

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.A.No.919 of 2010
and M.P.No.1 of 2010

1. The Managing Director,
Tamilnadu State Marketing Corporation (TASMAC),
Thalamuthu Natarajan Maligai,
Gandhi Irwin Salai, Egmore,
Chennai - 600 008.

2. The Secretary to Government,
Home-Prohibition & Excise Department,
Fort St. George, Secretariat,
Chennai - 600 009 ... Appellants/Respondent

versus

N.Ramasundaram ... Respondent/Petitioner

Writ Appeal filed under clause 15 of the letter patent Act against the order dated 30.04.2010 in W.P.No.9226 of 2010. Petition under Article 226 of the constitution of India to issue a writ of Mandamus directing the respondents to declare 01.05.2010 as holiday for the employees of TASMAC as per Section 3 of Tamil Nadu Industrial Establishment (national and Festival Act 1958) along with wages

For Appellants : Mr.Nedunchizhion

For Respondent : No Appearance

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

The respondent, has sought for a writ of mandamus, directing the appellants to declare 01.05.2010 as Holiday for the employees of TASMAC, as per Section 3 of Tamil Nadu Industrial Establishment (National and Festival Act, 1958) alongwith wages. Vide order dated 30.04.2010, a learned single Judge has directed the Managing Director, Tamil Nadu State Marketing Corporation Ltd. (TASMAC), Chennai, second respondent therein, to grant the employees of the TASMAC an holiday on the 1st day of May in terms of Section 3 of Act 30 of 1958 forthwith.

2. Being aggrieved by the same, instant appeal is filed by the Managing Director, TASMAC and another, contending inter alia that in the matter of policy decision by the Government, Courts should not interfere, unless it is arbitrary.

3. On this day, when the appeal came up for further hearing, by producing G.O.(Ms.) No.1, Home, Prohibition and Excise (VI) Department dated 03.01.2012, Mr.Nedunchezian, learned counsel for TASMAC, submitted that 1st May of every year 'May Day', has been declared as "dry day" and hence, there would be no sale of liquor in the shops on May Day.

4. Learned counsel for TASMAC further submitted that Independence Day and Republic Day have also been declared as "dry days" and that there won't be any sale of liquor in the shops on the abovesaid days. Learned counsel for TASMAC further submitted that mandamus issued has been complied with.

5. For brevity, G.O.(Ms.) No.1, Home, Prohibition and Excise (VI) Department, dated 03.01.2012 is extracted hereunder.

ABSTRACT

Home, Prohibition and Excise - Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 - Increasing the number of days wherein there will be no sale of liquor - Amendment to rule 12 and Condition No.8 in Form-1 - Ordered - Notification - Issued.

Home, Prohibition and Excise (VI) Department

G.O.(Ms.) No.1
03.01.2012

Dated:

Read:

1. From the Commissioner of Prohibition and Excise (i/c), Letter No.P&E2(1)/13648/2011 dated 19.09.2011
2. From the Managing Director, TASMAC Letter No.R2/7864/2011, dated 20.09.2011.
3. From the Commissioner of Prohibition and Excise, Letter No.P&E 9(2)/44879/2011 dated 12.10.2011.

ORDER

During reply to the Demand No.37-Prohibition and Excise Department on 08.09.2011, it was announced among others, that there will be no sale of liquor on Independence day, Republic day and May day in addition to five days already declared as "dry days" and hence forth, there will be no sale of liquor on 8 days in a year.

2. Based on the above announcement, the Commissioner of Prohibition & Excise in the reference third read above, has sent proposal to amend rule 12 and condition No.8 in Form-I in the Tamil Nadu Liquor Retail Vending

(In Shops and Bars) Rules, 2003 as indicated below:-

Existing	Proposed
12: Closure of shops - (1) The shop shall remain closed on Thiruvalluvar Day falling in January, Gandhi Jayanthi Day on the 2nd October. Mahavir Jayanthi Day, Birthday Eve of Nabigal Nayagam and Vadalur Ramalingar Ninaivu Naal and there shall be no sale of liquor in the shops of the aforesaid days	12: Closure of shops- (1) The shop shall remain closed on Thiruvalluvar Day falling in January, Gandhi Jayanthi Day on the 2nd October, Mahavir Jayanthi Day, Birthday Eve of Nabigal Nayagam, Vadalur Ramalingar Ninaivi Naal, Independence day, Republic Day and May day and there shall be no sale of liquor in the shops on the aforesaid days.
Condition No.8 of Licence in Form-1: No sale of liquor shall be made under the licence on Gandhi Jayanthi Day, viz., the 2nd October, Thiruvalluvar Day falling in January, Mahaveer Jayanthi Day and Birthday eve of Nabigal Nayagam and Vadlur Ramalingal Nainivu Naal	Condition No.8 of Licence in Form-1: 8. No sale of liquor shall be made under the licence on Gandhi Jayanthi Day viz., the 2nd October, Thiruvalluvar Day falling January, Mahaveer Jayanthi Day, Birthday eve of Nabigal Nayagam, Vadalur Ramalingar Ninaivu Naal, Independence day, Republic day and May day

3. The Government, after careful examination accept the proposal of Commissioner of Prohibition and Excise in para-2 above. Accordingly following notification will be published in the Tamil Nadu Government Gazette

NOTIFICATION

In exercise of the powers conferred by sections 17-C, 17-D and 21 read with section 54 of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937), the Governor of Tamil Nadu hereby makes the following amendments to the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2004: -

AMENDMENTS

In the said Rules,-

<https://hcservices.ecourt.gov.in/hcservices> 12, for sub-rule (1), the following sub-rule

shall be substituted, namely:-

"(1) The shops shall remain closed on Thiruvalluvar Day falling in January, Gandhi Jayanthi Day on the 2nd October, Mahavir Jayanthi Day, Birthday Eve of Nabigal Nayagam, Vadalur Ramalingal Ninaivu Naal, Independence day, Republic Day and May day and there shall be no sale of liquor in the shops on the aforesaid days."

2) In Form 1, for condition No.8, the following condition shall be substituted, namely:-

"8. No sale of liquor shall be made under the licence on Gandhi Jayanthi Day viz., the 2nd October, Thiruvallurvar Day falling in January, Mahaveer Jayanthi Day, Birthday eve of Nabigal Nayagam, Vadalur Ramalingar Ninaivu Naal, Independence day, Republic day and May day."

//By Order of the Governor//

RAMESHRAM MISHRA

PRINCIPAL SECRETARY TO GOVERNMENT

To

The Works Manager, Government Central Press, Chennai - 79
(for publication in the Tamil Nadu Government Gazette
and for sending 100 copies to Government)

The Commissioner of Prohibition and Excise, Chepauk,
Chennai - 5

The Managing Director, TASMAC, Chennai-8

All District Collectors,

The Principal Accountant General (A&E), Chennai-18.

The Accountant General (Audit-II), Chennai - 6.

Copy to: The O/o. Hon'ble C.M., Ch-9

The O/o. Hon'ble Minister (Electricity, Prohibition &
Excise), Ch-9

The Law Department, Chennai - 9.

SF/SC

//Forwarded by Order//

Section Officer

6. In the light of the above, nothing survives in this writ appeal for further adjudication. Hence, Writ Appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ars

To:

1.The Managing Director,
Tamil Nadu State Marketing corporation ltd.

TASMAC, Thalamuthu Natarajan Maligai

Gandhi Erwin Bridge Road,

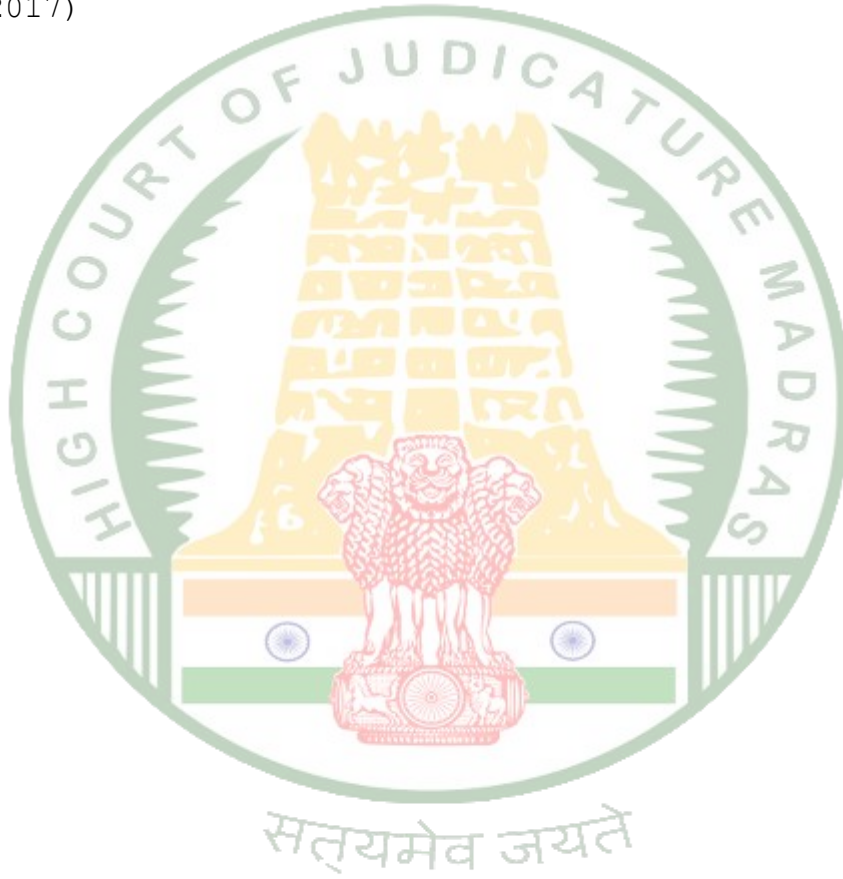
Chennai-08

2.The Secretary to Government,
Home Prohibition and Excise Department,
Fort Saint George, Secretariat,
Chennai-09.

+1cc to M/s.B.Nedunchezhiyan, Advocate sr.76241

W.A.No.919 of 2010

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ss(12/01/2017)



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