



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) No.22360 of 2017

Samuel Chellaiah

: Petitioner

Vs.

1. The Director,
TASMAC,
Office of the Director of TASMAC,
CMDA Tower,
Egmore,
Chennai.
2. The District Collector,
Office of the District Collector,
Thanjavur District.
3. The District Manager,
TASMAC,
Office of the TASMAC District Manager,
Nanjikottai Road,
Thanjavur District.
4. The Sub Collector,
Office of the District Sub Collector,
Kumbakonam,
Thanjavur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus, to forbear the Respondents from operate or shift the TASMAC Shop No.8152 to Door Nos.271/2, 271/3, 271/4 in Karaikal Main Road, S.Pudhur, Thiruvaidaimarudhur Taluk, Thanjavur District from Survey No.62/2, Plot No.499, S.Pudur Village, Sathanur Road, Thanjavur District, in the interest of justice.

For Petitioner

: Mr.B.Dhanasekaran

For Respondents 1&3

: Mr.H.Arumugam

For Respondents 2&4

: Mr.M.Govindan,

Special Government Pleader

**O R D E R**

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

Heard both sides.

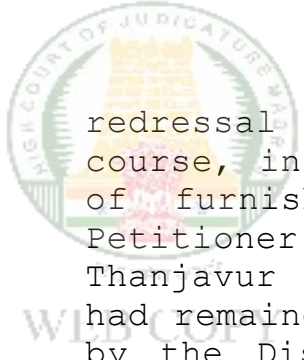
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2. It is represented by the Learned Standing Counsel appearing on behalf of the Respondents 1 and 3/TASMAC that there is no proposal as on today to shift the TASMAC Shop No.8152 to the earlier place at Door Nos.271/2, 271/3, 271/4 in Karaikal Main Road, S.Pudhur, Thiruvudaimarudhur Taluk, Thanjavur District.

3. It is to be noted that the ingredients of G.O.(Ms).No.99, Personnel and Administration (A) Department, dated 21.09.2015 enjoins that the grievance petition should be redressed with an earnest period of one month of its receipt and it should be with a speaking order, in the event of a redressal or rejection, if found necessary. As a matter of fact, the afore stated Government Order refers to Writ Petition No.20527 of 2014, dated 01.08.2014, wherein a direction was issued to issue the Government Order directing all concerned authorities to redress the grievance petition within thirty days from the receipt of grievance petition with a speaking order. In case, for some reason, additional time is required, the person, who has made the reference, would be informed in writing for the extended period of time.

4.It is to be borne in mind that the ambit of 'Judicial Review' when testing the policy of Government is to check whether it violates the fundamental rights of the people or is in negation of the Constitutional provisions or any Statute or apparently whimsical, arbitrary and a capricious one. In short, the legality of policy is the subject matter of Judicial Review and not the soundness or the wisdom of the policy, in the considered opinion of this Court.

5. However, in regard to the plea taken on behalf of the Petitioner that Church and Temple are situated within 50 feet from the TASMAC Shop in question and, therefore, the said Shop is to be shifted to another place/area, at this stage, this Court pertinently points out that Rule 9 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003, clearly enjoins that 'there shall be no change in the location of shops except with the previous permission of the Collector'. Whether the running of the present TASMAC Shop at the present place is an objectionable one? or Whether the same is located nearby the Church or the Temple?, as the case may be, is to be looked into by the District Collector and in this regard, the 'Power of Court' is to be exercised with utmost care and circumspection. Viewed in that perspective, this Court is disposed of the present Writ Petition by granting liberty to the Petitioner to file a fresh representation and to seek



redressal of his grievances if he so desires/if so advised, of course, in accordance with the Rules and Regulations. At the time of furnishing of fresh representation, it is open to the Petitioner to bring it to the notice of the District Collector, Thanjavur District, that earlier representation projected by him had remained dormant and no fruitful or tangible action was taken by the District Administration in this regard. If any personal hearing is required and if the Petitioner desires to be heard, then he can make a fervent plea before the District Collector, who, in turn, shall provide an opportunity to the Petitioner, if need be or if situation so warrants. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Director,
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CMDA Tower,Egmore, Chennai.
2. The District Collector,
Office of the District Collector,
Thanjavur District.
3. The District Manager,
TASMAC, Office of the TASMAC District Manager,
Nanjikottai Road,
Thanjavur District.
4. The Sub Collector,
Office of the District Sub Collector,
Kumbakonam, Thanjavur District.

+2cc to Mr.R.Alagumani, Advocate Sr.No.91821

+1cc to Mr.H.Arumugam, Advocate Sr.No.91767

+1cc to Spl.Government Pleader Sr.No.91560

SML/RJ2

VB/MR/KKR/SAR3/22/12/2017/3P/9C