



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.23194 of 2017

and

W.M.P(MD) No.19480 of 2017

M.Y.Habibullah

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Manager,
TASMAC,
Dindigul District,
Dindigul.

3.Assistant Commissioner (Excise),
Dindigul District,
Dindigul.

4.The Divisional Excise Officer,
Palani,
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents or their agents from re-opening of the Liquor Shop in door No.391, Government TASMAC Shop No.3183 Ward No.10, Dharapuram Road, Oddanchatram and consequently directing the Respondents not to give permission for opening of TASMAC Shop near by the C.S.I. Middle School, Thummichampatti, Oddanchatram in accordance with the Tamil Nadu Liquor retail vending (In Shop and Bars) Rules 2003.

For Petitioner

: Mr.A.Thirumurthy

For Respondents

: Mr.T.S.Mohamed Mohideen,

Additional Government Pleader
for R.1, R.3 & R.4

Mr.H.Arumugam for R.2

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> the writ petition is taken up for final disposal at the stage of admission itself.



2. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader, takes notice for Respondents 1, 3 & 4. Mr.H.Arumugam, learned Counsel takes notice for the second respondent.

3. According to the petitioner, TASMAC Shop No.3183, which was functioning adjacent to his house and was well within a distance of 50 meters from the CSI School as well as CSI Church, came to be closed by the authorities, pursuant to the direction of the Hon'ble Apex Court. Whereas, subsequent to the clarificatory order issued by the Hon'ble Apex Court, the respondents are trying to re-open the said shop in the same place. Upon knowing the said development, the petitioner, other residents, the management of both CSI School and CSI Church, had individually as well as jointly, submitted several representations, requesting the authorities, not to re-open the TASMAC shop, citing Rule 8 of the Tamil Nadu Liquor retail vending (In Shop and Bars) Rules 2003, which reads thus:

"Location of Shop - (1) No shop shall be established in Municipal Corporations and Municipalities within a distance of 50 (fifty) meters and in other areas 100 (hundred) meters from any place of worship or educational institutions"

As the authorities are taking steps to re-open the TASMAC shop, despite the representation/objection, the petitioner is before this Court, with the aforesaid prayer.

4. On the other hand, the learned Counsel appearing for the second respondent/TASMAC stoutly refuted the contentions of the learned Counsel for the petitioner and on instructions, submitted that after complying with the provisions stipulated in the Act, the TASMAC shop is proposed to be re-opened in the said place.

5. Heard both sides and perused the documents placed on record.

6. Truth or otherwise, has to be decided by the competent authority, viz., the first respondent herein/District Collector. If the proposed location of the said TASMAC shop is well within 50 meters distance from educational institutions or worshiping places, necessarily, it has to be opened in some other places, if they so required.

7. Under such circumstances, this Court, without expressing any opinion on the merits of the matter, directs the first respondent to look into the issue and take a decision thereon, keeping in mind the Rule 8 of the Tamil Nadu Liquor retail vending (In Shop and Bars) Rules 2003 as well as the orders passed by the Hon'ble Apex Court in this regard, after affording due opportunity of being heard to the petitioner as well as all the other interested parties, if any, within a period of four weeks from the date of receipt of a copy of this order.



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

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/True copy/

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar

To:

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Manager (TASMAC),
Dindigul.

3.Assistant Commissioner (Excise),
Dindigul District,
Dindigul.

4.The Divisional Excise Officer,
Palani,
Dindigul District.

+1cc to Mr.A.THIRUMURTHY, Advocate, SR. 93447

+1cc to Mr.H.ARUMUGAM, Advocate, SR.93770

+1cc to M/S.Special Government Pleader, SR.93740

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18.12.2017

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