

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

CORAM

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

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.18195 of 2017

J.Nandhakumar

.. Petitioner

Vs.

1 The Government of Tamil Nadu
Rep. by Secretary
Ministry of Prohibition & Excise
Fort St. George, Chennai - 600 009.

2 The District Collector
Thiruvallur District, Thiruvallur.

3 The Tahsildar
Avadi Taluk, Avadi
Chennai - 600 054.

4 The Inspector of Police
Thirunnirayur - 602 024.

5 S.Venkatraman

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing respondents 1, 2, 3 and 5 from putting up the TASMAL Wine shop at Plot No.2, Jagadeesan Nagar, Poonamallee Panchayat Union, Thirunnirayur, Avadi Taluk, Thiruvallur District.

For Petitioner : Mr.M.Prabakar

For Respondents : Mrs.Vasudha Thiyagarajan
Addl. Government Pleader
for respondents 1 to 4

ORDER

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

In this writ petition filed by way of public interest, the petitioner has sought an order of injunction restraining respondents 1, 2, 3 and 5 from setting up a TASMAC Wine Shop at Plot No.2, Jagadeesan Nagar, Poonamallee Panchayat Union, Thirunninrayur, Avadi Taluk, Thiruvallur District.

2. In the writ petition, it is stated that the residents of the area in which the TASMAC Wine Shop is proposed to be set up include ladies, school children and old-aged people, who use the Rajam Kuppam Road from Thirunninrayur to Annampedu, Railway Station, Bus Terminals, Market, Schools and a nearby temple.

3. It is further stated that the proposed wine shop is detrimental to the interest of the residents of Jagadeesan Nagar and other surrounding areas. In paragraph (14), there is a sweeping averment that the setting up of the TASMAC Wine Shop is in clear violation of the Tamil Nadu Liquor Retail Vending (Inshops and Bars) Rules, 2003. There is also a vague sweeping averment that the setting up of the TASMAC Shop violates the fundamental rights guaranteed under the Constitution of India.

4. There is not a whisper in the writ petition of the specific provision of the Tamil Nadu Liquor Retail Vending (Inshops and Bars) Rules, 2003 which has, according to the petitioner, been violated. The petitioner has not even mentioned the exact distance of the TASMAC Wine Shop from the nearest place of worship or the nearest educational institution.

5. It appears that the petitioner was the original promoter of the layout where the shop is proposed to be opened. The petitioner being a promoter, it appears that he had a personal interest. It is doubtful whether this writ petition, at his instance, can be entertained as a public interest litigation.

6. Furthermore, a writ lies for violation of a constitutional right, a statutory right or may be even an equitable right or in certain specific cases a contractual right. The onus is on the petitioner to demonstrate that there has been a violation of a right. The only difference in case of a public interest litigation is that a public spirited citizen might fight for the rights of the public at large or for a class of people, unable to fight for their rights. However, the right to relief would necessarily have to be substantiated at least by the pleadings.

7. As observed above, no case of infringement of any specific right has been made out. The writ petition cannot be entertained. However, for the ends of justice, we deem it expedient to direct the District Collector, Thiruvallur District/first respondent to ensure that no provision of the Tamil Nadu Liquor Retail Vending (Inshops and Bars) Rules, 2003 is contravened in setting up the TASMAC Wine shop.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.19788 of 2017 is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

sasi

To:

- 1 The Secretary
Government of Tamil Nadu
Ministry of Prohibition & Excise
Fort St. George, Chennai - 600 009.
- 2 The District Collector
Thiruvallur District, Thiruvallur.
- 3 The Tahsildar
Avadi Taluk, Avadi
Chennai - 600 054.
- 4 The Inspector of Police
Thirunnirayur - 602 024.

+lcc to Mr.M.Prabakar, Advocate Sr. 51455

WEB COPY

W.P.No.18195 of 2017

SK(CO)
VR(03/08/2017)