

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13652 of 2017 and
WMP.No.14839&14840 of 2017

Kamarajar Educational Institutions,
Rep by its Director/President,
Mr.Maheswaran,
Having office at
Kamarajar Nagar, Bommaikuttaimedu,
Namakkal Taluk & District-637 003 ...Petitioner

Vs

1. The District Collector,
Collectorate Office, Namakkal.
2. The Managing Director,
Tamil Nadu State Marketing Corporation,
CMDA Tower II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.
3. The District Manager,
TASMAC,
Namakkal-637 001 ...Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the respondents herein to remove the TASMAC Liquor
Shop situated at Thalampatti Village.

For Petitioner : Mr.A.Selvendran

For Respondents : Mr.A.Sri Jayanthi
Special Government Pleader (for R1)
Mr.B.Nedunchezian (for R2&R3)

O R D E R

The petitioner is an educational institution running Primary School and Matriculation school. It is stated that there are about 3500 students both boys and girls studying in the said school. Apart from that, there is also a college, which is being run by the petitioner institution. They are aggrieved by running of a TASMAC liquor shop bearing Shop No.5941 in Thalampatti Village. According to the petitioner, in spite of giving representation, the respondents 2 and 3 have not shifted the TASMAC shop. Therefore the petitioner has filed this writ petition.

2. In the counter affidavit filed by the respondents, it is admitted that the TASMAC shop No.5941 was situated abutting the national highway and it was relocated after the judgment of the Hon'ble Supreme Court and the present location is actually 588.2 mtrs away from the school. Further, in the counter affidavit, it is admitted that there is a temple located within 50 feet away from the shop, but it is situated within the premises of the land owner and the land owner alone is performing Poojas, that too once in a year. I am not agreeable with the stand taken by the respondents in Paragraph 7 of the counter, as the prescribed distance is 500 mtrs. If the respondent TASMAC states that the distance is 588.2 mtrs, then, there is a very narrow margin between the prescribed distance and the distance mentioned by the TASMAC. There is every possibility of human error to occur while measuring the distance. Apart from that, the distance rule should be given a purposive interpretation rather mathematical. Thus, it has to be considered that the location of the shop is within the prohibited distance of the Educational Institution. That apart, the respondent TASMAC have admitted that the shop is located within 50 feet away from the temple. The explanation given by them that the Temple is situated in the land owned by a private person is of no consequence, as the rule does not make any distinction. As long as there is a place of worship and it is within the prohibited distance, as admitted by the respondent, the shop in question cannot be allowed to function in the said location.

3. For the above reasons, there will be a direction to respondents 2 and 3 to shift TASMAC Shop No.5941 to some other unobjectionable place, within a period of four weeks from the date of receipt of a copy of this order.

4. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate Office,
Namakkal.
2. The Managing Director,
Tamil Nadu State Marketing Corporation,
CMDA Tower II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-600 008.
3. The District Manager,
TASMAC,
Namakkal-637 001.

+1cc to M/s.A.Selvendran, Advocate, S.R.No.49555

+1cc to M/s.B.Nedunchezhiyan, Advocate, S.R.No.49513/17

W.P.No.13652 of 2017

CU(26/07/2017)

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