



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD)No.16185 of 2017 and
W.M.P.(MD) Nos.12860 & 12861 of 2017

Hotel Rathna Residency,
Rep. by its General Manager,
K.M.Alagappan,
S/o.K.Manicka Vasagan,
109, West Perumal Mestry Street,
Madurai.

... Petitioner

Vs.

1. The District Collector,
Madurai.
2. The Assistant Commissioner (Excise),
Collectorate, Madurai.
3. The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Madurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus call for the records of the Impugned order passed by the 1st respondent in Na.Ka.No.15983/2016/O2 dated 12.06.2017 quash the same and Consequently direct the respondents to Permit the petitioner Hotel to run Permit Room (BAR) in the light of clarification issued by the Honble Apex Court in S.L.P.(C).No.10243/2017 dated 11.07.2017.

For Petitioner	: Mr.RM.Arun Swaminathan
For R1 & R2	: Mr.J.Gunaseelan Muthiah, Govt. Advocate
For R3	: Mr.H.Arumugam

O R D E R

This writ petition has been filed, seeking to quash the impugned order passed by the 1st respondent in Na.Ka.No.15983/2016/O2 dated 12.06.2017, in and by which, the petitioner was directed to close down the TASMAL Bar, as the same is situated within the distance of 120 mtrs. from the State Highways. The petitioner also sought a direction to the respondents to permit the petitioner Hotel to run the Permit Room



(BAR) in the light of the subsequent clarification issued by the Hon'ble Apex Court in S.L.P.(C).No.10243/2017 dated 11.07.2017.

2. Mr.J.Gunaseelan Muthiah, learned Government Advocate takes notice for R1 and R2 and Mr.H.Arumugam, learned Standing Counsel takes notice for R3. By consent on either side, the writ petition is taken up for final disposal at the stage of admission itself.

3. This Court, while dealing with the similar issue in W.P (MD)Nos.6186 to 6199 of 2017, etc., batch decided on 28.08.2017, had gone into all the material aspects, perused various judgments of the Hon'ble Supreme Court connected hitherto and inter alia passed the order, the relevant portion of which, is extracted as under:

".....

11. At this juncture, it is brought to the notice of this Court that the Honourable Supreme Court, in Arrive Safe Society of Chandigarh v. The Union Territory of Chandigarh and another [Special Leave Petition (Civil) No.10243 of 2017, decided on 11.07.2017], clarified the earlier order dated 15.12.2016 and the relevant portion is extracted hereunder:

"6. The judgment of this Court dated 15 December 2016 addresses dangers to life and safety caused by drunken driving on national and state highways and specifically deals with the problem from the perspective of the availability of alcohol. Roads within a metropolitan city essentially provide connectivity within the city. Chandigarh is an illustration. The roads categorized as V1, V2 and V3 are essentially roads within the city. They were categorized as highways by an administrative decision of 21 October 2005 primarily with a view to ensure their maintenance and development by availing of funds available from the Central Road Fund. The alteration in the nomenclature of certain roads, which has been carried out by the subsequent notification dated 16 March 2017, has left unaffected National Highway no.21 which passes through the city and Madhya Marg which connects the States of Haryana and Punjab. The judgment of this Court dated 15 December 2016 prohibits the grant of licences for the sale of liquor along and in proximity of the National and State Highways including those falling within the jurisdiction of municipal corporations, cities, towns or local authorities. Directions (i) and (ii) extracted earlier did not prevent the



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Administration from re-classifying inter-sectoral roads within the city from state highways to major district roads. The exercise carried out by Chandigarh Administration does not breach the directions issued by this Court. It is neither in violation of the terms of the order nor of the purpose and intendment behind those directions.

7. The purpose of the directions contained in the order dated 15 December 2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between cities, towns and villages. The order does not prohibit licensed establishments within the municipal areas. This clarification shall govern other municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs., before the Court.

8. For these reasons, we find no merit in the Special Leave Petition. The Special Leave Petition will accordingly stand dismissed. IA for intervention is disposed of."

12. In the light of the above, this Court, without going into the merits of the contentions raised by the petitioners in these writ petitions, deems it fit to direct the Commissioner, Prohibition and Excise Department, Ezhilagam, Chempauk, Chennai - 600 005 as well as the District Collectors concerned, as the case may be, to consider the claim of the petitioners herein strictly in terms of the clarification issued by the Honourable Supreme Court, in Arrive Safe Society of Chandigarh v. The Union Territory of Chandigarh and another [Special Leave Petition (Civil) No.10243 of 2017, decided on 11.07.2017] and pass necessary/appropriate orders on merits and in accordance with law, forthwith.

4. Considering the facts and circumstances of the case and also taking into account the fact that the matter is squarely covered by the aforesaid judgment, this Court, without going into the merits of the matter, directs the first respondent / District Collector to consider the claim of the petitioner strictly in terms of the clarificatory order, issued by the Honourable Supreme Court in Arrive Safe Society of Chandigarh v. The Union Territory of Chandigarh and another [Special Leave Petition (Civil) No.10243 of 2017, decided on 11.07.2017] and pass necessary / appropriate orders on merits and in accordance with law forthwith.



5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Madurai.
2. The Assistant Commissioner (Excise),
Collectorate, Madurai.
3. The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Madurai.

+1cc to Special Government Pleader, SR.No. 75778
+1cc to M/S.RM.Arun Swaminathan, Advocate SR.No. 75018
+1cc to M/S.H.Arumugam, Advocate SR.No. 75313

W.P(MD)No.16185 of 2017
29.08.2017

AR/RM
JM/SKN RSK/SAR 3/05.09.2017/4P/7C