

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.14682 of 2015

and

M.P.No.1 of 2015

Neelamalalai Enterprises

Pvt.Ltd Rep.by its Managing Director

Mr.R.Nanjan 5/263 Jackanarai Aravenu(PO)

Nilgiris 643 261.

... Petitioner

Versus

1. The Chairman,
Tea Board of India,
14, BTM Sarai Kolkatta.700 001.
2. The Executive Director,
Tea Board of India, Shelwood, Coonoor Club Road,
Post Box No.6, Coonoor.643 101, Nilgiris.
3. The Deputy Director of Tea Development,
Tea Board of India, Shelwood,
Coonoor Club Road, P.O.Box No.6,
Conoor.643 101, Nilgiris.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified Mandamus, calling for the records of the third respondent in Ref.No.6(145)TMCO/CNR/95/2977 dated 26.03.2015/27.03.2015 quash the same and consequentially direct the respondent to process the petitioners application as per the guidelines existing in the year 1997.

For Petitioner : Mr.A.Natarajan, Sr. Counsel
for M/s.A.Madhumathi

For Respondents : Mr.V.Parthiban (for R1 to R3)
for M/s.Paul and Paul

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner is the Managing Director of the petitioner Tea Company and according to them, they submitted an application on 14.05.1997 with all required documents to the Tea Board for issuance of license for manufacture of Tea and it was acknowledged by the Tea Board vide Ref.No.6 (140) TMCN /CNR/97/3098 dated 14.05.1997 and the petitioner company was issued with temporary licence from time to time and it was also participating in the auction held by the Tea Board. However, to the shock and surprise of the petitioner, without processing the application, which was submitted as early as 14.05.1997, the 1st respondent has passed the impugned order stating among other things that the petitioner was advised to submit a fresh application for registration of its tea manufacturing unit as per the new guidelines, which are available in the Board's website www.teaboard.gov.in and the petitioner was also informed that it is currently manufacturing and selling tea and was advised to stop tea manufacturing in its factory, immediately from the date of receipt of the letter and it may be resumed on receipt of registration certificate under TMCN 2003 from the Tea Board. The petitioner challenging the legality of the said order has filed this writ petition.

3. Mr.A.Natarajan, learned Senior counsel appearing for the petitioner would vehemently contend that though the application for issuance of license for manufacture of tea was submitted as early as on 14.05.1997 and it was also acknowledged by the 1st respondent Tea Board vide Ref.No.6 (140) TMCN /CNR/97/3098 dated 14.05.1997, they have not chosen to pass orders and the petitioner company was issued with temporary licence and accordingly, had manufactured and sold tea and also participated in the auction and nearly after 18 years, the impugned order came to be passed as a bolt from the blue.

4. Per contra, Mr.V.Parthiban, learned counsel appearing on behalf of the respondents, has drawn the attention of this Court to the counter affidavit and would submit that the 1st respondent Tea Board is a Statutory Board established under the Tea Act, 1953 and the statutory requirements in the form of Tea Waste (Control) Order, 1959, Tea Warehouse (Licensing) Order, 1989, Tea (Marketing) Control Order, 2003 and Tea (Distribution & Export) Control Order, 2005, have been promulgated by the Central Government by exercising the power conferred under sub-Sections (3) & (5) of the Tea Act, 1953 and as per Tea (Marketing) Control Order, 2003, no manufacturer shall carry on the activities of manufacturing tea after 90 days of the publication of the order, except for valid registration and the registration obtained earlier under Tea

(Marketing) Control Order, 1984, shall be deemed to be valid registration under the present order and any person aggrieved by any order regarding refusal for grant of registration, may within a period three months from the date of the receipt of the Order, appeal to the Central Government and the Central Government may after making such inquiry as it may think fit, confirm, reverse or modify such order within three months from the date of receipt of the appeal and admittedly, the petitioner without obtaining any licence either under Tea (Marketing) Control Order, 1984 or under the latest order viz., Tea (Marketing) Control Order, 2003, had manufactured and sold tea and also participated in the auction and this fact was brought to the knowledge of the Tea Board and appropriate action was taken, which culminated into the impugned order and prays for dismissal of the writ petition.

5. In response to the said submission, the learned senior counsel appearing for the petitioner would contend that de hors the result of the writ petition, the petitioner may be permitted to submit a fresh application under Tea (Marketing) Control Order, 2003, and the respondents may be directed to process the said application in accordance with law.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. It is a well settled position of law that when a statute prescribes certain things to be done in a particular manner, it should be done in that manner and not in any other manner and as rightly contended by the learned counsel for the respondents, various Control Orders have been promulgated by the Central Government in exercise of powers conferred under the Tea Act, 1953 and in terms of Tea (Marketing) Control Order, 2003, no manufacturer shall carry on the activities of manufacturing and selling of the tea after 90 days of the publication of the order except for valid registration and would further indicate that if the registration was obtained earlier, the same is deemed to be valid.

8. A careful scrutiny and perusal of the materials placed before this Court, would indicate that the petitioner had not got licence to manufacture tea even under Tea (Marketing) Control Order, 1984 and also not applied under Tea (Marketing) Control Order, 2003. Therefore, the 3rd respondent has rightly took a decision and he has issued the impugned order.

9. This Court, on a thorough application of mind is of the view that the interference is not warranted. Therefore, the writ petition is dismissed. However, the petitioner, if so advised, is at liberty to apply afresh under Tea (Marketing) Control Order, 2003 by paying necessary fees, enclosing relevant and necessary

documents within a period of four weeks from the date of receipt of a copy of this order to the 1st respondent and the 1st respondent on receipt of the same is directed to consider the application, in accordance with Tea (Marketing) Control Order, 2003, as expeditiously as possible and communicate the decision taken to the petitioner.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tea Board of India,
14, BTM Sarai, Kolkatta.700 001.
2. The Executive Director,
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Coonoor Club Road, P.O.Box No.6,
Conoor.643 101, Nilgiris.

+1cc to Mr.A.Madhumathi, Advocate, S.R.No.31138
+1cc to M/s.Paul & Paul, Advocate, S.R.No.31264

W.P.No.14682 of 2015

SV(CO)
CA(01/07/2015)

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