

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2017

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN
AND
THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.13045 of 2017

A.Thesigan

.. Petitioner

Vs.

1 The Secretary to Government
Prohibition and Excise (Home) Department
Government of Tamil Nadu
Fort St. George, Chennai-09.

2 The Commissioner of Prohibition and Excise
Ezhilagam Complex, Chepauk
Chennai-05.

3 The Managing Director
TASMAC Ltd
4th Floor, CMDA Tower II
Egmore, Chennai-08.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the respondents and their subordinates from running the TASMAC Shop No.709 in No.82 Velacherry Main Road, Gandhi Salai, near Bus Stop, Velachery, Chennai-600 042 and consequently restraining the respondents from establishing or relocating any TASMAC Shops in No.82, Velacherry Main Road, Gandhi Salai, near Bus Stop, Velachery, Chennai-600042.

For Petitioner

: Mr.K.Balu

For Respondents

: Mr.M.K.Subramanian
Government Pleader
for respondents 1 and 2

Mr.K.Venkataramani
Addl. Advocate General
assisted by
Mr.B.Nedunchezhiyan
for 3rd respondent

ORDER

(Order of the Court was made by R.Mahadevan,J.)

The petitioner has filed this writ petition seeking issuance of a writ of Mandamus forbearing the respondents from running the TASMAC Shop No.709 in No.82 Velacherry Main Road, Gandhi Salai, near Bus Stop, Velachery, Chennai-600 042.

2. Objecting to the running of TASMAC Shop No.709 in No.82 Velacherry Main Road, Gandhi Salai, near Bus Stop, Velachery, Chennai-600 042, the petitioner made a representation on 5.5.2017 with signatures of around seventy villagers. Since the said representation was not considered, the petitioner has filed this writ petition for the relief stated supra.

3. The learned Additional Advocate General appearing on behalf of the TASMAC submitted that the objections of the petitioner for running of the TASMAC shops, stated supra, were considered and rejected vide proceedings bearing reference Lr.No.A7/1333/2017, dated (Nil).5.2017.

4. We are not inclined to accept the said submission made by the learned Additional Advocate General as, in the proceedings dated (Nil).5.2017, there is no reference to the representation of the petitioner dated 5.5.2017. Moreover, neither the petitioner nor the villagers were afforded an opportunity of hearing before passing of the said proceedings dated (Nil).5.2017.

5. To give a quietus to the issue, we direct the respondent authority to consider the representation dated 5.5.2017 submitted by the petitioner, after granting due opportunity of hearing to the petitioner as well as any of the interested parties, and pass appropriate orders in line with the decision of the Supreme Court in Civil Appeal Nos.12614 - 12616 of 2016 (Order dated 15.12.2016, clarified by order dated 31.3.2017) and the Division Bench decisions in V.Ravichandran v. The District

Collector, Tirunelveli District and another (dated 16.11.2016 in W.P.(MD) No.20063 of 2015) and G.Kanaga Bai v. The District Collector, Kanyakumari District, 2013 (5) CTC 141. Such exercise shall be done by the respondent authority within a period of four weeks from the date of receipt of a copy of this order. It is made clear that till the disposal of the representation of the petitioner, the TASMAL Shop No.709 in No.82 Velacherry Main Road, Gandhi Salai, near Bus Stop, Velachery, Chennai-600 042, shall remain closed.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.13918 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Secretary to Government
Prohibition and Excise (Home) Department
Government of Tamil Nadu
Fort St. George, Chennai-09.
- 2 The Commissioner of Prohibition and Excise
Ezhilagam Complex, Chepauk
Chennai-05.
- 3 The Managing Director
TASMAC Ltd
4th Floor, CMDA Tower II
Egmore, Chennai-08.

+1cc to Mr.K.Balu, Advocate, S.R.No.37754
+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.37676
+1cc to the Government Pleader, S.R.No.37770

W.P.No.13045 of 2017

GJ(CO)
CS/24/05/17