

In the High Court of Judicature at Madras

Dated : 25.11.2016

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.41501 of 2016 and  
WMP.Nos.35476 & 35477 of 2016

A.R.Vimandhan

...Petitioner

Vs

- 1.The Managing Director,  
The Tamil Nadu State Marketing  
Corporation Ltd.,  
Thalamuthu Natrajan Maaligaai,  
Emgore, Chennai 600 008.
- 2.The District Manager,  
The Tamil Nadu State Marketing  
Corporation Ltd.,  
Tiruvallur East District,  
No.1, Bangalore High Road,  
Sembarambakkam, Tiruvallur 602 103.
- 3.The Secretary to Government,  
Prohibition and Excise Department,  
Secretariat, Chennai 600 009.

... Respondents

PETITION under Article 226 of The Constitution of India  
praying for the issuance of a Writ of Certiorari to call for the  
records in RC.No.P126291/2015 dated 20.10.2016 on the file of  
the 1st respondent and to quash the same.

For Petitioner : Mr.J.B.Solamon Peter Kamaldoss

For RR 1 and 2 : Mr.C.Kasirajan

For RR 3 : Mr.K.J.Shivakumar  
Government Advocate

ORDER

Heard Mr.J.B.Solamon Peter Kamaldoss, learned counsel for  
the petitioner, Mr.C.Kasirajan, learned Standing Counsel for the  
Respondents 1 & 2 and Mr.K.J.Shivakumar, learned Government  
Advocate accepting notice for the 3rd respondent and with their  
consent, the writ petition itself is taken up for final disposal.

2.The petitioner seeks for issuance of Writ of Certiorari to quash the proceedings of the 1st respondent dated 20.10.2016. The said proceedings is of the Managing Director of TASMAL addressed to the District Manager, TASMAL Limited, Thiruvallur (East) District wherein the District Manager has been instructed to extend the agreements with the existing Bar, eatable contractors attached to the retail vending shops of TASMAL of Thiruvallur (East) District upto 31.01.2017.

3.The petitioner was the original licensee who had been granted license to collect empty bottles and sell eatables in the Bar attached to the TASMAL Retail Vending Shop No.8834. The licence came to an end on 31.07.2015. Thereafter, it appears that the licence fee was fixed at a very high rate and there were reluctance in participation in the tenders called for by the TASMAL. The petitioner and others approached this Court and filed a batch of cases and the case filed by the petitioner is W.P.No.27093 of 2015. The said batch of cases were disposed of by a common order dated 27.10.2015 wherein the following direction was issued:

"5.Since on the earlier occasion, this court found that the fixation of the upset price was not in accordance with the conditions in the tender notification and again the same flaw has been committed in the present tender conditions stipulated in the tender notification, i.e. earlier terms and conditions have been formulated verbatim in the present tender notification, despite specific directions of this court, this court finds it appropriate to quash the impugned orders, for fixing the upset price as agreed upon earlier. Accordingly, the following directions are issued:-

1.The impugned orders are quashed.

2.The Respondents are directed to formulate appropriate tender conditions as agreed upon earlier, so as to fix the upset price for the Bars.

3.The Respondents are directed to fix the upset price taking into consideration the volume of sales and finalise the tenders.

4.The said exercise shall be complied within four weeks from the date of receipt of a copy of this order. Till then, the petitioners are permitted to pay the existing rent with an enhancement of 25% over and above the amount payable from 1.9.2015."

4.The petitioner's grievance is that the above direction was not complied with by the respondents and therefore, the petitioner filed contempt petition in Contempt Petition No.1316 of 2016. However, the petitioner withdrew the contempt petition as the officials were exerting certain pressures. Therefore, the petitioner is now aggrieved by the order passed by the Managing Director of TASMAC dated 20.10.2016.

5.In my view, the impugned proceedings cannot be set aside at the instance of the petitioner alone because it is a general circular and it appears to be a temporary arrangement. However, as long as the order and direction issued in the earlier Writ Petitions dated 27.10.2015 is not complied with, then, it amounts to clear violation of the order passed by the Court. Therefore, the respondents are liable to be punished under the provisions of the Contempt of Courts Act. The respondents have not filed any appeal as against the order and direction issued in the writ petition dated 27.10.2015. Therefore, the order binds the respondents.

6.In the light of the same, the Writ Petition is disposed of, by directing the 1st respondent to comply with the direction dated 27.10.2015 referred to supra within a period of eight weeks from the date of receipt of a copy of this order. Even in the above referred order, this Court has permitted the petitioners to pay the existing rent with an enhancement of 25% over and above the amount payable from 1.9.2015. However, this arrangement is because the Court fixed the time limit, therefore, the respondents cannot endlessly extend the licences once in three months. Therefore, the above direction should be strictly complied with. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1.The Managing Director,  
The Tamil Nadu State Marketing  
Corporation Ltd.,  
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2.The District Manager,  
The Tamil Nadu State Marketing  
Corporation Ltd.,  
Tiruvallur East District,  
No.1, Bangalore High Road,  
Sembarambakkam, Tiruvallur 602 103.

3.The Secretary to Government,  
Prohibition and Excise Department,  
Secretariat, Chennai 600 009.

+1cc to MR.C.KASIRAJAN,Advocate, S.R.No.69136

+1cc to Mr.J.B.SOLOMAN PETER KAMADOSS, Advocate, S.R.No.69750

+1cc to the Government Pleader, S.R.No.70121

WP.No.41501 of 2016

(CO) LRS  
CP(23/12/2016)

सत्यमेव जयते

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