

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12407 of 2015

S.Murugan

... Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The District Manager,
TASMAC, Thiruvallur East,
IMFS Depot, Thirumazhisai,
Thiruvallur District.
3. The Senior Regional Manager,
TASMAC,
No.735, Anna Salai,
4th Floor, Chennai - 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records in respect of the impugned order issued by the second respondent vide his proceedings in Sh.Mu.Ka.No.A9/0915/2015, dated 21.04.2015 and quash the same and consequently direct the respondents to permit the petitioner to run the Shop No.8882 in Door No.1/694, Valayapathi Street, Mugapear East, J.J.Nagar, Chennai, based on the existing licence and pass such further orders.

For Petitioner :Mr.E.Vijay Anand
For R1 :Mr.A.Kumar, Spl.GP
For R2 & R3 :Mr.S.Muthuraj

ORDER

The present writ petition is directed against the impugned order dated 21.04.2015 passed by the second respondent / the District Manager, Thiruvallur, in and by which, the second respondent cancelled the license granted to the shop of the petitioner situated at Door No.1/694, Valayapathi Street, Mugapear East, Chennai. The said license granted on 18.08.2014 commenced from 01.08.2014, would expire on 31.07.2015.

2. It is the claim of the petitioner that the petitioner has been running the shop from the year 2004 onwards and it has been periodically extended in the name of the petitioner till 2015. However, to the shock and surprise of the petitioner, the respondent closed the petitioner's shop on 21.04.2015, that too without any notice to him. Therefore, when the petitioner approached the respondents, they stated that on instruction from the third respondent, they were advised to close the shop of the petitioner and thereupon, they have issued a copy of the impugned order. Thus, the present writ petition has been filed on the ground of violation of principles of natural justice, since no opportunity was granted to the petitioner before passing the impugned order. It is further submitted that from the date of issuance of the impugned order, the petitioner was not permitted to run the shop, however, as the period expires only on 31.07.2015, if the petitioner is allowed with a direction to the respondent not to interfere with the petitioner's shop, till the completion of the license period, no prejudice would be caused to the respondents.

3. It is the claim of the respondents that after the issuance of licence to the petitioner for the period from 01.08.2014 to 31.07.2015, several representations have been received from the general public in the locality for the continuance of TASMAL shop. Moreover, one FIR bearing No.735/14 was filed against one Kumaran and the petitioner for selling liquors in the bar, which is against the tender conditions. Thus, noticing such misconduct of the petitioner, the respondents rightly cancelled the license issued to the petitioner by way of passing the impugned order, therefore, he pleaded, no fault can be found with the impugned order.

4. This Court hardly finds any merit or justification in the impugned order passed by the second respondent. A mere reading of the impugned order shows that the second respondent cancelled the licence granted to the petitioner's shop only on the ground of telephonic instruction received from the third respondent to close down the shop and that there was no mention made in the impugned order for issuance of notice before the cancellation. Again, though the second respondent has filed a counter affidavit in support of the impugned order, nowhere it is stated in the counter affidavit as to whether the petitioner was afforded with reasonable opportunity of personal hearing or issuance of notice for cancellation of licence granted to him. Thus, it is a clear case of violation of principles of natural justice. Hence, the impugned order is liable to be set aside. Accordingly, this Court, by setting aside the same, directs the respondents to permit the petitioner to run his business till the expiry of the licence period i.e. on 31.07.2015.

5. In fine, the writ petition stands allowed with the above direction. No Costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Thiruvallur District,
Thiruvallur.
 2. The District Manager,
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Thiruvallur District.
 3. The Senior Regional Manager,
TASMAC,
No.735, Anna Salai,
4th Floor, Chennai - 600 002.
- + 1 cc to Mr.S.Muthuraj, Advocate, SR 34279
+ 1 cc to Mr.E.Vijay Anand, Advocate SR 34682
+ 1 cc to Govt.Pleader SR 34735

rv(co)
prk13/7

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