

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.14466 of 2017

U.Vignesh ... Petitioner

Vs.

- 1 The Commissioner Prohibition
and Excise Department
Govt. of Tamilnadu
Fort St. George, Chennai-9.
- 2 The Managing Director
TASMAC, Thalamuthu Natarajar Maligai
Egmore, Chennai-8.
- 3 The District Collector
Thiruvallur District
Thiruvallur.
- 4 The Sub collector
Ponneri Revenue Division
Ponneri Taluk.
- 5 The District Manager
TASMAC, Thiruvallur
Thiruvallur District.
- 6 The Thasildar
Ponneri Taluk
Thiruvallur District.
- 7 The Deputy Superintendent of Police
Ponneri, Thiruvallur District. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to permanently close the TASMAC shop No.8745 opened at State Highway at Thadaperrumbakkam Village,

Ponneri Taluk, Thiruvallur District in the interest of Tadaperumbakkam Village people in the light of Hon'ble Apex Court Judgment.

For Petitioner : Mr.T.P.Kathirraavan

For Respondents : Mr.M.K.Subramanian
Government Pleader
for respondents 1, 3 to 7

Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.John Kennedy
for 2nd respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition seeks to direct the respondent authorities to close down TASMAC shop No.8745 opened at Thadaperrumbakkam Village, Ponneri Taluk, Thiruvallur District.

2. On the face of the averments in the writ petition, the petitioner has not been able to show infringements of any provision of law in running the liquor shop in the village of the petitioner. In the absence of any allegation of contravention of any statutory rule or regulation, interference of writ court is not warranted.

3. In the writ petition, it is alleged that there is a TASMAC Shop No.8752 in the vicinity of a Government School and Private Schools and that the Village Panchayat has passed a resolution in a Grama Sabha held on 1.5.2017 to the effect that no other TASMAC Shop should be opened in the village.

4. The aforesaid resolution is of no consequence as the setting up of TASMAC Shops is governed by the Tamil Nadu Liquor Retail Vending (In Shops and bars) Rules, 2003. The question is whether there is any violation of the said Rules. The petitioner has not adverted to any specific Rule which has been violated in setting up the TASMAC shop.

5. It is contended that the TASMAC shop has been opened on a State Highway in contravention of the judgment of the Supreme Court in State of Tamil Nadu, rep. by its Secretary, Home, Prohibition and Excise Department v. K.Balu, (2017) 2 SCC 281,

and order dated 31.3.2017 in I.A.Nos.4-6, 7-9 etc. of 2017 in Civil Appeal Nos.12164 to 12166 of 2016. This, however, is disputed by the learned Additional Advocate General and he asserts that the location of the shop in question is not in violation of the order of the Supreme Court. However, if the shop is set up in violation of orders of Supreme Court, the petitioner has his remedy of initiation of contempt proceedings in the Supreme Court.

6. Learned counsel appearing on behalf of the petitioner has cited a Division Bench judgment of this Court in V.Ravichandran v. The District Collector, Tirunelveli and another (Order dated 16.11.2016 in W.P. (MD) No.20063 of 2015). This judgment was rendered having regard to the particular facts of the case. The judgment is not an authority for the proposition that a liquor shop can in no circumstances be set up if there is an objection from the residents or a resolution of Panchayat Grama Sabha to that effect.

7. In the instant case, as observed above, there is no specific allegation of contravention of any statutory rule or regulation. This is admitted. In the circumstances, we decline to interfere in the matter.

The writ petition is, thus, dismissed. No costs. Consequently, W.M.P.Nos.15690 and 15691 of 2017 are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sasi
To:

- 1 The Commissioner Prohibition,
and Excise Department,
Govt. of Tamilnadu,
Fort St. George, Chennai-9.
- 2 The Managing Director,
TASMAC, Thalamuthu Natarajar Maligai,
Egmore, Chennai-8.

- 3 The District Collector,
Thiruvallur District,
Thiruvallur.
- 4 The Sub collector,
Ponneri Revenue Division,
Ponneri Taluk.
- 5 The District Manager,
TASMAC, Thiruvallur,
Thiruvallur District.
- 6 The Thasildar,
Ponneri Taluk,
Thiruvallur District.
- 7 The Deputy Superintendent of Police,
Ponneri, Thiruvallur District.

+1cc to the Government Pleader Sr.42104

+1cc to Mr.T.P.Kathirraavan, Advocate Sr.42457 [30/06/2017]

gj ii[col]
srg 19/06/2017

W.P.No.14466 of 2017

सत्यमेव जयते

WEB COPY