

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE ABDUL QUDDHOSE

W.P. No.2943 of 2018
and W.M.P.No.3609 of 2018

Manoharan ... Petitioner

-vs-

The State, rep. By its

- 1.The District Collector,
Tiruvellore District @
Thiruvellore Town.
 - 2.The Asst. Commissioner of
Excise, Prohibition & Excise Dept.,
Thiruvellore Dist @ Thiruvellore Town.
 - 3.The Senior Manager,
Tamil Nadu State Marketing Corporation
Ltd (TASMAC) (Retail Vending),
Thiruvellore District, @ Thirumazhisai,
Chennai 600 077.
 - 4.The Tahsildar,
Madhavaram Taluk @ Madhavaram,
Chennai 600 051.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the orders of rejection of the 1st respondent-District Collector, Thiruvellore District, made in Na.Ka. V1/1143/2017 dt.5.1.2018 and quash the same as 'unjustifiable' and consequently to direct the 1st respondent to pass a specific order directing the 2nd to 4th respondents to shift away the above said liquor shop No.8831, situate at 1st Street, Annai Velankanni Nagar, Madhavaram Milk Colony, Madhavaram, Chennai 600 051, to some other locality as may be

chosen by the above said respondents, within a time frame as may be fixed by this Court, in the interest of welfare of largest general public of residents of Annai Velankannai Nagar Residents Madhavaram Milk Colony, Madhavaram, Chennai 600 051.

For Petitioner : Mr.P.Britto

For Respondents : Mr.T.N.Rajagopalan,
Govt. Pleader for RR 1 and 4

: Mr.p.Arumugarajan for RR 2 & 3

O R D E R

(Made by Ms.Indira Banerjee, Chief Justice)

This writ petition has been filed purportedly in public interest seeking orders of this Court directing the respondents to consider the representation of the petitioner for shifting the retail vending liquor shop No.8831 at 1st Street, Annai Velankanni Nagar, near Madhavaram Milk Colony, Madhavaram, Chennai 600 051, to some other place.

2.In the affidavit in support of the writ petition, it is stated that the liquor shop is adjacent to a Church. However, as per the report of the Regional Manager of TASMAL Limited, the liquor shop is located at a distance of 70 meters from the Church.

3.Learned counsel appearing on behalf of respondents 2 and 3 submits that the liquor shop is, in any case, located in a commercial area, to which the rules regulating distance from places of worship, educational institutions, etc., do not apply.

4.In the affidavit, it is stated that the Tasmal liquor shop should be shifted to avoid the assembly of anti-social elements and to avoid use by drunkards of abusive unparliamentary language. It, however, appears that the Tasmal shop has been in existence since the year 2003, i.e., for over 15 years. In the absence of any contravention of the provisions of Tamil Nadu Liquor Retail Vending (Inshops and Bars) Rules, 2003, this Court cannot interfere. Interference with locations of shops would, in the absence of contravention of any rules and/or contravention of any judicial pronouncements, tantamount to encroachment into the administrative arena of the Government.

5.Public Interest Litigations are an emerging branch of litigations which are intended to secure social, economic, political justice to those deprived of justice who are unable to approach Court in their individual capacity. The concept of

locus standi has considerably been diluted based on the principle of ubi jus ibi remedium, i.e., wherever there is a wrong, there is a remedy. The Courts interfere when the attention of the Court is drawn to some patent illegality. The court also intervenes to secure justice to the disadvantaged, underprivileged, differently-abled and other social groups to secure their rights. However, the Court cannot entertain a public interest litigation and in effect, take over the governmental functions of administration.

6.A dispute has been raised with regard to the correctness of the report that the Church is located at a distance of 70 meters from the Tasmac shop. Unfortunately, this Court, in exercise of jurisdiction under Article 226 of the Constitution of India, does not adjudicate disputed questions of fact. In any case, as pointed out by counsel, the area in question is a commercial area to which the restrictions on distance do not apply.

The writ petition is, therefore, not entertained and the same is dismissed. No costs. Consequently, W.M.P.No.3609 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra
To

1.The District Collector,
Tiruvellore District @
Thiruvellore Town.

2.The Tahsildar,
Madhavaram Taluk @ Madhavaram,
Chennai 600 051.

+ 1 cc to Mr.P. Arumugarjan, Advocate Sr.13796
+ 1 cc to MR. Government Pleader Sr.14012

W.P.No.2943 of 2018

(CCC)
EU(11/04/2018)