

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2017
Coram

The Hon'ble Mr. Justice T.S. Sivagnanam
&
The Hon'ble Mr. Justice K. Ravichandrababu

W.P.No.15099 of 2017

M. Palanisamy

...Petitioner

Vs.

1. The District Collector,
Tiruppur District.

2. The District Manager,
TASMAC Ltd.,
Tiruppur District.

...Respondents

Prayer:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to vacate the TASMAC shop No.2264, which is situated at Sedderpalayam Main Road, Palladam Taluk, Tiruppur District.

For Petitioner : Mr. S. Sithirai Anandam

For Respondent-1 : Mr. T.N. Rajagopalan
Government Pleader (i/c)

For Respondent-2 : Mr. K. Sathish Kumar
Standing Counsel

O R D E R

(Order of the Court was delivered by T.S.Sivagnanam, J.,)

Heard Mr.S.Sithirai Anandam, the learned counsel appearing for the petitioner and Mr. T.N. Rajagopalan, the learned Government Pleader (i/c) appearing for the first respondent and Mr. K. Sathish Kumar, the learned Standing Counsel for the second respondent.

2. The petitioner, by way of this Public Interest Litigation, seeks for a direction upon the respondents to close the TASMAC shop, bearing No.2264, which has got a bar attached to it.

3. The petitioner's case is that, the said location is in the place near the School, College, Place of worship, and therefore, it causes not only nuisance to the public of that area, but also distracts the school and college going students. In this context, we like to take judicial notice of the recent newspapers reports, with regard to the incident that happened in Bangaluru, Karnataka, where, the school teachers found students, carrying water bottles filled with liquor. Therefore, obviously, in the wake of it, no strict interpretation can be given to the distance rules, when it comes to location of retail vending liquor shop near Educational Institution, Hospital, and place of worship. Needless to say that the State has much more responsibility and obligation to ensure the public safety and welfare of the people, more particularly, in this case, the students community, than in concentrating on the augmentation of the revenue to the exchequer alone, that too, by opening the liquor shop by hyper technically sticking on to the distance Rules.

4. In the counter affidavit filed by the second respondent, District Manager, TASMAC, it is stated that school and colleges are located one km away from the TASMAC shop. However, in para No.3 of the counter affidavit, the District Manager has averred that the shop has proper fencing, to ensure that the wastages of the shop are not spread in the nearby lands, and a screen has been erected, covering the shop, so that, there is no possibility for the school and college going students to get distracted. This averment made in the counter affidavit, per se shows that the area, in which, the shop is located is a thoroughfare for the school and college going students to pass through the area, where, the shop is located and screen has been erected with a view to avoid distraction to the students and the younger generation.

5. In our view, the location of the shop, in the particular area, appears to be not conducive to the public, and in particular, to the younger generations. Therefore, the District Collector/first respondent should take serious view in the matter. The learned counsel for the second respondent also produced a proceedings passed by the District Collector, dated 11.05.2017, and on a perusal of the same, it is seen that approval has been given by the District Collector for the present shop. We find that the said approval was granted not only to the shop, in question, but also to other shops as well, and hence, it appears to be a general order, without any indication to show that the District Collector had taken into consideration the other parameters in individual case, except, the law and order problem. Therefore, the District Collector/first respondent has to definitely re-visit the issue

and address the same accordingly in respect of the subject matter shop.

6. With the above observation, we direct the first respondent to authorize one of the senior officers to conduct inspection in respect of the concerned shop at any date within a period of one week from the date of receipt of a copy of this order. On such inspection report being obtained, the District Collector/first respondent shall take a pragmatic decision and examine the local condition and ensure that the interest of the public, especially, the younger generation, is fully protected and not jeopardized. Such order be passed within a period of one week on the completion of the inspection. No costs. Consequently, connected Writ Miscellaneous Petition.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

sd

To

1. The District Collector,
Tiruppur District.

+1cc to Mr.S.SITHIRAI ANANDAM Advocate, S.R.No. 89780
+1cc to Mr.K.SATHISH KUMAR Advocate, S.R.No. 89504
+1cc to the Government Pleader, S.R.No. 89920

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TR(19/12/2017)

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