

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.07.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.1276 of 2014

1. Uzhaippor Urimal Iyyakkam,
(Registration No.CNI 3077/2005)
Rep., by its Chennai President R.Mohan,
No.15, Natesan Street,
Varadharajapuram, Ambattur,
Chennai - 600 053.

2. G.Pugazvendan ... Petitioners

Vs

1. The State of Tamilnadu
Rep., by its Commissioner of Prohibition & Excise,
Home, Prohibition Excise Department,
Chennai - 600 005.

2. The District Collector,
Collectorate, Thiruvallur.

3. The Tamil Nadu State Marketing Corpn., Ltd.,
Rep., by its Managing Director,
Thiruvallur District.

4. The Tahsildar,
Ambattur,
Chennai - 53.

5. An.Anil Kumar .. Respondents

R5 impleaded as per order
dated 09.12.2014 in M.P.No4
of 2014 in W.P.No.1276 of 2014.

Prayer:-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to forbear the respondents more particularly 3rd respondent, their men, agents and representations from opening/running Liquor Shop/Bar in GNG street and Kumarasamy street junction (intersection) or any other place in and around Varadharajapuram, Ambattur, Ambattur Railway Station.

For Petitioner .. Mr.V.Govardanan
For Respondents .. Mr.R.Vijayakumar AGP for RR1, 2 & 4
Mr.S.Muthuraj for R3
Mr.S.Arivazhagan for R5

O R D E R

Heard the learned counsels appearing on either side and perused the materials placed on record. By consent of the learned counsels on either side, the writ petition is taken up for final disposal.

2. The first petitioner claiming to be a registered trade union and the second petitioner being the resident of Varadharajapuram, have filed this Writ Petition objecting to the location of TASMAC shop in Ambattur area.

3. The petitioner would state that the place, where the TASMAC shop is proposed to be located, is in a very congested area in Ambattur Old Town and there are about 15 streets and 600 to 800 families are residing there and it is situated near the Ambattur Railway Station and apart from causing nuisance, the shop if located in the proposed location, it would violate the distance Rule. In this regard, copies of several representations and materials have been placed before this Court including the Google map to show that the location of the proposed shop is in a busy area and the respondents should not locate the shop in the said locality. That apart, the news item which appeared in the Tamil and English dailies have been annexed to show that the residents of the area have been protesting to the proposed location of the TASMAC shop.

4. The learned counsel appearing for the petitioner also referred to the report submitted by the Revenue Divisional Officer, Ambattur, dated 10.01.2014, stating that if the TASMAC shop is located in the said place where it is proposed, it would result in law and order problem.

5. The private respondent, who appear to be interested in running a bar, who has impleaded himself in the Writ Petition, seeks to contend that the petitioners are interested in establishing a bar in the proposed area and the Writ Petition itself is on account of some business rivalry.

6. This contention raised by the fifth respondent is not substantiated by any affidavit or material and cannot be accepted in the light of the fact that the first petitioner is the Trade Union and the second petitioner is a resident of the area. Therefore, the objection raised by the fifth respondent stands rejected.

7. In my view, the District Collector cannot ignore the protest of the local public in opening a liquor shop in an area, which is said to be densely populated and busy area and also located near a Railway Station. Even assuming any orders of approval were granted to the TASMAC to locate the shop in the proposed location, such approval cannot be the sole reason to ignore the protest of the local residents. Therefore, it is a fit case where the District Collector should consider the matter afresh without being influenced in any manner by any earlier decision taken by him. While doing so, the petitioners shall be afforded an opportunity to place their objections. The District Collector shall take a conscious decision after conducting a spot inspection on any working day, preferably a surprise inspection so as to assess the situation. The petitioners are also be heard in the matter before a decision is taken. The above direction shall be complied with, within a period of six weeks from the date of receipt of a copy of this order. The interim order granted by this Court shall continue till the orders are passed by the District Collector in terms of the above direction.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

pbn

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Prohibition & Excise,
State of Tamil Nadu,
Home, Prohibition Excise Department,
Chennai - 600 005.
2. The District Collector,
Collectorate, Thiruvallur.
3. The Tamil Nadu State Marketing Corpn., Ltd.,
Rep., by its Managing Director,
Thiruvallur District.
4. The Tahsildar,
Ambattur,
Chennai - 53.

+ 1 cc to M/s.S.Arivazhagan, Advocate 37176

+ 1 cc to Mr.S.Muthuraj, Advocate SR 37183

+ 1 cc to M/s.Row and Reddy, Advocate SR 36986

rsi(co)
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