



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.01.2015
CORAM

THE HONOURBLE MR. JUSTICE B. RAJENDRAN

W.P(MD).No.19763 of 2014 and M.P.(MD).No.1 of 2014

WEB COPY

C.Swaminathan

... Petitioner

Vs.

The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
(TASMAC),
Plot No.72C.B3,
SIDCO Industrial Estate,
BHEL Nagar, Thuvakudi,
Trichirappalli District-620 015.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondent to issue license to the petitioner to run the Bar attached to TASMAC Shop No.10203 in the premises situate at 47C, Periya Sourashtra Street, Woraiyur, Trichy for one year from December 2014 to November 2015.

For petitioner : Mr.S.Ramu

For respondent : Mr.M.Muniasamy
Standing Counsel

ORDER

The prayer in the Writ Petition is for a Writ of Mandamus directing the respondent to issue a license to the petitioner to run the Bar attached to TASMAC Shop No.10203 in the premises situate at 47C, Periya Sourashtra Street, Woraiyur, Trichy for one year from December 2014 to November 2015.

2. According to the petitioner, he was the highest bidder for running the aforesaid shop. However, the licence has not been granted by the respondent. The reason behind for non-issuance of the licence is that the owner of the building is not ready to give him 'No Objection Certificate' to the petitioner for running the shop. Therefore, he made an alternative place nearer to the said shop and the same was also informed to the respondent. In spite of that, the respondent refused to issue a licence to the petitioner, which necessitated him to file the present Writ Petition.

3. The learned Standing Counsel for the respondent would only contend that no doubt the petitioner was the highest bidder and at the time of granting licence, he was called upon to produce four documents. One among the conditions is the applicant should obtain 'No Objection Certificate' from the owner of the shop. As per Rule 10 of the Tamil Nadu Liquor Retail Vending (in Shops and Bar) Rules, 2003 the location of the bar should be within the shop or adjoining the shop and under Rule 9, there shall not be any change of the shop except with the previous permission of the Collector concerned. Therefore, when the licence is granted to any applicant, it is mandatory on the part of the



applicant to get consent letter from the land owner of the building in question. The petitioner fairly admits that he is not able to get consent from his owner, whereas, the second highest bidder (L-2) is ready to produce the consent letter from the owner. Therefore, there is no other option except accepting the second higher bidder, namely, L-2. However, even now, if the petitioner produces the 'No Objection Certificate' from the owner of the building, the respondent is prepared to give a licence to give him. He would further submit that the order under challenge is only a direction to fulfill the tender conditions, which cannot be challenged, at this point of time.

4. Heard Mr.S.Ramu, learned counsel appearing for the petitioner and Mr.Muniyasamy, learned Standing Counsel for the respondent.

5. Admittedly, the petitioner is the highest bidder and he is entitled to get the licence from the respondent provided he produces a 'No Objection Certificate' from the respondent. As already pointed out earlier, the bar should be adjoining or in the same building. Now, the bar in question is in the same building. Necessarily, as per the rules, the petitioner has to get 'No Objection Certificate' from the owner of the building. However, the owner of the building refused to give 'No Objection Certificate' to the petitioner, whereas, he is ready to give 'No Objection Certificate' to the second highest tenderer. In any event, this Court cannot go into such aspect. Therefore, this Writ Petition is disposed of with the following directions:-

- (i) If the petitioner produces the consent letter from the owner of the building in question within a period of one week from the date of receipt of a copy of this order, his offer shall be considered by the respondent in accordance with law.
- (ii) In case, the petitioner fails in his attempt in getting 'No Objection Certificate' from the owner of the building in question and the respondent considers the second highest offer, the respondent should ensure that the amount awarded by him shall not be less than what was offered by the petitioner herein.

Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To
The District Manager,
Tamil Nadu State Marketing Corporation Ltd, (TASMAC),
Plot No.72C.B3,SIDCO Industrial Estate,
BHEL Nagar, Thuvakudi,Trichirappalli District-620 015.

+1cc to Mr.S.Ramu,Advocate, SR.No.2263

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