



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 17211 of 2017 and
W.M.P. (MD) No. 13778 of 2017

K.Pudur Bharathiyar Main Road,
Residence Welfare Association,
Rep. by its President,
P.Mathivathanan

: Petitioner

Vs.

1. The District Collector,
Madurai District, Madurai.

2. The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to close/remove the TASMAC Retail Shop No.5131, situated at K.Pudur Bharathiyar Main Road, Madurai District, on the basis of representation given by the petitioner dated 28.08.2017.

For Petitioner : Mr.P.Gokulnaath
For Respondent No.1 : Mr.T.S.Mohamed Mohideen,
Additional Government Pleader
For Respondent No.2 : Mr.Satheeshkumar,
For Mr.H.Arumugam

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

The petitioner filed this Writ Petition to direct the first respondent to close the TASMAC Retail Shop No.5131, presently functioning at K.Pudur Bharathiyar Main Road, Madurai District, on the basis of his representation dated 28 August, 2017.

2. We have heard the learned counsel for the petitioner. We have also heard the learned Additional Government Pleader appearing on behalf of the District Collector, Madurai District and the learned Standing Counsel appearing on behalf of the District



Manager, TASMAC.

3. We direct the District Collector, Madurai to consider the representation submitted by the petitioner dated 28 August, 2017 and dispose of the same on merits and as per law. The District Collector must call upon the TASMAC to produce the planning permission obtained by the owner of the shop for constructing the building, where the TASMAC shop is presently located. In case it is made out that there was no planning permission obtained by the owner of the premises, necessarily, the Collector should direct the TASMAC to shift the shop to another location.

4. We are constrained to make this observation on account of the prevailing situation in and around Madurai that without even planning permission, buildings are constructed and the same is let out to TASMAC for opening shop. In case the Collector arrives at a conclusion that there was no building permission obtained by the builder, necessarily, orders should be passed for closure of the shop. Similarly, in the event of arriving at a conclusion by the Collector that the shop is situated within the prohibitory distance, then also, necessarily, orders should be passed for closure of the shop.

5. The Collector is directed to give an opportunity of hearing to the petitioner before passing orders in the matter. Such exercise shall be completed, within a period of eight weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To:

The District Collector,
Madurai District, Madurai.

+ 1 CC TO Mr.P.GOKULNATH, ADVOCATE IN SR No. 78504
+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 78730
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 79027

SML/KM

TE/SV-MMS/SAR-I : 26/09/2017 : 2P/5C