



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.[MD].No.11249 of 2017
and
W.M.P(MD).No.8628 of 2017

V.Kandhasamy : Petitioner

Vs.

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The District Manager,
TASMAC, Virudhunagar District,
Virudhunagar.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation dated 29.05.2017 and to close the TASMAC liquor vending Shop No.12041, at Panaikudi Village, Thiruchuli Taluk, Virudhunagar District.

For Petitioner : Mr.M.Thangapandian

For Respondents : Mr.B.Pugalendhi
Additional Advocate General

O R D E R

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

Heard Mr.M.Thangapandian, learned counsel for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General, who appears and accepts notice for the respondents. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

2. The petitioner has come forward with the present Writ Petition designed as a "Public Interest Litigation" for and on behalf of the residents of Panaikudi Village, Thiruchuli Taluk, Virudhunagar District, objecting to the relocation of TASMAC Shop No.12041.



3. Earlier, the said shop was located abutting the Highways and in the light of the Judgment of the Hon'ble Supreme Court in the case of State of Tamil Nadu, rep by its Secretary, Home, Prohibition and Excise Department, Vs. K.Balu, reported in 2017 (2) SCC 281, the respondents had to close down the said TASMAC Shop. On closure of the said shop, it appears that the same has been relocated in the village of the petitioner, which is eight kilometres away from the Highway. The petitioner, in his representation, dated 29.05.2017, addressed to the District Collector has expressed serious concern over the location of the TASMAC shop, pointing out that hitherto, there was no TASMAC Shop in his village. Apart from the above, the petitioner states that the location of the TASMAC Shop is in violation of the distance Rules, as it is located near the Government Higher Secondary School at S.Maraikulam Village and there is a famous temple. Further, it is submitted that in a neighbouring village, when there was a TASMAC Shop located, there was a case, where the modesty of 80 years old woman was outraged and because of the objection raised by the public, the said shop was closed. It is also submitted that the residents of the said village are poor agriculturists and they have no other source of income.

4. Mr.B.Pugalendhi, learned Additional Advocate General, would submit that the TASMAC Shop in question does not infringe the distance Rule and adequate safety measures have been taken before the TASMAC Shop was re-located. Further, it is submitted that the Hon'ble First Bench of this Court in the case of U.Vignesh, Vs The Commissioner, Prohibition and Excise Department, [W.P.No.14466 of 2017, dated 13.06.2017], dismissed the Writ Petition, which is some what identical to the prayer, as sought for by the petitioner herein.

5. After hearing the learned counsel for the petitioner as well as the learned Additional Advocate General appearing for the respondents, we find that there is one distinguishing factor in the present case. In the village in question, there was no TASMAC Shop earlier and the present shop has been located there by way of relocation, so as to comply with the orders passed by the Hon'ble Supreme Court.

6. Considering the total population of the village and also the fact that there was no TASMAC Shop in the village and the residents of the said village being poor agriculturists, in our considered view, it is a fit case, where the District Collector should consider the representation of the petitioner and pass appropriate orders.

<https://hcservices.ecourts.gov.in/hcservices/> result, the District Collector, Virudhunagar District, the first respondent herein, is directed to consider the representation of the petitioner dated 29.05.2017 and pass



appropriate orders, taking into consideration the facts and circumstances of the case, as stated above, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The District Manager,
TASMAC, Virudhunagar District,
Virudhunagar.

+One cc to Mr.M.Thangapandian, Advocate, SR.No.61174

+One cc to Mr.B.Pugalendhi, Advocate, SR.No.61507

+One cc to The Special Government Pleader, SR.No.61222

NB

RL/6C/3P/KKR/SAR1/30/6/2017

ORDER MADE IN

W.P.[MD].No.11249 of 2017

19.06.2017