



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

WEB COPY

CORAM:

THE HON'BLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.15017 of 2015

M/s.Naveen Sports Club,
rep. by its Secretary,
K.P.Sivasubramanian,
S/o.K.Paramasivan,
No.4, Subburaman Street,
Near Anna Bus Stand,
Madurai - 625 020.

... Petitioner

-vs-

1.The Commissioner,
Prohibition and Excise Department,
Chepauk,
Chennai - 600 005.

2.The District Collector,
Madurai District,
Madurai.

3.The Assistant Commissioner (Excise),
Office of the Assistant Commissioner
(Excise), Madurai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.X2/47681/2014, dated 15.11.2014, quash the same and consequently direct the 1st respondent to grant F.L.2 license to the petitioner club under the provisions of the Tamil Nadu Liquor (License and Permit) Rules, 1981, within a time frame.

For Petitioner : Mr.Pala.Ramasamy

For Respondents : Mr.G.Muthukannan,
Govt. Advocate

O R D E R

This writ petition has been filed by the petitioner challenging the order passed by the 2nd respondent in Na.Ka.No.X2/47681/2014, dated 15.11.2014 and for a consequential direction to the 1st respondent to grant F.L.2 license to the petitioner club under the provisions of the Tamil Nadu Liquor (License and Permit) Rules, 1981, within a time frame.

2.By consent, the writ petition is taken up for final disposal at the stage of admission itself.

3.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

4.The petitioner averred among the other things in the affidavit filed in support of the petition that the petitioner is a registered club running for the past three years. The petitioner club has filed an application on 07.08.2014 to the first respondent seeking FL2 license for serving alcoholic liquor for human consumption. Though the first respondent by his letter, dated 19.08.2014, requested the second respondent / District Collector to inspect the said club and send report, the second respondent has erroneously passed the impugned order, dated 15.11.2014, refusing to grant FL2 license to the petitioner on the ground that there are already more than five TASMALC shops situated in that area. Hence, he has come up with this writ petition seeking the aforesaid prayer.

5.The learned counsel for the petitioner reiterated the averments made in the writ petition.

6. Per contra, the learned Government Advocate appearing for the respondents submitted that as per the Tamil Nadu Liquor (License and Permit) Rules, 1981, the second respondent is also a competent authority to pass such order. The third respondent has also, after inspection, submitted a report, dated 03.11.2014, stating that there are already more than five liquor shops situated in and around the area. Thus, he prayed for dismissal of this writ petition.

7. Admittedly, the application submitted by the petitioner is pending before the first respondent. The first respondent has, by his communication, dated 19.08.2014, requested the District Collector only to send a detailed report with regard to the points mentioned therein, along with a copy of notes of inspection. But, the District Collector acted as deciding authority and passed the impugned order rejecting the claim of the petitioner. When the second respondent was specifically requested only to submit his report, he cannot act as the deciding authority and reject the



claim of the petitioner. Instead of doing so, he ought to have submitted the report to the first respondent.

8. In view of the above, this writ petition is allowed and the impugned order passed by the second respondent is set aside. The second respondent is directed to submit his report as per the proceedings of the first respondent dated 19.08.2014, to the first respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of report from the second respondent, the first respondent, in turn, is directed to consider the claim of the petitioner on merits and in accordance with law, within a period of four weeks thereafter. No costs.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Prohibition and Excise Department,
Chepauk,
Chennai - 600 005.
2. The District Collector,
Madurai District,
Madurai.
3. The Assistant Commissioner (Excise),
Office of the Assistant Commissioner
(Excise), Madurai.

+1cc to Mr. Pala Ramasamy, Advocate in SR.No:16094

gcg

AE/KP/SAR3/17.04.2017/3P/5C

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