

In the High Court of Judicature at Madras

Dated : 08.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.13743 of 2018

J.Augastine Raj

...Petitioner

Vs

1.Tamil Nadu State Marketing Corporation Ltd. (TASMAC), rep.by its Managing Director, Tower II, IV Floor, Gandhi Irwin Bridge Road, Chennai-8.

2.The District Manager, Tamil Nadu State Marketing Corporation Ltd. (TASMAC), Kanchipuram (North), Thirumazhisai, Kanchipuram District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to open and run TASMAC retail shop No.4070 from the premises at No.107 (Survey No.40/ 1B1A3), Venkateshwara Nagar, Darkash Road (Kishkintha Road), Old Perugaluthur Tambaram Taluk in Kancheepuram District without shifting it to any other place by considering the petitioner's representation dated 24.5.2018 within a reasonable time to be fixed by this Court.

For Petitioner : Mr.Neelakandan for
Mr.P.Rajavel

For Respondents : Mr.P.Arumugha Rajan

ORDER

Mr.P.Arumugha Rajan, learned Standing Counsel accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner was granted licence to sell eatables and collect empty bottles and cartons from the bar attached to TASMAC retain vending shop No.4070. Pursuant to the said licence, the petitioner is stated to have spent money substantially for setting up the bar and other adjoining

facilities. All of a sudden, the second respondent closed the retail vending shop as well as the bar. Therefore, the petitioner is before this Court to direct the respondents to open the TASMAC retail vending shop as well as the bar, so that the petitioner can operate the licence granted to him and to forbear the respondents from shifting the shop to any other place by taking note of the petitioner's representation dated 24.5.2018.

3. The learned Standing Counsel for the respondents, on instructions, would submit that there was a law and order problem in the locality, which compelled the second respondent to close the shop.

4. In any event, if the District Collector concerned has approved the location of the retail vending shop as being unobjectionable, it is well open to the respondents to permit the licensees to conduct their retail vending activities.

5. The learned counsel for the petitioner submits that the law and order problem is not a genuine problem, but it is at the behest of certain people, who are purposely preventing the shop from being opened.

6. These issues will have to be dealt with by the respondents and cannot be adjudicated by this Court.

7. The learned counsel for the petitioner, to impress upon this Court that the petitioner invested substantial amount of money, produced photographs of the shop.

8. From the photographs produced, this Court finds that the shop is virtually like a factory shed and it is not known as to whether there are any restrictions as to the size of the bar. It is high time for the respondents to take a decision in this regard, since the size of the bar is a very relevant factor, as the size has a direct correlation to the number of people it can accommodate. Furthermore, this Court finds that the present location is in a vacant land. Be that as it may, since the representation given by the petitioner is pending, this Court is of the view that the second respondent can be directed to dispose of the representation of the petitioner.

9. Accordingly, the writ petition is disposed of with a direction to the second respondent to consider the representation of the petitioner dated 24.5.2018, ascertain as to whether there is any genuine law and order problem, seek the assistance of the local police and then take a decision in the matter on merits and in accordance with law. While complying with the directions of this Court, the second respondent shall

also take note of the field inspection report submitted on 16.11.2017 prior to the grant of licence in favour of the petitioner. The above directions shall be complied with within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

To

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.
(TASMAC), Tower II, IV Floor,
Gandhi Irwin Bridge Road, Chennai-8.

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd.
(TASMAC), Kanchipuram (North),
Thirumazhisai, Kanchipuram District.

+1cc to Mr.P.Rajavel, Advocate SR.No.35732

+1cc to Mr.P.Arumugarajan, Advocate SR.No.35683

WP.No.13743 of 2018

GN(18/06/2018)

सत्यमेव जयते

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