

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO. 5829 OF 2006

STATE OF KERALA & ORS.

Appellant (s)

VERSUS

G.S. KESAVA MOORTHY & ANR.

Respondent(s)

(With office report)

Date: 18/05/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE DIPAK MISRA  
(VACATION BENCH)

For Appellant(s) Mr. Jogy Scaria,Adv.

For Respondent(s) Mr. M.K. Michael,Adv.(N/P)

UPON hearing counsel the Court made the following  
O R D E R

The appeal is allowed in terms of the  
signed order.

(VINOD LAKHINA)  
Court Master

(M.S. NEGI)  
Court Master

(SIGNED ORDER IS PLACED ON THE FILE)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5829 OF 2006

STATE OF KERALA & ORS.

...APPELLANTS

VERSUS

G.S. KESAVA MOORTHY & ANR.

...RESPONDENTS

ORDER

This appeal has been preferred against the  
judgment and order dated 23rd March, 2005, in  
W.A.No. 515 of 2001, passed by the High Court of  
Kerala at Ernakulam.

It is stated at the Bar that the counsel engaged by respondent No.2 is dead and despite notice to the said respondent to engage another counsel is served, no counsel has been engaged. Respondent No.1 is also served with the notice. But no one has put in appearing on his behalf. It appears that the respondents are no more interested to defend the judgment impugned before us.

The facts and circumstances giving rise to this appeal are that Molasses Control Order, 1961, was rescinded by the Central Government vide order dated 10th June,1993. The respondents were granted

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license on 21st September, 1995, to manufacture spirits using tapioca with the understanding and clear stipulation that the raw materials would be non-molasses and preferably it may be tapioca. However, the respondents made representation on 16th July, 1999, seeking permission to use molasses as a raw material. As it was refused, they approached the High Court and the High Court vide order dated 18th August, 1999, directed the authorities under the statute to consider the representation of the said respondent. The Commissioner vide order dated 6th November, 1999, made a recommendation in favour of the respondents. However, the said representation stood rejected vide order dated 3rd December, 1999, being against the policy of the State Government. Being aggrieved, the respondents again approached the High Court. In between, there had been various stages of litigation and ultimately the High Court granted the relief sought for by the respondents.

Being aggrieved, the appellants filed W.A. before the High Court and the Division Bench of the High Court has dismissed the W.A. without giving any reason whatsoever and not dealt with the contentions raised by the State before it.

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In the facts and circumstances of the case, as the Division Bench of the High Court while deciding the Writ Appeal has not given any reason whatsoever, nor dealt with the contentions raised by the State, we allow the appeal; set aside the impugned judgment and order and remand the case back to the High Court to decide afresh. Till the matter is decided by the High Court, interim order passed by this Court on 10th March, 2006 shall continue to be in force.

....., J.  
(DR. B.S. CHAUHAN)

....., J.  
(DIPAK MISRA)

NEW DELHI  
MAY 18, 2012