



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.7465 of 2016 and

W.M.P (MD) No.6273 of 2016

WEB COPY

Muthuramalingam

... Petitioner

-vs-

1. The Senior Regional Manager,
TASMAC Ltd.,
Plot No.100, Anna Nagar,
Madurai,
Madurai District.

2. The District Manager,
TASMAC Ltd.,
Plot No.C-104,
Sipcot Complex,
Madathur Village,
Madurai Bye Pass road,
Thoothukudi,
Thoothukudi District.

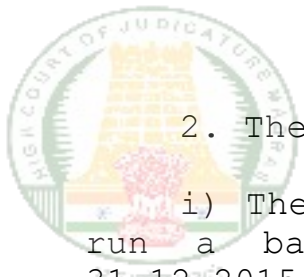
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the second respondent in his proceedings in Na.Ka.A4/883/2015, dated 11.04.2016 and consequently direct the respondents to permit the petitioner to run a bar at TASMAC shop No.10012 in the same locality upto the license period from 01.01.2016 to 31.12.2016.

For Petitioner : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu
For Respondents : Mr.M.Muniasamy,
Standing Counsel

O R D E R

This writ petition has been filed, seeking to quash the impugned proceedings of the second respondent bearing No.Na.Ka.A4/883/2015, dated 11.04.2016, in and by which, the 2nd respondent has ordered sealing of the bar of the petitioner on the ground of selling liquor in violation of the rules, by forfeiting the security deposit. The petitioner also sought a direction to ~~to allow the petitioner to run the bar at Tasmac Shop No.10012 at Ettayapuram Region.~~



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

i) The petitioner was granted license by the 2nd respondent to run a bar at Tasmac Shop No.10012 vide proceedings dated 31.12.2015 for the period of one year from 01.01.2016 to 31.12.2016 and the petitioner has also effected necessary fee for the same;

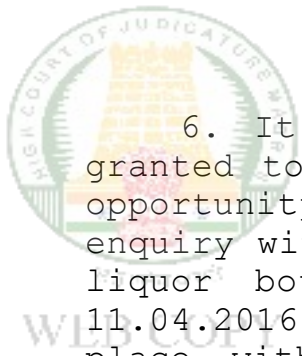
ii) While the petitioner was running his business in the bar, to his utter shock and surprise, the license granted to him by the 2nd respondent was cancelled and the bar was sealed, on the basis of the search conducted in the Tasmac Bar by the Enforcement Wing, Kovilpatti, on the allegation of possession of unaccounted liquor bottles. Aggrieved by the action of the 2nd respondent, the petitioner is before this Court, seeking to quash the impugned order dated 11.04.2016.

3. The learned counsel for the petitioner would submit that prior to cancellation of the license, no show cause notice has been issued to the petitioner to put forth his defence. In this regard, the learned counsel for the petitioner has brought to the notice of this Court the provisions of Section 23 of The Tamil Nadu Prohibition Act, 1937, in which Sub-Section (3) specifically stipulates that before cancellation or suspension of any licence or permit under sub-section (1) or sub-section (2), the holder of the licence or permit shall be given an opportunity to state his objection within a reasonable time. But to the contrary, such opportunity of filing his objection was denied to the petitioner. He would further submit that in the Tender conditions enclosed along with the license granted in favour of the respective parties, it has been clearly mentioned that opportunity has to necessarily be afforded to the parties and appropriate enquiry to be conducted before taking a decision to cancel the license. Such being the case, the necessary mandates have not been adhered to by the 2nd respondent before issuance of the impugned order, which is violative of the principles of natural justice and therefore, the impugned order is liable to be set aside.

4. Per contra, learned counsel appearing for the respondents drew the attention of this Court the Tender Condition No.45, which states that in the event of violation of the tender conditions by any of the holder of the license, the Tasmac reserves its right to cancel the license in addition to forfeiting the security deposit after due enquiry and therefore, the impugned order dated 11.04.2016 is perfectly valid and does not warrant any inference by this Court.

5. Heard the learned counsel for the petitioner and the

<https://hcjudgments.co.in/cases/> for the respondents.



6. It is not the case of the respondents that the license granted to the petitioner has been cancelled after affording due opportunity to the petitioner and after conducting a thorough enquiry with regard to the allegation of possession of unaccounted liquor bottles in the bar and in the impugned order dated 11.04.2016 passed by the 2nd respondent, no such reference finds place with regard to show cause notice issued. Thus, it is apparent that the impugned order has been passed depriving the rights of the petitioner and thereby violating the principles of natural justice, as the petitioner must have been heard before passing any order affecting his civil right.

7. In view of the foregoing discussions, the impugned order dated 11.04.2016 is set aside and the respondents are directed to issue show cause to the petitioner and after following the principle of *audi alteram partem*, proceed further in accordance with law. It is made clear that the whole exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/ True Copy /

Sub Assistant Registrar(C.S.)

To:

1. The Senior Regional Manager,
TASMAC Ltd.,
Plot No.100, Anna Nagar,
Madurai,
Madurai District.
2. The District Manager,
TASMAC Ltd.,
Plot No.C-104,
Sipcot Complex,
Madathur Village,
Madurai Bye Pass road,
Thoothukudi,
Thoothukudi District.

+1cc to M/S.K.PRABHU, Advocate SR.No.63644

gk/smn

MAS/MR-KKR/SAR2:14.07.2017:3P-4C

<https://hcservices.ecourts.gov.in/hcservices/>

W.P (MD) No.7465 of 2016
06.07.2017