying on an illegitimate business.

9. So far as the essential concomitants of Article 14 are concerned, we need not, nay, cannot travel beyond the decision of the Seven-Judge Bench of this Court in In Re: *The Special Courts Bill*[6], We shall reproduce the first 11 propositions carved out in that judgment:

(1) The first part of Article 14, which was adopted from the Irish Constitution, is a declaration of equality of the civil rights of all persons within the territories of India. It enshrines a basic principle of republicanism. The second part, which is a corollary of the first and is based on the last clause of the first section of the Fourteenth Amendment of the American Constitution, enjoins that equal protection shall be secured to all such persons in the enjoyment of their rights and liberties without discrimination of favouritism. It is a pledge of the protection of equal laws, that is, laws that operate alike on all persons under like circumstances.

(2) The State, in the exercise of its governmental power, has of necessity to make laws operating differently on different groups or classes of persons within its territory to

attain particular ends in giving effect to its policies, and it must possess for that purpose large powers of distinguishing and classifying persons or things to be subjected to such laws.

(3) The constitutional command to the State to afford equal protection of its laws sets a goal not attainable by the invention and application of a precise formula. Therefore, classification need not be constituted by an exact or scientific exclusion or inclusion of persons or things. The courts should not insist on delusive exactness or apply doctrinaire tests for determining the validity of classification in any given case. Classification is justified if it is not palpably arbitrary.

(4) The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences of circumstances. It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is substantially the same.

(5) By the process of classification, the State has the power of determining who should be regarded as a class for purposes of legislation and in relation to a law enacted on a particular subject. This power, no doubt, in some degree is likely to produce some inequality; but if a law deals with the liberties of a number of well defined classes, it is not open to the charge of denial of equal protection on the ground that it has no application to other persons. Classification thus means segregation in classes which have a systematic relation, usually found in common properties and characteristics. It postulates a rational basis and does not mean herding together of certain persons and classes arbitrarily.

(6) The law can make and set apart the classes according to the needs and exigencies of the society and as suggested by experience. It can recognize even degree of evil, but the classification should never be arbitrary, artificial or evasive.

(7) The classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all the persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act.

(8) The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them. In short, while Article 14 forbids class discrimination by conferring privileges or imposing liabilities upon persons arbitrarily selected out of a large number of other persons similarly situated in relation to the privileges sought to be conferred or the liabilities proposed to be imposed, it does not forbid classification for the purpose of legislation, provided such classification is not arbitrary in the sense abovementioned.

(9) If the legislative policy is clear and definite and as an effective method of carrying out that policy a discretion is vested by the statute upon a body of administrators or officers to make selective application of the law to certain classes or groups of persons, the statute itself cannot be condemned as a piece of discriminatory legislation. In such cases, the power given to the executive body would import a duty on it to classify the subject-matter of legislation in accordance with the objective indicated in the statute. If the administrative body proceeds to classify persons or things on a basis which has no rational relation to the objective of the legislature, its action can be annulled as offending against the equal protection clause. On the other hand, if the statute itself does not disclose a definite policy or objective a nd it confers authority on another to make selection at its pleasure, the statute would be held on the face of it to be discriminatory, irrespective of the way in which it is applied.

(10) Whether a law conferring discretionary powers on an administrative authority is constitutionally valid or not should not be determined on the assumption that such authority will act in an arbitrary manner in exercising the discretion committed to it. Abuse of power given by law does occur; but the validity of the law cannot be contested because of such an apprehension. Discretionary power is not necessarily a discriminatory power.

(11) Classification necessarily implies the making of a distinction or discrimination between persons classified and those who are not members of that class. It is the essence of a classification that upon the class are cast duties and burdens different from those resting upon the general public. Indeed, the very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. “

10. It would now be apposite to discuss both B.Six Hotels and Surendra Das in some detail. In B.Six Hotels, the Applicant’s application for an FL-3 license was rejected by the Excise Authorities resulting in the filing of a writ petition before the High Court, pursuant to which the Excise Commissioner was directed to decide the matter afresh. During the ensuing litigation, Rule 13(3) was amended and a proviso was added stating that “no new licenses under this Rule shall be issued”. This was the 2002 amendment whereby fresh FL-3 licenses were to be allowed only for Three Star hotels and above. Consequently, the Excise Commissioner rejected the Applicant’s license in view of the abovementioned proviso. The High Court upheld the amendment but found that the application had to be considered with

reference to the Rules as they existed on the date of the application and not the date of consideration of the application. When the matter reached this Court, we held that the Rules had to be considered as extant on the date of consideration of the application. This Court opined that since "the State has exclusive privilege of manufacture and sale of liquor, and no citizen has a fundamental right to carry on trade or business in liquor, the applicant did not have a vested right to get a licence. Where there is no vested right, the application for licence requires verification, inspection and processing. In such circumstances it has to be held that the consideration of application of FL-3 licence should be only with reference to the rules/law prevailing or in force on the date of consideration of the application by the excise authorities, with reference to the law and not as on the date of application." It was also noted that the promotion of tourism is to be balanced with general public interest. If the State finds that sufficient licenses have already been granted or that no more should be granted in the public interest, it can take a policy decision not to grant any further licenses. "If the policy is not open to challenge, the amendments to implement the policy are also not open to challenge." It was on this dialectic that the proviso was upheld.

11. In Surendra Das, the Writ Petitioner had challenged the denial of an FL-3 license to his Three Star hotel on the basis of the 2011 amendment to Rule 13(3) which restricted fresh licenses to hotels of Four Star and above classifications. The newly introduced 'Distance Rule' was also challenged. The Single Judge therein dismissed the writ petition, finding no vested right to get a license, no element of discrimination and no legitimate expectation. The Division Bench, however, found no distinction between existing Three Star hotels and new ones, and held that the decision to set up hotels should be left to hoteliers. It found both the amendments bad in law. This Court again reaffirmed that there is no fundamental right to trade in liquor. Since the deletion of Two Star hotels was upheld in B.Six Hotels, the deletion of Three Star hotels was upheld on the ground that it falls in the same genre. This Court dismissed the contention of the Writ Petitioner that the plea under Article 14 was not specifically considered in B.Six Hotels, inasmuch as B.Six Hotels allowed for a periodic assessment of government policy and for the promotion of tourism to be balanced with the general public interest. It has been pointed out by the Appellants herein that this Court went on to find that Two Star and Three Star hotels stand on a different footing than those of Four Star and Five Star classifications, as per the classification of the Ministry of Tourism and the fact that only the latter is required to have a bar license. However, this finding was clearly obiter and must be treated as such. The Distance Rule was struck down, with a finding that "although we do not dispute the power of the State Government to bring about the necessary reform, by modifying the rules, it has got to be justified on the cornerstone of the correlation between the provision and the objective to be achieved. If that correlation is not established, surely the rule will suffer from the vice of arbitrariness and therefore will be hit by Art. 14." This Court also noted that if the State is genuinely serious about reducing liquor consumption, it should take steps to reduce its own shops and depots and behave in conformity with the mandate of Article 47. The limitation of fresh licenses to Four Star hotels and above was upheld, but the State Government was directed not to deny FL-3 licenses to hotels with Four Star and above classifications until the receipt of the report of the One Man

Commission, and until action is taken against non-standard restaurants who have been permitted under the sixth and seventh proviso of Rule 13(3).

12. As we have already delineated, it is in the wake of these two judgments that the further restriction of FL-3 licenses to Five Star hotels alone was prescribed. As previously mentioned, the learned Single Judge in the detailed judgment dated 30.10.2014, upheld the petitions of the Four Star and Heritage category hotels, but declined those of Two Star and Three Star and unclassified hotels. Upon a detailed discussion of the judgment in Khoday, it was found that a citizen has no fundamental right to conduct trade or business in potable liquor. However, in the event of the State permitting of trade or business in potable liquor with or without limitation, the citizen has the right not to be discriminated against. Any regulatory measure would thus have to satisfy the test of Article 14. It rejected the arguments of the Appellants that the field of prohibition is occupied by the Prohibition Act, 1950 and that the present policy is outside the scope of the object of the Abkari Act as it aims at bringing about prohibition. It was also held that where a change of policy is valid in law, any action taken pursuant to it cannot be attacked or invalidated on the ground of legitimate expectations. Regarding the challenge on the basis of Article 14, the Single Judge discussed the position of Two Star and Three Star hotels separately from Four Star and Heritage hotels. Regarding the former, it was held that their contention that the classification is discriminatory is no longer res integra in view of the dictum of this Court in B.Six Hotels and Surendra Das. So far as the Four Star hotels are concerned, the Single Judge noted that there are only 20 Five Star hotels in Kerala and only 33 hotels in the Four Star and Heritage categories. It was held that none of the material before the State Government proposed the exclusion of Four Star and Heritage hotels from the criterion of eligibility for bar licenses. While there is a presumption that the Government has full knowledge of the social aspects of the proposed controls, in the absence of any material on the record, this presumption cannot be pushed to the extent of presuming that the State could have possessed some undisclosed and unknown reason or material to justify its action. The One Man Commission and the Tax Secretary recommended the grant of licenses to hotels with sufficient facilities. The learned Single Judge in Surendra Das noted that Three Star, Four Star and Five Star hotels constituted a distinct class. Even Rule 13(3) of the Foreign Liquor Rules maintained a distinction between Four and Five Star hotels and those of Three Stars and below, by prescribing that the former have to maintain a distance of only 50 meters from educational and religious institutions. The Government did not even state the reasons for rejecting the recommendations in the Reports before it. The learned Single Judge accordingly held that the policy was violative of Article 14 and it was struck down inasmuch as it excluded Four Star and Heritage category hotels from being granted FL-3 licenses.

13. This decision was set aside by the Division Bench in an equally detailed judgment dated 31.3.2015. The Division Bench opined that though the Government was bound to consider the recommendations of the One Man Commission, it was not bound to accept the Report in its entirety. The Report was simply a piece of evidence which the Government would have to take note of. It was for the State to evolve a policy taking into account the welfare of the people, and the Courts have a very narrow and limited scope to intervene in such policy

decisions. It is also not for the Courts to find whether a more feasible view is possible or whether a better policy could be evolved, which intrinsically remains a subjective exercise. The Division Bench also differentiated the factual matrix obtaining before it from that in *State of Maharashtra v. Indian Hotel and Restaurants Association*[7] commonly referred to as the Dance Bar case, on the premise that in the latter the fundamental rights of thousands of dancing girls was also in issue, and dancing in itself is not harmful to the health, although it could affect the morality of people and the dignity of women based on the manner in which the dance was performed. The Division Bench noted that the impugned policy is in consonance with Article 47 of the Constitution which provides that the State shall regard the raising of nutrition and the standard of living of its people and the improvement of public health as among its primary duties, in particular endeavoring to bring about prohibition. All the relevant documents and Reports were available to the Government at the time it made the impugned policy, ergo it should be assumed that the Government duly deliberated on them. It was held that Four Star, Five Star and Heritage category hotels cannot be said to form a single class by themselves, as different yardsticks are provided for each of these categories. The Division Bench noted that the object of the policy is the reduction of consumption of alcoholic beverages in public places and the protection of the youth from the adverse consequences of consumption of alcohol. Additionally, it was an ongoing policy, so the declaration that FL-3 licenses were being restricted to only Five Star hotels could not have come as a surprise. It was found that the One Man Commission Report was considered by the Government, as evidenced by various terms in the policy, and it was not necessary for the Government to accept the recommendations in their entirety. The appeals filed by the Two Star, Three Star and unclassified hotels were therefore dismissed, and the appeals filed by the State were allowed.

14. In the interest of avoiding prolixity, we shall refrain from recording the arguments before us in unnecessary detail. Instead, we shall begin our analysis by laying out the crux of the arguments of learned Senior Counsel for the Respondent, who has submitted that the Government has the right to devise whatever policy it thinks expedient, and the Court should only interfere if the policy is mala fide or the measures proposed are ex facie so extraneous to the object of the policy that no reasonable person would have resorted to the same. Furthermore, since trade in and sale of liquor is the exclusive privilege and preserve of the Government, it has the freedom to decide whether to part with its privilege and to what extent it should do so. It has also been submitted that the end goal of the impugned policy is for Kerala to become liquor-free. This does not have to be achieved in one fell swoop, but can be introduced in whatever piecemeal manner the Government reasonably sees fit. In fact, the State has been taking steps to this effect for decades, and has been endeavouring to reduce the consumption of alcohol in public since 1992. The State should be allowed to experiment to see which version and variation of its policies achieves the best result. It may well choose to revoke an unsuccessful policy at some later date. To make such policies is within the power of the State, and in the face of the current ground reality, even a policy which achieves only a partial reduction in the amount of alcohol consumed in the State would be considered a success for the State.

15. The State's policy to achieve a liquor-free Kerala has three constituents. The first is regarding manufacture. Manufacture is no longer in private hands, and no licenses have been given since 1999. There is only one Government distillery in the State, thus giving the State the necessary control. Secondly, wholesale and retail supply has been under the control of the State since 1984. The Government has taken steps to curb consumption by reducing the number of FL-1 shops by over 10 per cent, from 384 to 332, between 2014 and 2015. The third element, which is pertinent on the facts before us, is regarding consumption which is in alarming proportion in Kerala especially when compared to other States. The Table produced below is relevant in understanding the consumption trends in the State. As much as 80 per cent of the sale of alcohol is through the State monopoly outlets possessing FL-1 licences, aggregating Rs.6260/- crores in 2012-13. In stark contrast, the smallest percentage of sales is in Five Star hotels.

	2010-2011		2011-2012		2012-2013	
Category	Value in Crores	%	Value in Creores	%	Value in Crores	%
5 Star	2.25	0.04	9.18	0.13	6.32	0.08
4 Star	13.58	0.21	15.81	0.22	33.26	0.4
3 Star	448.71	7.09	539.12	7.35	644.19	7.76
2 Star	150.31	2.38	171.63	2.34	195.73	2.36
U N STARRED	854.8	13.5	955.39	13.03	1126.23	13.56
FL-1 SHOPS	4823	76.21	5612	76.53	6260	7539
HERITAGE	4.93	0.08	8.04	0.11	12.34	0.15
CLASSIFIED	29.89	0.47	19.77	0.27	24.55	0.29
TOTAL	6328.75	100	7332.13	100	8303.65	100

16. In its attempt to reduce the consumption of alcohol in Kerala, the Government has decided to curb public drinking. This is enshrined in Section 15C of the Abkari Act, which is laid out below for the facility of reference:

> "15C. **Consumption in public places**. - No person shall consume liquor in any public place unless consumption of liquor in any such place is permitted under a license granted by the Commissioner.
>
> Explanation I. - For the purpose of this section, "public place" means any street, Court, Police Station [or other public office or any club] or any place of public amusement or resort or on board any passenger boat or vessel or any ["public passenger or goods vehicle"] or dining or refreshment room in a restaurant, hotel, rest-house, travellers bungalow or tourist bungalow where different individuals or groups of persons consume food but shall not include any private residential room."

Rule 13(3) of the Abkari Rules is thus an exception to Section 15C, for the purpose of tourism. The situation before us, then, is not as simple as the Constitutional rights of hotels of Four Star and below classifications being violated because of a policy granting FL-3 licenses only to Five Star hotels. The question is whether the policy to ban consumption of alcohol in public or the exception carved out of this policy in favour of Five Star hotels is violative of the rights under Article 14 and Article 19 of hotels of Four Star and below classifications.

17. The Appellants have submitted that their rights under Article 14 have been violated. It is trite law that Article 14 allows for reasonable classifications, where the classification fulfils the dual criteria of being based on a reasonable differentia which has a nexus with the object sough to be achieved. The Appellants have submitted that there is no intelligible differentia in the creation of classes, on their predication that Four Star and Five Star hotels form one homogenous class. It has been argued that this Court in Surendra Das came to a finding that Four Star and Five Star hotels are in a different category than those with a lower classification; that the Tourism Department imposes an obligation on both Four Star and Five Star hotels to have a bar; that the requirements for classification as Four Star and Five Star are very similar. It has also been submitted that no empirical evidence has been adduced by the State to show that the degree of harm caused by Four Star and Heritage hotels is different from that of a Five Star, thereby justifying the disparate and differential treatment between them. Reliance has been placed on the decision on the Nine-judge bench in In Re: The Special Courts Bill, 1978 which held that "all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is substantially the same." We have already discussed this landmark exposition of Constitutional law above. It has also been argued that since the object of the policy pertains to the situs of drinking, the State can distinguish between public and private places, but not between public places. Furthermore, the Explanation to Section 15C of the Abkari Act, in its clarification of what constitutes a public place, makes a class of all the public places listed therein. Hotels are thus included in the category of public places. In making an exception for only Five Star hotels, the Government is engaging in sub-sub-classification, which amounts to hostile discrimination. Additionally, the class created under Section 15C was created by an Act, and cannot be altered under a rule making power. The classification at hand is based on social and economic class, as there is a clear distinction between the expense and resultantly the clientele of the hotels that have been allowed FL-3 licenses and those that have not. Therefore, a strict scrutiny test must be applied, and the Government must be asked to provide a rigorous, detailed explanation in this classification. As was elucidated in *Ashok Kumar Thakur v. Union of India*[8] when discrimination is based on class, it is more pernicious and needs careful judicial enquiry.

18. The Appellants before us have also argued that the subject categorization has no reasonable nexus with the object sought to be achieved. Since the purpose is to achieve prohibition albeit in a staggered and piecemeal process, this cannot be achieved while there are no limits on the number of FL-1 shops or the number of Five Star Hotels. The intention of

the Government is facially financially driven, as while it is denying FL-3 licenses to hotels with Four Star and below classifications, it is improving the infrastructure in FL-1 shops, all of which are State owned. The previous clientele of the hotels that lost their FL-3 licenses are now frequenting these shops.

19. The Appellants have further contended that the policy suffers from the vice of arbitrariness, which is antithetical to equality. The One Man Commission Report and the Tax Secretary's Report have not been taken into consideration, as is evident from the fact that the suggestions therein have not been incorporated and no explanation has been given for this. Mere lip service was paid to the One Man Commission Report. As was held in *Reliance Airport Developers Pvt. Ltd. v. Airports Authority of India and Ors*[9]. if a policy maker leaves out important factors, this is a ground to contend unreasonableness. The failure to consider the One Man Commission Report before passing the impugned policy also went against the instructions of this Court in Surendra Das. Thus the impugned policy was arbitrary, unreasoned and procedurally unsound. Furthermore, it was contended that reissuance is a matter of right. At the time of applying for a license, the chance of reissuance is a consideration. The procedure for a renewal and for a fresh application are different. More significantly, the State, before this Court in Surendra Das, submitted that renewal is a matter of right, and it was held in B.Six Hotels that license holders have a vested right. Finally, it has been argued that the burden of proof is on the person seeking to deviate from equality, i.e. the Respondent State, since aprima facie case of discrimination is made out.

20. The Respondent, on the other hand, has contended that the classification has been based on a reasonable differentia. In both B.Six Hotels and Surendra Das, classification based on Star gradation has been accepted by this Court. This classification was not created by the Respondent State, but is a clear classification process with specifically laid out requirements. In response to the arguments of the Appellants, it was contended that in Surendra Das, the differentia or absence of it in the case of Four Star and Five Star hotels was not in issue and therefore this issue is at large. In fact, in the course of submissions in Surendra Das, the Respondent had made bold that it intended to prohibit the grant of FL-3 licenses even to Four Star hotels. According to Khoday, the State cannot discriminate between people who are qualified to carry on trade in liquor once it is allowed by the State. Since only Five Star hotels are qualified, the State would be at fault if it discriminated between different Five Stars hotels, and this would amount to a classification without reasonable differentia. However, the facts at hand are entirely different. Regarding the argument that in light of Section 15C, the classification herein amounts to sub-sub-classification, the Respondent has argued that the Explanation was a definition clause and merely listed the places that come under the umbrella of "public place". It did not create a class in any way.

21. It was contended that the policy did have a reasonable nexus with the object sought to be achieved, as the object of the policy, as enshrined in Section 15C, was to reduce the public consumption of liquor. An exception was made in the interest of tourism under Rule 13(3) in favour of Five Star hotels. By making liquor less easily and readily available for consumption in public, and by making it prohibitively expensive, this object would no doubt be achieved.

Additionally, the sections of society who were particularly at risk, such as the youth, would practically be compelled to abstain from public consumption of alcohol. The argument that liquor is still available for consumption in private was, it was argued, irrelevant, but nonetheless it was submitted that the State has reduced the number of FL-1 shops by over 10 per cent in the past year.

22. The Respondent contended that the policy is not arbitrary. The reason for refusing to grant FL-3 licenses to Four Star hotels is the fear that all the Three Star establishments in the State will try to get upgraded to Four Stars. Furthermore, all relevant documents were taken into consideration. There was no obligation on the State to accept the submissions of the One Man Commission or the Tax Secretary. It simply had to take their reports into consideration, which it did. This is evidenced by the fact that a number of the suggestions in the One Man Commission were implemented. The contention that renewal is matter of right was rejected. It was argued that it is, in fact, a privilege, since there can be no legitimate expectation in the business of liquor, which is res extra commercium. It was argued that the footprint of Article 14 would be narrower because of the pernicious nature of the activity than it would have been for a legitimate trade. Finally, it was submitted that constitutionality is presumed, so the burden of proof is on the person alleging that their rights under Article 14 have been violated.

23. The next ground for challenge has been under Article 19. Learned Senior Counsel for the Appellants, Mr. Aryaman Sundaram, has sought to argue that a right under Article 19(1)(g) exists in the business of liquor. In his detailed elucidation of the decision in Khoday, he has contended that the State is given three options. The first is prohibition, the second is a State monopoly in manufacture or trade or both in potable liquor, and the third, which is similar to the case at hand, is that the State allows private individuals into this business, in which event everyone would have a right to partake in it. Reliance was placed on the following paragraphs of Khoday:

> "55. The contention that if a citizen has no fundamental right to carry on trade or business in potable liquor, the State is also injuncted from carrying on such trade, particularly in view of the provisions of Article 47, though apparently attractive, is fallacious. The State's power to regulate and to restrict the business in potable liquor impliedly includes the power to carry on such trade to the exclusion of others. Prohibition is not the only way to restrict and regulate the consumption of intoxicating liquor. The abuse of drinking intoxicants can be prevented also by limiting and controlling its production, supply and consumption. The State can do so also by creating in itself the monopoly of the production and supply of the liquor. When the State does so, it does not carry on business in illegal products. It carries on business in products which are not declared illegal by completely prohibiting their production but in products the manufacture, possession and supply of which is regulated in the interests of the health, morals and welfare of the people. It does so also in the interests of the general public under Article19(6) of the Constitution.

> 56. The contention further that till prohibition is introduced, a citizen has a fundamental right to carry on trade or business in potable liquor has also no merit. All that the citizen can claim in such a situation is an equal right to carry on trade or business in potable liquor as against the other citizens. He cannot claim equal right to carry on the business against the State when the State reserves to itself the exclusive right to carry on such trade or business. When the State neither prohibits nor monopolises the said business, the citizens cannot be discriminated against while granting licenses to carry on such business. But the said equal right cannot be elevated to the status of a fundamental right."

Khoday also held that all rights under Article 19(1) of the Constitution are not absolute, as they are qualified by the respective clauses (2) to (6) of Article 19. Business in liquor is further regulated by the rigours of Article 47. However, the categorization of dealing in liquor as a "qualified fundamental right" cannot be interpreted to indicate that a right under Article 19(1)(g) does not arise. This is in line with the previous Five-Judge bench decision in Krishan Kumar Narula, which, as we previously discussed, returned the opinion that a citizen can have a right to deal in liquor, subject to reasonable restrictions in the public interest. Thus since Five Star hotels are given a right to deal in liquor, all other categories of hotels can claim on the grounds of Article 19(1)(g), subject to the reasonable restrictions allowed by Article 19(6). It has been contended that the restrictions imposed herein are not reasonable, for various reasons, including that the relevant material has not been considered so the restriction was arbitrary and unreasoned. The Division Bench, while overturning the finding of the Single Judge that the relevant materials were not considered, held that "we cannot assume that the Government did not consider the report at all." The Appellants contend that an assumption that the materials were considered merely because nothing on the record definitively says that they were not is erroneous.

24. We disagree with the submissions of the Respondents that there is no right to trade in liquor because it is res extra commercium. The interpretation of Khoday put forward by Mr. Sundaram is, in our opinion, more acceptable. A right under Article 19(1)(g) to trade in liquor does exist provided the State permits any person to undertake this business. It is further qualified by Article 19(6) and Article 47. The question, then, is whether the restrictions imposed on the Appellants are reasonable.

25. We have had the privilege and indeed the pleasure hearing the extremely erudite arguments of a galaxy of senior counsel on both propositions on the interpretation of our Constitution and the laws pertaining to the right to carry on trade or business in potable liquor by this Court. In Krishan Kumar Narula, the Constitution Bench was of the opinion that dealing in liquor is a legitimate business, although the State can impose reasonable restrictions. A few years later, however, in Khoday, the concept of res extra commercium came to be accepted and applied to the business of manufacture and trade in potable liquor. This Court, however, did not place any embargo or constraints on the State to transact this business. History has painstakingly made it abundantly clear that prohibition has not succeeded. Therefore strict state regulation is imperative. The State of Kerala had in the past

forayed into prohibition, but found it to be unimplementable. Thereafter, keeping in mind the heavy consumption of alcohol within the territory, it has experimented with other measures to user temperance if not abstemiousness. So far as this trade is concerned, Article 47 of the Constitution places a responsibility on every State Government to at least contain if not curtail consumption of alcohol. The impugned Policy, therefore, is to be encouraged and is certainly not to be struck down or discouraged by the Courts. How this policy is to be implemented, modified, adapted or restructured is the province of the State Government and not of the Judiciary. The consumption of tobacco as well as liquor is now undeniably deleterious to the health of humankind. Advertising either of these intoxicants has been banned in most parts of the world, the avowed purpose being to insulate persons who may not have partaken of this habit from being seduced to start. Banning pubic consumption of either of these inebriants cannot be constrained as not being connected in any manner with the effort to control consumption of tobacco, or as we are presently concerned, with alcohol. Vulnerable persons, either because of age or proclivity towards intoxication or as a feature of peer pressure, more often than not, succumb to this temptation. Banning public consumption of alcohol, therefore, in our considered opinion, cannot but be seen as a positive step towards bringing down the consumption of alcohol, or as preparatory to prohibition.

26. A concerted effort has been made before us, as has been done several times before in this Court, to assail and attack the impugned State policy on the anvil of Article 14 of the Constitution. To meet the tests of this Article, i.e. the right to equality, there has to be intelligible differentia in the classification or the categorization that has been carved out either by the Legislation or by the State policy has to be discernable. So far as the State of Kerala is concerned, steady progression in this regard is perceptible inasmuch as it had started by placing a ban on the consumption of alcohol firstly on un-starred hotels, followed by Two Star hotels, which received the unqualified imprimatur of this Court in B.Six Hotels. Encouraged and emboldened by this decision, the Government thereafter placed a ban on Three Stars hotels, which was again assailed in Court on the predication that a ban exempting Four Star, Five Star and Heritage hotels created a hostile and unfair discrimination. There was another element in this litigation, namely that those who had received licences were found to possess vested rights towards their renewal. There was also a challenge to the distance criteria prescribed by the State. All these grounds of assailment did not find favour yet again with the Co-ordinate Bench in Surendra Das. We are not impressed by the argument that this Court had reached a specific finding to the effect that Four Star and Five Star hotels formed a homogeneous class which brooked no further segregation therein. That was not an issue which fell to be decided in Surendra Das. An observation made in passing or obiter has persuasive value but is not binding on us. We appreciate that even at this stage it has been clarified on behalf of the State of Kerala that they intend to prohibit public consumption of alcohol even in Four Star and Heritage hotels. We cannot also lose sight of the fact that it is not the State which has imposed the classification of Star gradation of hotels. This is done by the Ministry of Tourism, which in turn is further guided by the criteria established in the hospitality trade. Placing a moratorium on all hotels other than Five Star hotels, therefore, is not a violation of Article 14 of the Constitution. The argument on behalf of the Appellants pertaining to impermissibility of sub-classification on the grounds that

Section 15C of the Abkari Act creates a composite class of public places is not acceptable to us. The Explanation to this Section endeavours to include through iteration all public places. Its intent and purport is not to exclude some places; it cannot be read as a comprehensive definition; it is more of an illustration. At this juncture, it is nobody's case that some hotels ought to have been granted Five Star grade or that the State has prohibited anyone from endeavouring to upgrade their hotels from Four Star to Five Star. We have already noted that the least amount of sale of alcohol (0.08 per cent) occurs in Five Star hotels, which sale indubitably includes guest orders in room-service. We cannot therefore detect any arbitrariness or capriciousness either in the classification, nay the unique treatment given by the State to hotels possessing Five Star rating. The immediately succeeding question that arises is whether this classification has a reasonable nexus to the object sought to be achieved by the policy. In this regard, there can be no gainsaying that the prices/tariff of alcohol in Five Star hotels is usually prohibitively high, which acts as a deterrent to individuals going in for binge or even casual drinking. There is also little scope for cavil that the guests in Five Star hotels are of a mature age; they do not visit these hotels with the sole purpose of consuming alcohol. Learned Senior Counsel for the State Mr. Sibal has taken us at great length through the One Man Commission Report to establish that the State duly considered the recommendations therein and incorporated a number of them. It is trite that since the obligation on the State was to consider the Report, not to incorporate it in its entirety, no legal requirement has been transgressed. We agree with these submissions. The policy cannot, therefore, be written off as arbitrary or procedurally unsound.

27. We now move to the arguments predicated on Article 19 of the Constitution. We have already noted that the business in potable liquor is in the nature of res extra commercium and would therefore be subject to more stringent restrictions than any other trade or business. Thus while the ground of Article 19(1)(g) can be raised, in light of the arguments discussed with regard to Article 14, it cannot be said that the qualification on that right is unreasonable.

28. We have already expressed our view that it is not the State that makes classification of Star Rating so far as hotels are concerned. This is intrinsically modulated by the Tourism Industry and not by the State Government. It seems to us that the impugned policy of eradicating consumption of alcohol in public applies to all stakeholders without exception. However, thereafter a relaxation or exception, in the interest of tourism, has been forged in favour of Five Star hotels alone so far as the drive against public consumption of liquor is concerned. In other words, were it not for considerations of tourism, this exception in favour of Five Star Hotels may have been struck down. As already noted, Courts should be chary from interfering in policy matters, by infusing or imposing its assessment of the policy. The Court may well opine that there is close similarity between Five Star and Four Star and Heritage Hotels with regard to foreign clientele; but that segregation or selection is the preserve of the State Government. This is altogether different from viewing the position from the stand point of creating a classification in favour of Five Star hotels. The State can draw support from Rule 13(3) which postulates that special measures for the promotion of tourism can be ordained by the State. We cannot subscribe to the view that this Rule violates Section 15C of the Abkari Act.

29. We also note what is certainly a strong criticism to the State policy on alcohol, namely, that FL-1 sales are a State monopoly and result in almost 80 per cent of the sales in the State of Kerala. The State has asserted that in keeping with its objective of bringing down alcohol sale it has devised and implemented a 10 per cent cut in the number of FL shops. This assertion of the State has been contested on the grounds that the sales have not reduced as a result, but we find no reason to disagree or doubt the bona fides of the State. The Court cannot be blind to the fact that a social stigma at least as far as the family unit is concerned still attaches to the consumption of alcohol. Free trade in alcohol denudes family resources and reserves and leaves women and children as its most vulnerable victims. Purchasing alcohol from a FL-1 shop would entail consuming it under the reproachful gaze of the dependants, especially the female members of the family. This is certainly a discouragement to regular and excessive consumption of alcohol. We must accept that that the possibility exists that rooms may be rented in Three and Four Star hotels, where alcohol can be brought from FL-1 shops and then consumed. However, this does not constitute public consumption, and therefore is not fatal to the besieged State's policy. We must not lose sight of the fact that the challenge to this policy in respect of Three Star hotels and below has been repulsed by this Court and we see no reason to depart from the path traversed by this Court in B.Six Hotels and thereafter in Surendra Das.

30. There has been abundance of litigation on the question of the Courts' interference in State policy. Judicial review is justified only if the policy is arbitrary, unfair or violative of fundamental rights. Courts must be loathe to venture into an evaluation of State policy. It must be given a reasonable time to pan out. If a policy proves to be unwise, oppressive or mindless, the electorate has been quick to make the Government aware of its folly. As was recently held by a Three-judge bench of this Court in *Census Commissioner v. R. Krishnamurthy*[10]

> "From the aforesaid pronouncement of law, it is clear as noon day that it is not within the domain of the courts to embark upon an enquiry as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded ipse dixit offending the basic requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the Court is not expected to sit as an appellate authority on an opinion."

We find no illegality or irrationality with the intention of the State to clamp down on public consumption of alcohol. The One Man Commission Report has been considered, so the policy does not suffer from the vice of arbitrariness. In these circumstances, it is not for the Appellants to argue or for us to hold that the goal of prohibition would be more likely to be met by reducing the number of FL-1 shops or by introducing any other measure. As was held in *Balco Employees' Union (Regd.) v. Union of India and Ors*[11]. in a democracy, it is the prerogative of the elected Government to implement and follow its own policy, even if this

adversely affects some vested interests, and the Court may not strike down a policy "at the behest of a Petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical."

31. Nonetheless, we must express our distress at the allegations made, not without some substance, that Five Star hotels have opened out some of their premises for consumption of liquor not only at depressed rates but also in surroundings which are not commensurate to their Five Star ratings. This may be a good and sufficient reason to denude these Hotels of their Five Star gradation. Such malpractice will have to be immediately erased by the State, as its failure to do so it will only invite further litigation on the grounds that the policy to prohibit public consumption of alcohol is only cosmetic and partisan. As in the case of Five Star hotels violating the ambiance which they portray by enabling drinking in specially created bars at lower prices, the unregulated permission to consume beer and wine throughout the State by freely granting FL-11 licenses also is extremely difficult to appreciate. This is particularly problematic in light of the finding of the One Man Commission that beer is the preferred drink among the youth. The argument of the Respondent State is that allowing public consumption of liquor of a lower alcohol content is acceptable as such liquor is less likely to lead to intoxication or addiction and less harmful to the health of the consumer. This assessment may be misplaced. If the sale of beer and wine as a consequence of grant of FL-11 licenses discloses an increase or if there is a trend towards serving beer of a higher alcohol content, the State will have to review its stand, failing which it would inexorably invite further litigation. This curial warning also applies to any laxity in policing or ensuring that no person below the permissible age is allowed to consume alcohol in public. Additionally, we must note that thousands of workers at bars that lost their FL-3 licenses have been rendered unemployed as a result of the impugned policy, leading to over a dozen suicides. The State has imposed a 5 per cent cess on liquor sold in FL-1 shops for the purpose of rehabilitation of these workers. However, it has been argued before us that the amount mobalised by this cess is not being properly implemented. If this is indeed the case, the High Court may be approached to address this grievance. It does not affect the legality of the policy impugned before us, but there is no doubt that these workers do have a right to be rehabilitated. The State may be sanguine in its assessment of the success of the impugned policy, but it must be given a chance to combat the rise in alcohol.

32 In this analysis we are unable to find reason or justification in accepting these Appeals. The impugned Judgment is founded on the strength of previous decisions of this Court. As we have already recorded, we had the great pleasure of hearing extremely erudite arguments from the learned Senior Advocates for the Appellants. The Appeals are dismissed and the impugned Judgment is upheld. The parties shall bear their respective costs.

Judgment Referred.

[1]*(2010) 5 SCC 0186*
[2]*(2014) 3 SCALE 0421; AIR 2014 SC 2762*
[3]*(1978) 3 SCC 0558*

[4]*AIR 1967 SC 1368*
[5]*(1995) 1 SCC 0574*
[6]*(1979) 1 SCC 0380*
[7]*(2013) 8 SCC 0519*
[8]*(2011) 12 SCC 0787*
[9]*(2006) 10 SCC 0001*
[10]*(2015) 2 SCC 0796*
[11]*(2002) 2 SCC 0333*