

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.9463 of 2017
and
W.M.P.No.10412 of 2017

Hindustan College of Arts and Science,
A Unit of Hindustan Engineering Training Centre,
Rep.by its Principal,
Regd. Office No.40,G.S.T.Road,
St.Thomas Mount,
Chennai - 600 016. Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) Gandhi Irwin Road,
Egmore, Chennai - 600 008.
4. The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC)
Kancheepuram District. Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents not to relocate or establish a TASMAC Shop No. 4115 near to the petitioner's college at the Village Road, Padur Village, Thiruporur Taluk, Kancheepuram District and to relocate the same to any other unobjectionable place away from the petitioner's college.

For Petitioner: Mr.N.S.Kishore Kumar

For Respondents: Mr.Akhil Akbar Ali,
Government Advocate For R1
Mr.B.Nedunchezhiyan,
Standing Counsel For R2 to R4

O R D E R

The petitioner seeks for a Mandamus, directing the respondents not to relocate or establish a TASMACH Shop No. 4115 nearer to the petitioner's college at the Village Road, Padur Village, Thiruporur Taluk, Kancheepuram District and to relocate the same in any other unobjectionable place away from the petitioner's college.

2. The petitioner is an Educational Institution conducting Arts, Science and Engineering Courses, affiliated to the University of Madras. It is stated that there are nearly 3500 students studying in the petitioner's institution in various courses, apart from 200 teaching faculties and non teaching staff. It is further stated that there are other 6000 students studying in the same campus run by the society viz., Hindustan University having 300 teaching faculties and non teaching staff therein. The petitioner's institution is a co-educational institution.

3. The respondents proposed to relocate the TASMACH retail vending shop in a place nearer to the petitioner's educational institution. Therefore, the petitioner approached this Court and filed the present writ petition, after making the representations to the second respondent on 05.04.2017 and 10.04.2017, objecting to such proposed location.

4. When this matter was taken up for admission on 08.06.2017, this Court, after hearing the learned counsel for the petitioner, directed the respondents to close the shop, pending further orders and further directed the learned counsels for the respondents to get instructions in the meantime. Accordingly, the matter is listed today, for further hearing.

5. The learned counsel for the petitioner reiterated the contentions raised in the writ petition and sought intervention of this Court against such location of the said TASMACH shop.

6. On the other hand, Mr.B.Nedunchezhiyan, learned counsel appearing for the TASMACH, submitted that even according to the petitioner, as admitted in the additional affidavit, the distance between the compound wall of the petitioner's college

and the proposed site is 65.02 meters and therefore as per the distance rule applicable to the present dispute between the parties, as contemplated under clause 8(1) of the Tamil Nadu liquor retail vending (in Shops and Bars) Rules, 2003, there is no violation of the distance rules and therefore the petitioner is not justified in contending that the shop should not be opened at the proposed site. He also placed an order passed by the Hon'ble First Bench of this Court in W.P.No.13465 of 2017, dated 02.06.2017, in support of his contention that in the absence of contravention of any statutory rules or regulations, the respondents cannot be prevented from locating or running the TASMAC shop.

7. Heard the learned counsel appearing for the petitioner and the learned counsels appearing for the respondents.

8. It is not in dispute that the petitioner is a co-educational institution, having thousands of students and hundreds of teaching and non-teaching staff on its roll attending the institution every day. No doubt, it is true that the proposed location of the TASMAC shop, even according to the petitioner, as stated in the additional affidavit dated 26.4.2017, is lying beyond 50 meters from the compound wall of the petitioner's institution. However, it is seen that the distance between the petitioner institution's compound wall and the proposed location is only 65.02 meters and thus the excess distance favouring the location in accordance with the distance rule, would be only 15.02 meters.

9. From the above facts though it is clear that the respondents appear to be legally entitled to locate such TASMAC shop at the proposed site, still, in my considered view, they are also morally bound to look into the objections raised by the petitioner's educational institution, wherein, admittedly thousands of boys and girls are studying in various courses.

10. The respondents being the statutory authorities representing the State, are certainly bound to look into the interest and welfare of the students, while considering the proposal to locate the TASMAC shop nearer to the petitioner's educational institution. They may be justified legally on the proposed location, if such location is beyond the prohibited distance, as contemplated under the said rules. But still, they should also consider and think more than one time as to whether such location of the liquor shop is certainly and necessarily warranted at the said place, brushing aside the objections raised by the educational institution, more particularly, when such objection is made in the interest of the students community. After all, the State has to take into consideration of the welfare of the people, as their first and foremost

obligation, While discharging such obligation, the State will not be found fault with, if they consider the objections of the people, even assuming such objection is beyond the scope of relevant rule, more particularly, when the objections so raised are against the location of the liquor shop. Needless to say that no Government can claim that establishment of liquor shops is in the interest of or for the welfare of the people. Except for generating the Revenue to the Government, the liquor business has got nothing to do with the welfare of the public in any manner. No doubt, it generates huge revenue to the Government. But can it be done at the cost of the welfare of the people themselves? While the Government is entitled to find ways and means to generate the Revenue to run the Government and implement very many welfare schemes, it should be noted at the same time, that it should never loose its sight of its constitutional obligation to protect the welfare of the people at any cost.

11. Day in and day out, several crimes such as murder, rape, theft and robbery etc., committed are being reported by Press and Media. It is an undisputable fact that almost in all such cases, the crime is committed by those accused persons under the influence of alcohol. They want to cover up their fear of committing such crimes by getting themselves influenced and covered under the blanket of liquor. They think that they are emboldened to commit such crimes through such consumption of liquor. The amount and gravity of sufferance of the victims and their families, cannot be measured and stated by any means. No doubt, it is true that one of the justification stated for opening the liquor shops is the impossibility or inability to curb or prevent "Illicit Liquor Trade", which consequently result in loss of lives of poor people, who consume such furious liquor. But, in my considered view, such justification can never be considered as valid in the larger interest of the public. If the law enforcing authorities in one voice decide and pledge to eliminate such illicit trade, I am very much sure that it will be done in no time. It would not go out of context to mention here that day in and day out, we see some protest or other by the public against the location or opening of liquor shop in one place or another. Hence, the time has come, atleast now, for the Government to re-visit its policy on the liquor and take a firm decision, keeping in mind the wish of the public at large. Otherwise, there is no meaning in simply printing the slogan on the liquor bottles viz., "Liquor ruins country, families and lives" "மது நாட்டுக்கு, வீட்டுக்கு, உயிருக்கு கேடு".

12. Mr.B.Nedunchezhiyan, learned counsel appearing for the respondents 2 to 4 though submitted in support of such location as stated supra, in all fairness stated before this Court, that the objections of the petitioner shall be considered by the

first respondent, if the representation is made to the first respondent in writing.

13. It is seen that the earlier representations sent by the petitioner are infact sent to the second respondent only. Therefore, the petitioner is directed to send a fresh representation to the first respondent along with a copy of the representations already sent to the second respondent, within a period of seven days from the date of receipt a copy of this order. On receipt of such representation, the first respondent shall consider the same and pass appropriate orders, after making field inspection as well. Since the shop was already closed in pursuant to the interim order passed by this Court, the first respondent is directed to consider the representation and pass orders on the same as stated supra, within a period of two weeks from the date of receipt of such representation. Till such time, the status quo as on today shall be maintained with regard to the location of the said shop by the respondents. The writ petition is disposed of, accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

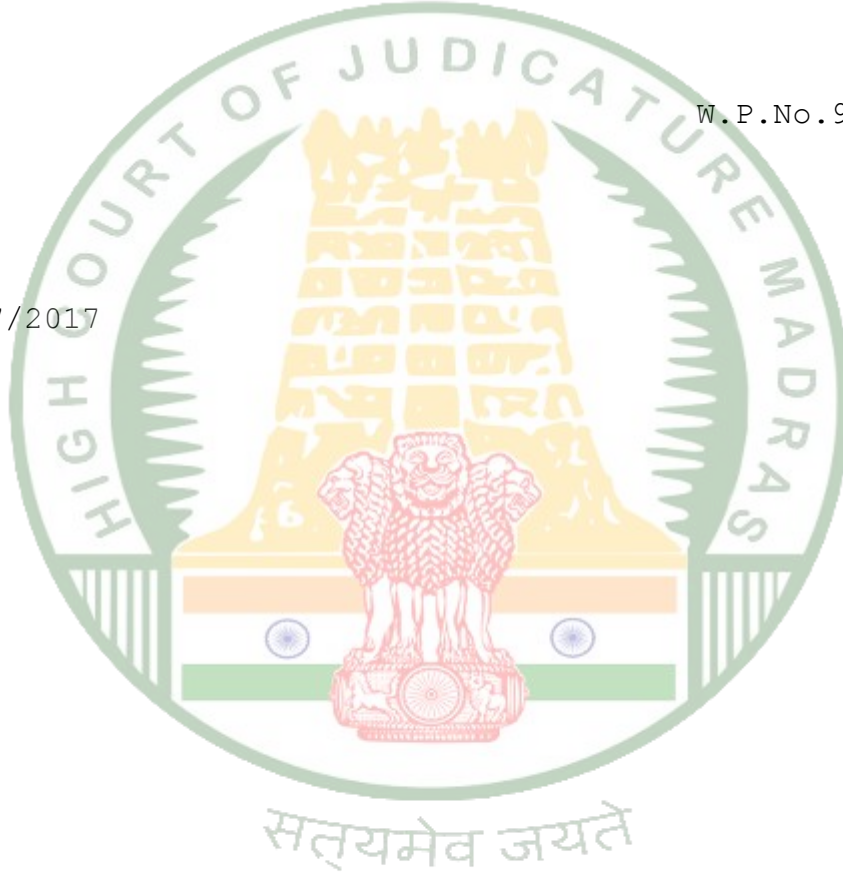
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+lcc to Mr.N.S.Kishorekumar, Advocate Sr.43868
+lcc to M/S.B.Nedunchezhiyan, Advocate Sr.44014

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