

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2016

CORAM:

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

Writ Petition Nos.22116 to 22118 of 2016
and W.M.P.Nos.18865 to 18867 of 2016

P.Subramani, Bar Licensee, Shop No.7123,
S/o. Mr. Pachamuthu,
Lakuvampatti, Murangapatty Post,
Sivathapuram,
Salem - 307 ... Petitioner in W.P.No.22116 / 2016

C.Muthuselvam, Bar Licensee, Shop No.7432,
S/o. Mr. Chinnaiyan,
No.54/370, New Kandappa Colony,
Annadanapatty,
Salem - 2 ... Petitioner in W.P.No.22117 / 2016

A.Natarajan, Bar Licensee, Shop No.7438,
S/o. Mr. M.Arunachalam,
Door No.13/19, VOC Street,
Suramangalam, Salem - 5 ... Petitioner in W.P.no.22118 / 2016

Versus

1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), CMDA Tower - II,
4th Floor, Egmore, Chennai - 600 008
2. The District Manager / The Deputy Collector,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), No.2/92, Santhiyur Village,
S.Attiyampatti Post,
Salem - 636 203 ... Respondents in all W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the order passed by the second respondent in Na.Ka.No.1333/A5/2015/C.V., all dated 28.04.2016, quash the same and consequently, direct the respondents herein to deposit (petitioners' security) the sums of Rs.64,616/-, Rs.50,414/- and Rs.78,330/-, respectively, within the time framed by this Court.

For Petitioner in all W.Ps. : Mr. K.Sasindran
For Respondents in all W.Ps. : Mr. B.Nedunchezian

C O M M O N O R D E R

Heard the learned counsel appearing for both sides. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal.

2. All these three writ petitioners were granted licences to sell eatables and collect empty bottles, in the Bars, attached to the TASMAC Retail Vending Shops' bearing Nos.7123, 7432 and 7438.

3. It is not in dispute that the periods of licence came to an end on 31.07.2015. It is not clear, as to whether the petitioners are still enjoying the benefits of the licences, by virtue of temporary licences, being granted on monthly basis.

4. Be that as it may. The issue involved in these writ petitions is, as to whether the upset price fixed by the licences granted to the petitioners for the year 2014-15 could be revised, after the expiry of the periods of licence.

5. When the petitioners were issued show cause notices, dated 28.11.2015, they approached this Court, by filing W.P.Nos.38783 to 38489 of 2015. Those writ petitions were disposed of, by a common order, dated 07.01.2016, after which, the petitioners had been issued with show cause notices, dated 19.02.2016, and along with the show cause notices, the upset price fixed by the District Manager of TASMAC, Salem, had been given in a tabulated form and the upset price calculated by the Head Office Squad, is also given in a tabulated form. Therefore, the respondents would state that the upset price calculated by the Head Office Squad is the correct upset price, since it has been done correctly based upon the sales volume.

6. However, this aspect of the matter is not clear, excepting that certain figures have been given in the tabulated form. In any event, the petitioners submitted their objections, requesting to furnish all the details pertaining to the calculation of fixation of upset price. That apart, the petitioners also contended that there is no question of revising the upset price, after the expiry of the licence periods. Though such a stand was taken in the reply, the respondent, without considering any of the points raised by the petitioners, rejected the petitioners' representations and forfeited the security deposits. These orders are impugned in these writ petitions.

7. After hearing the learned counsel appearing for the parties of both sides and pursuant to the materials placed on record, it is evidently clear that the impugned orders have been passed, without proper application of mind. To the show cause notices, dated 19.02.2016, the petitioners submitted

interim replies, dated 07.03.2016, in which, apart from raising the question of jurisdiction of the second respondent to revise the upset price after the expiry of the licence periods, the petitioners also sought for the details pertaining to the calculation of fixation of upset price. However, this has not been considered by the respondents and cryptic orders came to be passed.

8. In the light of the above, the impugned orders cannot be sustained. Accordingly, the writ petitions are allowed and the impugned orders are quashed. The respondents are directed to furnish all the details, as sought for by the petitioners and as to how the revised upset price was calculated. On receipt of the said calculation, the petitioners are directed to submit their objections, in writing, in which, they can raise the question of jurisdiction of the respondents and revise the upset price, after the expiry of the licence periods. On receipt of the objections, the respondents shall consider the same and pass orders afresh, on merits and in accordance with law, and decide the jurisdictional aspect, as the first issue, among the other issues to be decided. No costs. Consequently, the connected WMPs are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), CMDA Tower - II,
4th Floor, Egmore, Chennai - 600 008

2. The District Manager / The Deputy Collector,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), No.2/92, Santhiyur Village,
S.Attiyampatti Post, Salem - 636 203

+1 cc to Mr.K.Sasindran,advocate,sr.44937.

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