



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.[MD].No.10826 of 2017

A.Vaiyapuri

: Petitioner

Vs.

1.The District Collector,
Trichy District, Trichy.

2.The District Manager [TASMAC],
BHEL Nagar, Thuvakudi, Trichy 15.

3.The Commissioner,
Trichy City Corporation, Trichy,.

4.The Tahsildar,
Trichy West, Trichy District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 21.05.2017, consequently to remove the TASMAC Shop No.10296, situated at Door No.10, McDonald Road, Trichy, within a time frame.

For Petitioner : Mr.K.Vinayagan

For Respondent : Mr.B.Pugalendhi
Additional Advocate General
Assisted by Mr.M.Muniyasamy
Standing Counsel

O R D E R

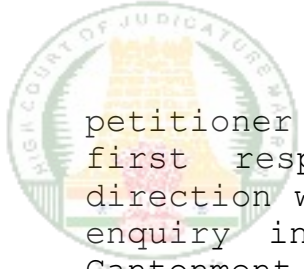
[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Vinayagan, learned counsel for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General, assisted by Mr.M.Muniyasamy, learned Standing Counsel for the respondents. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

2. The petitioner, a Public Interest Litigant, is before this Court with this Writ Petition praying for a direction upon the respondents to consider his representation dated 21.05.2017 and consequently to remove the TASMAC Shop No.10296, situated at Door No.10, McDonald Road, Trichy, within a time frame.

<https://heservices.ecourts.gov.in/hcservices>

3. It is submitted that the representation given by the



petitioner dated 21.05.2017 to the District Collector, Trichy, the first respondent herein, was taken into consideration and a direction was issued to the police officials concerned to conduct an enquiry into the matter. Accordingly, the Inspector of Police, Cantonment Police Station, Trichy, issued a notice under Section 91 of the Code of Criminal Procedure, calling upon the the petitioner to appear for an enquiry on 27.05.2017, at 10.00 AM. On a reading of the said notice, it appears that the petitioner was called upon to attend a Peace Committee Meeting. We fail to understand as to how the Inspector of Police can conduct a Peace Committee Meeting on the said issue, when the petitioner wants to closure of TASMACH Shop for certain reasons. In any event, the competent authority to consider the representation of the petitioner and decide the issue is the District Collector, Trichy. Therefore, it is appropriate for the District Collector to consider the representation than to relegate the matter to the other authorities or the police personnel. Though an enquiry was fixed on 27.05.2017, at 10.00 AM, the shop in question has been opened on 26.05.2017, which is not disputed by the respondents.

4. In our considered view, when the representation of the petitioner seeking closure of the TASMACH Shop was pending before the District Collector and the District Collector had directed appropriate action be taken on the representation of the petitioner, the shop in question should not have been opened. Thus, if the shop in question is permitted to run and simultaneously the representation to be considered, on facts, it would become a *fait accompli*. Therefore, we direct the respondents to close the TASMACH Shop bearing No.10296, situated at Door No.10, McDonald Road, Trichy, immediately and direct the first respondent to consider the representation of the petitioner dated 21.05.2017, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. The District Collector, Trichy, while considering the representation of the petitioner, shall take into consideration the decision of the Hon'ble Supreme Court as well as the decision of the First Bench of this Court on the similar issue.

5. The Writ Petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Trichy District, Trichy.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The District Manager [TASMACH],
BHEL Nagar, Thuvakudi, Trichy 15.



3.The Commissioner,
Trichy City Corporation, Trichy,.

4.The Tahsildar,
Trichy West, Trichy District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.59995

+2cc to M/s. K.VINAYAGAN Advocate in SR. No.59563,59557

+1cc to Mr.PAMELIN Advocate in SR. No.59914

NB

JS/JC/SAR.2/15.6.2017/3P-9C

ORDER MADE IN
W.P. [MD] .No.10826 of 2017
09.06.2017