



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

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CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.18960 of 2017

D.Ramesh : Petitioner

.vs.

1. The District Collector,
Madurai District,
Madurai.

2. The District Manager,
TASMAC Limited,
Madurai District,
Madurai.

3. The Inspector of Police,
Karimedu Police Station,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the respondents to remove the TASMAC Shop in Corporation Colony, Aarapalayam, Madurai District.

For Petitioner	: M/s.S.Sankar
For Respondents	: Mr.M.Govindan
1 and 3	Special Govt.Pleader

For Respondent-2	: Mr.H.Arumugam
	Standing Counsel for TASMAC

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has filed the present Writ Petition praying this Court for passing of an order in directing the respondents 1 to 3 to remove the TASMAC Shop in Corporation Colony, Aarapalayam,



Madurai District.

2. Heard both sides.

3. By consent, the main Writ Petition itself is taken up for final disposal.

4. The learned counsel for the Petitioner adverts to the representation, dated 7.8.2017 of the public of Corporation Colony, Aarapalayam, Madurai District addressed to the first respondent/The District Collector, Madurai District, whereby and where-under, a plea was made to remove the shop in question from their area, considering their interest.

5. In this connection, this Court has perused the contents of the representation of the public of the Corporation Colony, Aarapalayam, Madurai District, dated 07.08.2017 and is of the considered opinion that the village public and had among other things mentioned that the persons who come for consuming alcohol/liquor is parking their two-wheeler across the way and also indulge in heckling of the people and further, there is no doubt that the law and order would get deteriorated to an extent of calling Police through Telephone No.100.

6. At this stage, in response, the learned Special Government Pleader appearing for the respondents 1 and 3, brings it to the notice of this Court that for removal of the TASMAC shop, the members of the public had endeavoured to engage in road block and after conducting peace talk, the same was stopped and for removal of the TASMAC shop in question, the village people are transmitting petitions to the Chief Minister's Special Cell, other officers and Police Officials concerned. Furthermore, there is a possibility for the residents of the said area to indulge in road block. As a result of which, there is a even possibility of affecting law and order situation and therefore, the Inspector of Police, Karimedu Police Station, Madurai/the third respondent had addressed a communication to the second respondent/The District Manager, TASMAC Limited, Madurai District on 29.08.2017 to shift the Government TASMAC Shop No.55132 to another place.

7. In this connection, the learned Standing Counsel for the second respondent contends that there is no distance violation in respect of the location of shop as per Rule 8(1) of the Tamil Nadu Liquor Retail Vending(in Shops and Bars) Rules, 2003. Added further, the learned Standing Counsel for the second respondent brings it to the notice of this Court that on earlier occasion, the first respondent/The District Collector, Madurai District had granted permission to shift the shop to the present building, as per the Tamil Nadu Liquor Retail Vending(in Shops and Bars) Rules, 2003. (hereinafter called as 'Rules 2003'. That apart, the learned Standing Counsel for the second respondent denies the



allegation that the second respondent had handed over the premises to shift the shop within one month, as alleged in Para 6 of the Writ Petition.

8. The core stand taken on behalf of the second respondent is that the residential buildings are not covered by restrictions under Rule 8(1) of the 'Rules 2003' and it is not for this Court to amend the subordinate legislation. Besides this, this Court cannot even legislate.

9. It is the contention of the learned Standing Counsel for the second respondent that the 'Rules 2003' does not prescribe any other exception and therefore, the opening of the shop is well within the ambit of the Tamil Nadu Prohibition Act, 1937. As such, the Writ Petition filed by the Petitioner sans merits.

10. It is to be noted that Rule 8 of the 'Rules 2003' speaks of 'Location of Shop'. Rule 9 enjoins 'Shifting of Shops'. Rule 10 refers to 'Location of Bar'.

11. A cursory perusal of Rule 9 of 'Rules 2003' unerringly points out that there shall be no change in the location of shop except with the permission of the District Collector.

12. It cannot be gainsaid that it is not for a Court of Law either to run or to govern the Administration of the State or to go into the aspect of the appropriateness of location for setting up a shop in question.

13. As a matter of fact, vending in liquor will undoubtedly increase the coffer of the 'Revenue' of the Government concerned. It is to be termed as 'Res-Extra Commercium'. However, a serene atmosphere of harmony and peaceful living of the residents cannot be interfered by any one. As such, this Court, without expressing any opinion one way or other on the merits and contents of the representation, dated 7.8.2017 (wherein the Petitioner has also affixed his signature), simpliciter directs the First Respondent/The District Collector, Madurai District to look into the representation of the Petitioner, dated 7.8.2017 within a period of two weeks from the date of receipt of a copy of this order. Further, the first respondent shall pass a reasoned speaking order on merits in a qualitative and quantitative terms, after providing necessary opportunity to the Petitioner and others concerned, if any (if situation so warrants/need be), of course, after adhering to the principles of Natural Justice, within a period of four weeks thereafter. It is open to the Petitioner to raise all factual and legal pleas before the First Respondent/The District Collector, Madurai District, who shall advert to the ~~pleas (both factual and legal)~~ raised in the petition and to pass a speaking order within the time determined by this Court.



14. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

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/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District,
Madurai.
2. The District Manager,
TASMAC Limited,
Madurai District,
Madurai.
3. The Inspector of Police,
Karimedu Police Station,
Madurai.

+ 1 CC TO MR.S.Sankar, ADVOCATE IN SR No.83118
+ 1 CC TO MR.Mr.H.Arumugam, ADVOCATE IN SR No.83392
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.83313
MK/JC/SAR-2/30.10.2017/4P/7C

ORDER MADE IN
W.P. (MD) No.18960 of 2017
23.10.2017