

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21739 of 2018
and
W.M.P.No.25500 of 2018

A.Palampathi ... Petitioner

vs.

1. Tamil Nadu State Marketing Corporation Ltd.,
Rep. by its Managing Director,
CMDA Towers, Egmore,
Chennai - 600 008.
 2. The Senior Regional Manager,
Tamil Nadu State Marketing
Corporation Ltd.,
MSR Complex Dayalan Street,
Goundampalayam,
Coimbatore - 641 030.
 3. The District Manager,
Tamil Nadu State Marketing
Corporation Ltd.,
MSR Complex Dayalan Street,
Goundampalayam,
Coimbatore - 641 030.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in connection with the order passed by the 3rd respondent bearing Ref.No.Na.Ka.No.751/2018/R.V-1 dated 06.08.2018 and quash the same and consequently direct the 3rd respondent to permit the petitioner to run his business in the said premises as per the license issued by the respondent.

For Petitioner : Mr.V.Prakash,
Senior Counsel
for Mr.N.Alagu Narayanan

For Respondents : Mr.K.Sathishkumar,
Standing Counsel

O R D E R

The petitioner is aggrieved against the proceedings dated 06.08.2018 issued by the 3rd respondent, wherein and whereby, bar licence issued to the petitioner in respect of TASMACH Shop No.1645 was cancelled, also by blacklisting the petitioner. Consequently, the petitioner seeks permission to run his bar as per the licence issued by the respondent.

2. Heard Mr.V.Prakash, the learned senior counsel appearing for the petitioner and Mr.K.Sathish Kumar, learned Standing Counsel appearing for the respondents.

3. The main grievance of the petitioner before this Court is that the impugned order was passed in violation of principles of natural justice, since no notice was issued to the petitioner before blacklisting him as ordered in the impugned proceedings. It is the further contention of the petitioner that before cancelling the licence, the authorities have not conducted proper enquiry.

4. On the other hand, it is contended by the respondents that as against the order impugned in this writ petition, the petitioner has right of appeal before the second respondent and therefore, the petitioner can avail such remedy. It is further contended by the respondents that because of the law and order problem created by the petitioner and the other party, the impugned order came to be passed and therefore, the same need not be interfered with. Even though it is contended so, in the counter affidavit filed by them, it is stated that the 3rd respondent shall conduct detailed enquiry with the employees and the petitioner in due course.

5. It is seen that the petitioner herein was issued with a bar licence and the same is subsequently cancelled by the impugned order. Apart from cancelling such bar licence, the petitioner is also blacklisted through the impugned order. It is seen that before blacklisting the petitioner, no notice was issued to him and thus, it is evident that the principles of natural justice is violated while imposing the punishment of blacklisting the petitioner. Needless to say that before passing such order of blacklisting the petitioner, he should have been given an opportunity of hearing. In the absence of such opportunity, in my considered view, the impugned order, insofar as blacklisting the petitioner, is liable to be set aside, however, by granting liberty to the respondents to issue proper notice to the petitioner and thereafter to pass appropriate orders on merits and in accordance with law.

6. Insofar as the cancellation of bar licence is concerned, perusal of the impugned order would show that the petitioner and other persons seem to have created some law and order problem. Therefore, it is for the 3rd respondent to take appropriate decision after conducting an enquiry, as to

whether the licence given to the petitioner has to be continued or not. Since the 3rd respondent himself has come forward to conduct such a detailed enquiry with the employees and the petitioner as stated in the counter, this Writ Petition is disposed of under the following terms.

a) The impugned order insofar as blacklisting the petitioner, is set aside. Consequently, the matter is remitted back to the 3rd respondent for passing appropriate orders, after giving due opportunity of hearing to the petitioner.

b) Insofar as the suspension of licence is concerned, the 3rd respondent shall conduct an enquiry, and thereafter pass a fresh order, indicating as to whether the licence issued to the petitioner shall have to be continued or not. Such order shall be passed within a period of three weeks from the date of receipt of a copy of this order. Till an order is passed by the 3rd respondent as stated supra, the bar shall be kept closed.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The Managing Director,
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+ 1 cc to Mr. Sathishkumar, Advocate Sr.

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(Cs-IX)

EU (20/09/2018)

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