

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.Nos.24066 to 24084, 24478, 24479, 24561 to 24574,
 23626 to 23632, 23765, 23908 to 23911, 23972 to 23976,
 23912 to 23916, 23917 to 23922, 23834 to 23846, 23848 to 23857,
 24135 to 24150, 24215, 24237, 24412, 24423 of 2015
 MP.Nos.1 to 1, 2 to 2 and 3 to 3 of 2015

1. D.Balamurugan	Petitioner-WP.24066/2015
2. S.Punniyakoti	Petitioner-WP.24067/2015
3. A.Janarthanan	Petitioner-WP.24068/2015
4. V.Kumar	Petitioner-WP.24069/2015
5. V.M.Baskar	Petitioner-WP.24070/2015
6. V.Senthura Pandi	Petitioner-WP.24071/2015
7. M.Gandhi	Petitioner-WP.24072/2015
8. V.Senthura Pandi	Petitioner-WP.24073/2015
9. R.Balasundaram	Petitioner-WP.24074/2015
10.G.Sivakumar	Petitioner-WP.24075/2015
11.S.Prabu	Petitioner-WP.24076/2015
12.S.Umapathy	Petitioner-WP.24077/2015
13.S.Murugan	Petitioner-WP.24078/2015
14.P.Saravanan	Petitioner-WP.24079/2015
15.M.Moorthy	Petitioner-WP.24080/2015
16.S.Balaji	Petitioner-WP.24081/2015
17.K.Bharathi	Petitioner-WP.24082/2015
18.E.Vasudevan	Petitioner-WP.24083/2015
19.M.Gandhi	Petitioner-WP.24084/2015
20.Maragadavalli	Petitioner-WP.24478/2015
21.V.Suresh	Petitioner-WP.24479/2015
22.P.Madasamy	Petitioner-WP.24561/2015
23.S.Anantharamakrishnan	Petitioner-WP.24562/2015
24.K.Ravi	Petitioner-WP.24563/2015
25.K.Masilamani	Petitioner-WP.24564/2015
26.C.Satheesh Kannan	Petitioner-WP.24565/2015
27.S.Durgai Raj	Petitioner-WP.24566/2015
28.M.Mohamed Mustafa	Petitioner-WP.24567/2015
29.S.Murugan	Petitioner-WP.24568/2015
30.R.Vinoth Kumar	Petitioner-WP.24569/2015
31.S.Bala	Petitioner-WP.24570/2015

32.K.Kumar	Petitioner-WP.24571/2015
33.P.Krishnan	Petitioner-WP.24572/2015
34.J.Ashok	Petitioner-WP.24573/2015
35.J.Ramu	Petitioner-WP.24574/2015
36.M.Vadivel	Petitioner-WP.23626/2015
37.D.Perumal	Petitioner-WP.23627/2015
38.S.Krishnaraj	Petitioner-WP.23628/2015
39.R.Vijesh	Petitioner-WP.23629/2015
40.R.Annamalai	Petitioner-WP.23630/2015
41.A.Arokiasamy	Petitioner-WP.23631/2015
42.R.Nityanandam	Petitioner-WP.23632/2015
43.M.Murugesan	Petitioner-WP.23765/2015
44.M.Balamurugan	Petitioner-WP.23908/2015
45.S.Ettiyappan	Petitioner-WP.23909/2015
46.M.Raja	Petitioner-WP.23910/2015
47.S.Rajasekar	Petitioner-WP.23911/2015
48.T.Baskaran	Petitioner-WP.23972/2015
49.N.Anbazhagan	Petitioner-WP.23973/2015
50.R.Murthy	Petitioner-WP.23974/2015
51.D.Babu	Petitioner-WP.23975/2015
52.D.Babu	Petitioner-WP.23976/2015
53.J.Murali	Petitioner-WP.23912/2015
54.M.Regugopal	Petitioner-WP.23913/2015
55.G.Suresh	Petitioner-WP.23914/2015
56.R.Rajamani	Petitioner-WP.23915/2015
57.N.Thirunavukkarasu	Petitioner-WP.23916/2015
58.P.Jayaraj	Petitioner-WP.23917/2015
59.G.Balasubramaniam	Petitioner-WP.23918/2015
60.M.Vairavan	Petitioner-WP.23919/2015
61.A.Balamurugan	Petitioner-WP.23920/2015
62.D.Saravanakumar	Petitioner-WP.23921/2015
63.V.Selvam	Petitioner-WP.23922/2015
64.K.Chandra Sekaran	Petitioner-WP.23834/2015
65.M.Baskar	Petitioner-WP.23835/2015
66.M.Raja	Petitioner-WP.23836/2015
67.E.Sankar	Petitioner-WP.23837/2015
68.K.Sekar	Petitioner-WP.23838/2015
69.M.Kumar	Petitioner-WP.23839/2015
70.R.Sudharsan	Petitioner-WP.23840/2015
71.R.Dhanraj	Petitioner-WP.23841/2015

72.K.Kumaresan	Petitioner-WP.23842/2015
73.G.Selvi	Petitioner-WP.23843/2015
74.K.Kumar	Petitioner-WP.23844/2015
75.G.Vijaykumar	Petitioner-WP.23845/2015
76.A.Saranraj	Petitioner-WP.23846/2015
77.T.R.Mohan	Petitioner-WP.23848/2015
78.A.Srinivasan	Petitioner-WP.23849/2015
79.K.Kumaresan	Petitioner-WP.23850/2015
80.S.Vasu	Petitioner-WP.23851/2015
81.G.Rajendran	Petitioner-WP.23852/2015
82.S.Raju	Petitioner-WP.23853/2015
83.G.Janakar	Petitioner-WP.23854/2015
84.B.Rajasekaran	Petitioner-WP.23855/2015
85.S.Amul Raj	Petitioner-WP.23856/2015
86.R.Navaneethakrishna	Petitioner-WP.23857/2015
87.P.Dhamodaran	Petitioner-WP.24135/2015
88.S.R.Kandhappa Raman	Petitioner-WP.24136/2015
89.G.Senthil	Petitioner-WP.24137/2015
90.P.Dhamodaran	Petitioner-WP.24138/2015
91.V.Ramarathinam	Petitioner-WP.24139/2015
92.P.Somasundara Rao	Petitioner-WP.24140/2015
93.V.Nirmala Devi	Petitioner-WP.24141/2015
94.B.Thangamariappan	Petitioner-WP.24142/2015
95.P.Rajendran	Petitioner-WP.24143/2015
96.A.Elavarasan	Petitioner-WP.24144/2015
97.R.Muthuraj	Petitioner-WP.24145/2015
98.C.Nanthakumar	Petitioner-WP.24146/2015
99.R.Sathish Kumar	Petitioner-WP.24147/2015
100.C.Kennady	Petitioner-WP.24148/2015
101.R.Sankar	Petitioner-WP.24149/2015
102.G.Krishnamoorthy	Petitioner-WP.24150/2015
103.M.Chandran	Petitioner-WP.24215/2015
104.M.Kanagaraj	Petitioner-WP.24237/2015
105.M.Venkatesan	Petitioner-WP.24412/2015
106.K.M.Samy	Petitioner-WP.24423/2015

Vs

1. Tamil Nadu State Marketing Corporation Limited
by its Managing Director, Chennai-8

2. Tamil Nadu State Marketing Corporation Limited
by the Senior Regional Manager, Chennai-2

3. Tamil Nadu State Marketing Corporation Limited
by District Manager, Thiruvallur 602103

Respondents in all WPs

Prayer:- These Writ Petitions are filed under Article 226 of the Constitution of India, for the reliefs as stated therein.

- | | | |
|-----------------|---|---|
| For Petitioners | : | <p>1. Mr.M.Saravanakumar
(WP.Nos.24066 to 24084, 24478,
24479, 24561 to 24574 of 2015)</p> <p>2. Mr.A.R.L.Sundaresan, SC for
Mr.P.Rajkumar Pandian
(WP.Nos.23626 to 23632, 24237 of 2015)</p> <p>3. Mr.SP.Srinivasan
(WP.Nos. 23765, 23834 to 23846,
23848 to 23857, 24412 of 2015)</p> <p>4. Mr.R.Thirugnanam
(WP.Nos. 23908 to 23911,
23972 to 23976, 23912 to 23916,
23917 to 23922, 24423 of 2015)</p> <p>5. Mr.L.Chandrakumar
(WP.Nos.24135 to 24150, 24215 of 2015)</p> |
| For Respondents | : | <p>1. Mr.S.Muthuraj-TASMAC
(WP.Nos.24066 to 24084, 24478,
24479, 24561 to 24574 of 2015)</p> <p>2. Mr.Aravind Pandian, AAG for
Mr.S.Muthuraj-TASMAC
(WP.Nos.23626 to 23632, 24237 of 2015)</p> <p>3. Mr.S.Muthuraj-TASMAC
(WP.Nos. 23765, 23834 to 23846,
23848 to 23857, 24412 of 2015)</p> <p>4. Mr.S.Muthuraj-TASMAC
(WP.Nos. 23908 to 23911,
23972 to 23976, 23912 to 23916,
23917 to 23922, 24423 of 2015)</p> |

5. Mr.S.Muthuraj-TASMAC
(WP.Nos.24135 to 24150, 24215 of 2015)

ORDER

These Writ Petitions are filed to issue a Writ of Mandamus as well as Writ of Certiorarified Mandamus, directing the respondent/the District Manager, TASMAC, Tiruvallur District, to conduct re-tender in respect of the Petitioners' Bars attached to the TASMAC Wine Shops bearing Numbers, as mentioned below:-

1. No.9062 at No.37/1, Koil Padhagai Mukkiya Salai, Avadi, Chennai,
2. No.8723 at No.147, Solambedu, Thirumullaivoyal, Ambattur, Chennai-62,
3. No.8727, at Nagamammai Nagar, Opp. Murugappa Polytechnic, Thirumullaivoyal, Chennai,
4. No.8780 at No.8/1, Siva Sakthi Nagar, 60 Feet Road, Devi Nagar, Thirumullaivoyal, Chennai,
5. No.8726 at No.481-1, CTH Road, Thirumullaivoyal, Chennai-62,
6. No.9065 at No.3, Paruthipattu, Poonamallee Taluk, Chennai-54,
7. No.8910 at No.34, CTH Road, Ambattur, Chennai-53,
8. No.8903 at No.186, Red Hills Road, Pudhur, Ambattur, Chennai-53
9. No.8918 at No.78/111, Pudur I Main Road, Ambattur, Chennai-53
- 10.No.9086 at No.393, CTH Road, Pattabiram, Chennai-72
- 11.No.8916 at No.3, Red Hills, Pudhur, Ambattur, Chennai-53
- 12.No.8908 at MTH Road, Ambattur, Chennai-53
- 13.No.8719 at Kannigapuram, NM Road, Avadi, Chennai-54
- 14.No.8717 at No.15, CTH Road, Thirumullaivoyal, Chennai-62
- 15.No.8779 at No.48, Vasantham Nagar, PH Road, Avadi, Chennai-54
- 16.No.8925 at No.545, CTH Road, Pattabiram, Chennai-72
- 17.No.9056 at No.49, HVF Road, Avadi, Chennai-54
- 18.No.8777 at No.8, Lakshmi Nagar, PH Road, Chennai-54
- 19.No.9030 at No.560, CTG Road, Pattabiram, Thiruvallur
- 20.No.8737 at No.352, CTH Road, Thirunindravur, Thiruvallur
- 21.No.8731 at No.40, Kamaraj Nagar Main Road, Paruthipattu, Avadi, Chennai
- 22.No.8773 at No.142, PH Road, Avadi, Chennai
- 23.No.9182 at No.187/10, Thangal Kulakkarai, Pudur, Ambattur, Chennai
- 24.No.8920 at Red Hills road, Ambattur, Chennai-53
- 25.No.9168 at No.13/110, Devi Karumari Amman Nagar, Nerkundram

- Road, Mettukuppam, Chennai-107
- 26.No.8713 at Railway Station Road, Avadi, Chennai
- 27.No.8724 at No.287/1, CTH Road, Avadi, Chennai
- 28.No.8923 at No.493, CTH Road, Sekkadu, Pattabiram, Chennai-72
- 29.No.8719 at Kannigapuram, NM Road, Avadi, Chennai-54
- 30.No.8797 at No.14, Athipattu Main Road, Ambattur, Chennai-53
- 31.No.9142, at No.1, HVF Road, Avadi, Chennai-54
- 32.No.8795 at No.307, MTH Road, Ambattur, Chennai-53
- 33.No.8774 at No.346, CTH Road, Pattabiram, Chennai
- 34.No.8929 at No.25, New Kanniamman Nagar, Veerapuram, Avadi, Chennai-55
- 35.No.8720 at No.140, Kamarajar Salai, Avadi, Chennai-54
- 36.No.9181 at No.24, Indira Nagar, Sivaboothamedeu, Vanagaram, Chennai-106
- 37.No.8796 at No.5/1, Annai Nagar, 100 Feet Road, Korattur, Chennai-76
- 38.No.8705 at No.87, PH Road, Avadi, Chennai-54
- 39.No.8730 at No.29, Chetty Street, Kundrathur road, Kumananchavadi, Chennai-56
- 40.No.9146 at No.1, Alapakkam Main Road, Maduravoyal, Chennai-106
- 41.No.8845 at Plot No.8, Mogappair Road, Ambattur, Chennai-58
- 42.No.9059 at No.2/3, Kuppusamy Nagar, Senneerkuppam, Poonamalee, Chennai-56
- 43.No.8912 at No.164, MTH Road, Varadarajapuram, Chennai-53
- 44.No.8906 at No.87, Mounasamy Madam Street, Ambattur, Chennai-53
- 45.No.9186 at No.215, Justice Rathinavel Pandiyan Street, Nerkundram, Chennai
- 46.No.8905 at Door No.413, MTH Road, Ambattur, Chennai-53
- 47.No.9064 at No.278/1, Surya Garden, Poonamallee High Road, Kattupakkam, Chennai-56
- 48.No.8886 at No.PC/3-21, Mogappair West, Chennai-37
- 49.No.8890 at No.82, MTH Road, Mannoorpet, Padi, Chennai-50
- 50.No.8911, at No.112, Gandhi Nagar Main Road, Oragadam, Ambattur, Chennai
- 51.No.8907 at No.21, Sivananda Nagar, MTH Road, Ambattur, Chennai-53
- 52.No.8794 at No.187/198, MTH Road, Devar Thottam, Padi, Chennai-50
- 53.No.9169 at No.6277, TNHB, thiruverkadu Road, Ayapakkam, Chennai 77

54.No.8798 at No.10, Padikuppam Main Road, Gandhi Nagar,
Chennai-40
55.No.8909 at No.169, Venkatapuram, Ambattur, Chennai-53
56.No.8898 at No.25, Shanthi Nagar, II Main Road, Korattur, Chennai-
80
57.No.8851 at Door No.100, Alapakkam Main Road, Alapakkam,
Chennai-116

58.No.8885 at No.160, Red Hills Road, Puthur, Ambattur, Chennai-53
59.No.8894 at No.81, Tiruvallur Salai, Panneer Nagar, Mogappair,
chennai-50
60.No.8927 at 332/3, Alapakkam Main road, Maduravoyal, Chennai-95
61.No.9006, at No.675, CTH Road, Mannoorpet, Chennai-50
62.No.8837, No.42, MH Road, Moolakadai, Chennai-60
63.No.8769 at No.1, Meenakshi Amman Nagar, Mettukuppam Main
Road, Nerkundram, Chennai-87

64.No.9178
65.No.8930
66.No.8771
67.No.9035
68.No.8867
69.No.8792
70.No.8864
71.No.9060
72.No.9008
73.No.8785
74.No.8852
75.No.8799
76.No.9154

77.No.8828
78.No.8701
79.No.9131
80.No.8833
81.No.8859
82.No.9187
83.No.8921
84.No.8836
85.No.8865
86.No.8884

87.No.8933 at No.34, 200 feet road, MTH Salai, Ambattur, Chennai-53
88.No.8935 at No.594/3, Plot No.78, Bank of Baroda Street, Ambattur,
Chennai

- 89.No.8914 at No.9, Venkatramalu Street, Varadharajapuram, Ambattur, Chennai-53
- 90.No.8901 at No.35, MTH Road, Varadharajapuram, Ambattur, Chennai-53
- 91.No.8803 at No.865, TH Road, Tiruvottiyur, Chennai-19
- 92.No.8805 at No.240, TH Road, Ellaiaimman Koil Street, Tiruvottiyur, Chennai
- 93.No.8808 at No.703, TH Road, Tiruvottiyur, Chennai-19
- 94.No.8809 at No.44, Tulukkanam Street, TH Road, Tiruvottiyur, Chennai
- 95.No.8810 at No.22, Besant Road, Tiruvottiyur, Chennai-19
- 96.No.8812, at No.56, TH Road, Kaladipet, Tiruvottiyur, Chennai-19
- 97.No.8816 at No.19, South Mada Street, Ellaiaimman Koil, Tiruvottiyur, Chennai-19
- 98.No.8818, at No.310, Eakavlliamman Koil Street, Tiruvottiyur, Chennai
- 99.No.8819 at No.16, Rajiv Gandhi Nagar, Whimco Nagar, Chennai-19
- 100.No.8820 at No.19, Kanakkar Street, Tiruvottiyur, Chennai-19
- 101.No.8840 at No.640/3, PNT Quarters Road, Tiruvottiyur, Chennai-19
- 102.No.8938 at No.179, TH Road, Tiruvottiyur, Chennai-19
- 103.No.9173 at No.1/23, Subramaniyam Nagar, Manali, Tiruvottiyur, Chennai-19
- 104.No.8708 at No.19, Alapakkam Main Road, Maduravoyil, Chennai-47
- 105.No.8932
- 106.No.9025 at No.31, North Park Street, Venkatapuram, Ambattur OT, Chennai-53, respectively

In some of the Writ Petitions, the prayers are to consider the representations of the petitioners, dated 28.07.2015 and 29.07.2015.

2. The common grounds and submissions in these Writ Petitions are that the retail trade in Indian Made Foreign Liquor (IMFL) is being carried on by the Respondent Corporation in the State of Tamil Nadu; that attached to the IMFL Wine Shops, the Respondent Corporation runs Bars by getting license for the same; that the right to collect empty bottles and the right to sell eatables in

the Bars is granted by way of license by the Respondent Corporation; that Condition No.2 of the tender conditions deals with fixation of license fee; that as per the said condition, the upset price can either be 2.5% of the average monthly sales during the previous years plus 10% or the monthly average of the bid amount of the previous years, whichever is higher; that there are more than 200 TASMAL Wine Shops in the Thiruvallur District; that since the respondents arbitrarily fixed the Upset Price for the Bars attached to the said Shops for the year 2015-2016, nobody have participated in the Tender and got license; that there are many number of Bars attached to the TASMAL Shops, now running without Bar Licence from 01.08.2015; that due to arbitrary fixation of Upset Price, the Petitioners are facing financial crisis; that the District Manager, TASMAL, Tiruvallur District had called for Tenders for the year 2015-2016 and the same was published in the Daily Newspaper "Makkal Kural" on 10.07.2015, calling for tenders to be submitted from 10.00 a.m. to 3.00 p.m. from 10.07.2015 to 26.07.2015 so as to open on 27.07.2015 at 2.30 p.m., but however, the Tender Forms were not furnished to the Petitioners and hence, the Petitioners were unable to participate in the tender auction on 27.07.2015; that the Upset Price fixed by the respondents is exorbitant and over and above 2.5% stipulated in the tender conditions; that the petitioners requested the respondents to fix the Upset Price as per the last year fixation; that without giving the Tender Documents to the Petitioners, the respondents decided to proceed with the Tender on 27.07.2015; that minimum time was allowed between the date of publication of the Tender and the last date for submission of the tender; that in such circumstances, the action of the respondents in

fixing the Upset Price for the Bar is arbitrary and against the principles of natural justice and therefore, these Writ Petitions have been filed for the reliefs, as stated therein.

3. This Court heard the learned counsel on either side at length and considered their rival submissions and the materials on record.

4. The challenge in all these Writ Petitions is related to the Tender/Auction for the Bars attached to the Shops held on 27.07.2015. The Petitioners did not participate in the Tender/Auction for the reason that the Upset Price fixed by the Respondents is exorbitant. After due notice, the learned Additional Advocate General has submitted that new Tender/Auction is scheduled to be conducted, preferably, on 24.08.2015 or on or before 01.09.2015, in which the Petitioners can also participate. Hence, all these Writ Petitions are taken up for final disposal and the following orders/directions are passed:-

1. It is open to the Petitioners to participate in the Tender/Auction, which is scheduled to be held on 24.08.2015 or at a later date. The Respondents are directed to give sufficient time to submit Tender Applications.
2. Pending the completion of the Tender/Auction, the existing Bar Licence Holders are permitted to operate their respective Bars, attached to the TASMAC Shops.
3. The Petitioners are directed to pay the existing licence amount proportionately for the number of days to continue the operation of Bars, well in advance i.e. on or before 12.8.2015 by 5.30 p.m. for the period from 11.8.2015 to 31.8.2015.
4. Subject to the above conditions, the Petitioners are permitted to operate their Respective Bars attached to the TASMAC Shops as stated above.
5. In case of any non-compliance of the conditions as stated above, the Respondents are at liberty to take appropriate

action to close the Bars.

6. This Order is applicable only to the Petitioners herein, who make the payment as stated above.

5. With the above directions, these Writ Petitions are disposed of.

No costs. Consequently, the connected MPs are closed.

10.08.2015

Index:Yes/No

Web:Yes/No

Srcm

Note to Office:-

Issue on 11.08.2015

To:

1. Tamil Nadu State Marketing Corporation Limited
by its Managing Director, Chennai-8
2. Tamil Nadu State Marketing Corporation Limited
by the Senior Regional Manager, Chennai-2
3. Tamil Nadu State Marketing Corporation Limited
by District Manager, Thiruvallur 602103

R.MAHADEVAN, J.

Srcm

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