

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.7505 of 2013

A.Narayanan

... Petitioner

Versus

1.The Chief Secretary,
Government of Tamilnadu
Secretariat, Chennai 600 009.

2.The Secretary to Government,
Home Department,
Secretariat, Chennai 600 009.

3.The Managing Director,
TASMAC Limited, 4th floor,
CMDA Tower -II, Egmore,
Chennai 600 008.

4.The Director General of Police
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600004.

(R.4 deleted as per Order
dated 20.1.2016 by CJ & PSNJ
in M.No.1 of 2015 in W.P.No.9505 of 2013)

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of declaration, declaring Rule 8(1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 as unconstitutional in so far it lays down that "No shop shall be established in Municipal Corporations and Municipalities within a distance of 50 (fifty) meters and in other areas 100 (hundred) metres from any place of worship or educational institutions" and proviso in so far as it reads "provided that the distance restriction shall not apply in areas designated as "Commercial" or "Industrial" by the Development or Town Planning Authorities set it aside and direct the respondents to ensure that no liquor shop or bar or pub or such other establishment serving liquor is located within 500 metres in Municipal Corporations and Municipalities and 1000 metres in other rural areas from any educational institutions, hospital, place of worship, bus stand and in a residential area.

For Petitioner : Mr.A.Yogeswaran

For Respondents : Mr.P.H.Aravind Pandian
Additional Advocate General
assisted by
Mr.S.T.S.Murthi
Government Pleader
for Mr.V.Shanmughasundar
Government Advocate
for R.1, R.2 and R.4
Mr.B.Nedunzhiyan for R.3

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

Learned Additional Advocate General has placed before us an order passed by the Division Bench of this Court (Madurai Bench) dated 27.08.2015 in W.P.(MD).No.15257 of 2015 (R.Gopinath vs. The District Collector, Virudhunagar and others (2016(1)CTC 104), in which the Rule 8(1) of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 was examined in the context 'how the distance between the TASMAC shop and the Educational Institutions has to be measured'. The Rule provides for the distance to mean the shortest distance between the two and not from the gate to gate.

2. We have also pointed out to learned Senior Counsel that in terms of the order dated 27.08.2014 in W.P.No.23299 of 2014 (P.Mounasamy vs. The District Collector and two others), reference has been made to Tamil Nadu Survey and Boundaries Act, 1923 and the Rules framed thereunder. In terms of Section 4 of the said Act, the State Government has to appoint Survey Officers. The manner of measuring distance scientifically is set out in the Tamil Nadu Survey and Boundaries Rules, 1925.

3. In the additional counter affidavit filed on behalf of the TASMAC, it has been stated that collection of data would take place in respect of various shops and if the shops are found not located as per Rule 8(1) of the said Rules, then those shops will be shifted with the previous permission of the District Collector concerned as per Rule 9 of the Tamil Nadu Liquor Vending (In Shops and Bars) Rules, 2003. The period of six months is requested for collection of the data regarding the location of shops from places of worship or educational institutions, by actual measurement adopting the aforesaid principles, since the said exercise has to be carried out all

over the State in respect of 6776 retail vending shops. It is stated that another six months thereafter would be required for shifting of the shops where ever required. We take this assurance on record.

4. We thus close the proceedings in the aforesaid terms.

List for compliance on the first aspect on 16th September, 2016.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ksr

To

- 1.The Chief Secretary,
Government of Tamilnadu
Secretariat, Chennai 600 009.
- 2.The Secretary to Government,
Home Department,
Secretariat, Chennai 600 009.
- 3.The Managing Director,
TASMAC Limited, 4th floor,
CMDA Tower -II, Egmore,
Chennai 600 008.
- 4.The Section Officer,
Writ Section,
High Court, Madras.
(For Posting the matter on 16.09.2016)

Copy To

The Director General of Police
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600004.

+lcc to Mr.B.Nedunzhiyan, Advocate, S.R.No.17490
+lcc to the Government Pleader, S.R.No.17382

W.P.No.7505 of 2013

MSM(CO)
CA(30/03/2016)