



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.5251 of 2017

and

W.M.P (MD) Nos.4208 & 4209 of 2017

S.M.T.Ravi

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Madurai District,
Madurai.

2.The District Manager,
TASMAC, Madurai (South),
Kappalur,
Madurai.

3.The Divisional Officer (Excise),
Madurai South,
Madurai.

4.V.Sudhakaran

... Respondents

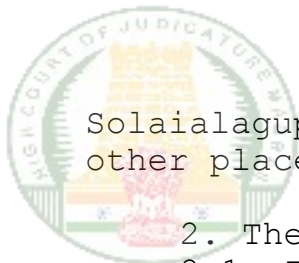
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records connected to the order in Na.Ka.No.01/VN/5164/H dated 28.07.2015 on the file of the 2nd respondent and quash the same as illegal, consequently directing the respondents No.1 and 2 either to close down the TASMAC Shop No.5127 at No.29C, Barathiyar Street, Solaiyalagupuram Main Road, Madurai or to shift the shop to some other place.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate for R.1 & R.3
Mr.M.Muniasamy,
Standing Counsel for R.2
No appearance for R.4
* * * * *

ORDER

This writ petition has been filed challenging the order in Na.Ka.No.01/VN/5164/H dated 28.07.2015 on the file of the second respondent and to direct the respondents 1 and 2, either to close down the TASMAC Shop No.5127 at No.29C, Barathiyar Street,



Solaialagupuram Main Road, Madurai or to shift the shop to some other place.

2. The case of the petitioner in nutshell is as follows:

2.1. The petitioner herein earlier filed a writ petition WP(MD) No.12549 of 2014, seeking to forbear the respondents 1 and 2 from opening Bar Shop No.5127 and this Court, by order dated 01.08.2014, directed the respondents to consider the representation of the petitioner, dated 24.07.2014. Pursuant to the same, the third respondent herein had conducted enquiry and filed a report dated 19.11.2014, recommending to shift the shop to some other place.

2.2. However, since the same has not been complied with, the petitioner herein filed another writ petition in W.P(MD)No.8158 of 2015, wherein, this Court, by order dated 14.05.2015, directed the second respondent herein to consider the representation of the petitioner dated 10.04.2015, after considering the views expressed by the third respondent in his proceedings dated 26.12.2014. Pursuant thereto, the second respondent conducted an enquiry on the said representation and closed the same by his proceedings in ந.க.எண்:01/VN/5164/H dated 28.07.2015, however, without taking any action on the ground that there was no rule prohibiting the shops in short distance.

2.3. Thereafter, the very same petitioner herein filed yet another writ petition in W.P.(MD)No.23603 of 2016 seeking a direction to the respondents 1 to 3 therein to either close down the said TASMAL shop or to shift the shop to some other place, by considering his representation dated 23.11.2016, which was dismissed as withdrawn with a liberty to challenge the order passed by the second respondent therein in e.f.vz;:01/VN/5164/H dated 28.07.2015. Thus, the present writ petition is filed.

3. Heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 and 3 as well as the learned Standing Counsel for the second respondent. Despite notice served on the fourth respondent, there is no representation on his behalf.

4. The learned Government Advocate drawing the attention of this Court to the counter affidavit filed by the first respondent, submitted that pursuant to the order of this Court passed in W.P(MD) No.12549 of 2014 dated 01.08.2014, the Divisional Officer (Excise) has suggested to shift the shop to another place and hence, prayed for appropriate orders.

5. Considering the facts and circumstances of the case, this Court, without going into the merits of the contentions raised in this writ petition, directs the petitioner to submit a fresh representation to the first respondent forthwith. On receipt of the same, the first respondent shall consider the same and pass necessary orders in line with the proceedings of the Divisional Officer (Excise) in ந.க.எண்:118/2014 dated 19.11.2014, after giving



due opportunity of hearing to both the parties, within a period of six weeks thereafter.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

/True Copy/

Sd/-
Assistant Registrar(CS-III)

Sub Assistant Registrar

To

1.The District Collector,
Office of the District Collector,
Madurai District,
Madurai.

2.The District Manager,
TASMAC, Madurai (South),
Kappalur,
Madurai.

3.The Divisional Officer (Excise),
Madurai South,
Madurai.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.65256

+1cc to M/s.S.MALAIKANI Advocate in SR. No.64797

GK

JS/MR.KKR/SAR.2/19.7.2017/3P-6C

W.P(MD)No.5251 of 2017

and

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