

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.34030 of 2017

C.V.Unnirajan

.. Petitioner

Vs.

1 The Managing Director
TASMAC Ltd.
4th Floor CMDA Tower II
Egmore Chennai-8

2 The District Collector
Uthagamandalam, The Nilgiris.

3 The Assistant Commissioner of Excise
Uthagamandalam, The Nilgiris.

4 The District Manager
TASMAC, Uthagamandalam
The Nilgiris.

5 The Tahsildar
Pandalur Taluk,
Uthagamandalam, The Nilgiris.

.. Respondents

PRAYER: Petitioner under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents to consider the representation of the petitioner herein dated 30.10.2017 and to relocate the shop.

For Petitioner : Mr.T.Shanmugam

For Respondents : Mr.T.N.Rajagopalan
Government Pleader(Incharge)
for respondents 2, 3 and 5

Mr.K.Sathish Kumar
for respondents 1 and 4

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

In this writ petition, the petitioner has sought orders on the respondent authorities to consider the representation of the

petitioner dated 30.10.2017 for relocation of TASMAC Wine Shop No.8447 at Erumad Bazaar in Udthagamandalam, Nilgiris District.

2. The area in question is a village panchayat area. Rule 8 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 provides as follows:

"Rule 8. Location of shop.-

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

Provided that the distance restriction shall not apply in areas designated as 'Commercial' or 'Industrial' by the Development or Town Planning Authorities:

Provided further that no shop shall be established within the premises of any hotel:

Provided also that if any place of worship, educational institution comes into existence subsequent to the establishment of the shop, the provisions of this rule shall not apply:

Provided also that no liquor shops shall be established in any tribal areas covered under Integrated Tribal Development Project and Hill Area Development Project in the Hill area of Vellore, Salem, Namakkal, Dindigul, Tirunelveli and Kanniyakumari districts.

(2) Every shop shall be housed in a pukka building and no part of the shops shall be thatched either on the sides or on the roof.

(3) The shop shall be in the location approved by the Collector before commencing the business in the shops."

3. The learned counsel appearing on behalf of Respondent Nos.1 and 4 submitted a chart indicating that the TASMAC Shop is located 150 Metres from the main gate and 160 Metres from the compound of the Shivan Temple.

4. It further appears from the averments in the affidavit in support of the petition that the TASMAC Shop is about 35 Metres from bus stop and about 50 Metres from the Erumad Masjid Burial Ground. The bar is against setting up of a TASMAC Shop near a place of worship and not near burial ground and/or

cremation ground.

5. It is not for this Court entertaining a public interest litigation to decide policy matters. This Court is only to examine if there is any illegality and/or contravention of Rules. Whether TASMAL Shops should be located near a bus stop or not is for the rule making authorities to decide and not for this Court.

The writ petition cannot be entertained and the same is dismissed. No costs.

Sd/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

sasi
To:

- 1 The Managing Director
TASMAL Ltd. 4th Floor CMDA Tower II
Egmore Chennai-8
- 2 The District Collector
Uthagamandalam, The Nilgiris.
- 3 The Assistant Commissioner of Excise
Uthagamandalam, The Nilgiris.
- 4 The District Manager
TASMAL, Uthagamandalam
The Nilgiris.
- 5 The Tahsildar
Pandalur Taluk,
Uthagamandalam, The Nilgiris.

+1cc to Mr.K.Sathish Kumar, Advocate SR.No.965
+1cc to Government Pleader SR.No.106

W.P.No.34030 of 2017

GN(17/01/2018)