

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02.08.2016

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.16626 of 2016

VGP Golden Beach Resort
Rep by its Manager,
Jaishankar,
S/o Ramachandhiran,
Injambakkam,
Kancheepuram District.

..Petitioner

/vs/

- 1.The State of Tamil Nadu
Rep.by the Secretary,
Department of Prohibition and Excise
Secretariat, Fort St.George,
Chennai-9.
- 2.The District Collector,
Kancheepuram District.
- 3.The Commissioner,
Prohibition and Excise Department,
Ezhilagam, Chepauk, Chennai-5.
- 4.The Assistant Commissioner(Excise)
Kancheepuram.
- 5.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Gandhi Irwin Bridge,
Egmore, Chennai-8.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order RC.No.P&E 2(2)/4461/2016 dated 18/04/2016 passed by the 3rd respondent and quash the same and thereby direct the 3rd respondent to renew the license of the petitioner.

For Petitioner : Mr.B.Magesh Kannan

For Respondents : Mr.S.Diwakar
Special Government Pleader

O R D E R

Heard Mr.B.Magesh Kannan, learned counsel appearing for the petitioner and Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2. The petitioner has filed this writ petition praying for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 18/04/2016, passed by the third respondent and consequently, direct the third respondent to renew the license of the petitioner.

3. The learned counsel appearing for the petitioner submits that the issue involved in this Writ Petition is squarely covered by the order passed by this Court in W.P.Nos.34214, 34215, 34328, 34347 to 34350, 34492 of 2015 dated 10.06.2016, wherein identical impugned orders were put to challenge and the Writ Petitions were disposed of.

4. The learned Special Government Pleader does not dispute the above factual position. At this stage, it would be useful to refer to the operative portion of the order passed in the batch of case in W.P.Nos.34214, 34215, 34328, 34347 to 34350, 34492 of 2015, which reads as follows:-

"5. At this stage, it has to be pointed out that rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. No person is going to benefit by belatedly filing application for grant or renewal of license. Only in cases where the delay is on account of malafide reasons, and when delay has not been explained satisfactorily, the authorities would be justifying in holding that the delay cannot be condoned. However, in the instant cases, no such observation or averment has been made in the impugned orders. That apart, the Tamil Nadu Liquor (Licence and Permit) Rules, 1981, has not fixed any outer time limit as found in other tax statutes like Tamil Nadu Value Added Tax, Customs Act or Central Excise Act. Therefore, the authorities viz., the Commissioner of Prohibition and Excise is empowered to condone the delay by examining the facts.

6. I have carefully examined the facts of each case and found that in no case there is any

mala fide intention on the part of the petitioner to belatedly file the application and all of them have been granted license more than ten years ago and it has been periodically renewed. It is also brought to my notice that application fee for renewal of license has been paid well within the stipulated time and there is no delay. Therefore, this Court is of the view that renewal application has to be considered on merits and should not be rejected on the ground of delay.

7. In the result, all the writ petitions are allowed and the delay in filing the application for renewal is condoned. The third respondent is directed to consider the petitioners' application for renewal of FL3 License, in accordance with law, and pass orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P.Nos.1 to 3 of 2015 are closed."

5. Following the above referred order, this Writ Petition is allowed and the delay in filing the Application for renewal is condoned. The third respondent is directed to consider the petitioner's Application for renewal of FL3 license, in accordance with law, and pass orders within a period of eight weeks from the date of receipt of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

rpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary,
The State of Tamil Nadu
Department of Prohibition and Excise
Secretariat, Fort St.George,
Chennai-9.
- 2.The District Collector,
Kancheepuram District.
- 3.The Commissioner,
Prohibition and Excise Department,
Ezhilagam, Chepauk, Chennai-5.

4.The Assistant Commissioner(Excise)
Kancheepuram.

5.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Gandhi Irwin Bridge,
Egmore, Chennai-8.

+ 1 cc to The Govt.Pleader, Sr 44202

+ 1 cc to Mr.B.Magesh Kannan, Advocate Sr 43671

KR/17/8/16

W.P.No.16626 of 2016



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