

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.1390 & 7176 of 2018
and W.M.P.Nos.1756, 8901 & 8902 of 2018

W.P.No.1390 of 2018

T.Baskaran

... Petitioner

Vs.

1.The Managing Director,
TASMAC, 4th Floor,
CMDA Building,
Egmore, Chennai-600 008.

2.The District Manager,
TASMAC, Chennai Central,
No.3, 58, Ambattur, Industrial Estate,
Chennai-600 058.

3.The Collector,
Chennai District,
Chennai.

.... Respondents

(R3-Impleaded as per order dated 08.02.2018
in W.M.P.No.2535/2018 in W.P.No.1390/2018)

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents to open the lock and seal of the TASMAC Shop No.809 at No.AG 35, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai-600 040.

W.P.No.7176 of 2018

T.Baskaran

... Petitioner

Vs.

1.The Managing Director,
TASMAC, 4th Floor,
CMDA Building,
Egmore, Chennai-600 008.

2.The District Manager,
TASMAC, Chennai Central,
No.3, 58, Ambattur, Industrial Estate,
Chennai-600 058.

3.The Collector,
Chennai District, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings passed in Na.Ka.No.B1/264/809/2018 dated 10.01.2018 and Na.Ka.No.B1/264/809/2018 dated 17.01.2018 both on the file of the second respondent quash the same and direct the respondents to open the lock and seal of the TASMAC Shop No.809 and locate the shop at No.AG 35, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai-600 040.

For Petitioner
(in both W.Ps.) : Mr.S.Doraisamy
For RR1 & 2 : Mr.K.Sathish Kumar
(in both W.Ps.) Standing Counsel
For R3 : Mr.R.P.Prathapsingh
(in both W.Ps.) Government Advocate

COMMON ORDER

The petitioner has filed these writ petitions seeking to establish his right to collect empty bottles and sell eatables in a bar attached to TASMAC retail vending shop No.809, which was initially located at No.AG 35, 4th Avenue, Shanthi Colony, Anna Nagar, Chennai-600 040.

2. The petitioner's case is based upon an approval granted by the District Collector, Chennai, dated 26.04.2012, finding that the location of the shop is unobjectionable in terms of the relevant rules.

3. The second contention put forth by the learned counsel for the petitioner is that, the petitioner participated in the tender and was declared as a successful bidder and the confirmation order was served on the petitioner only on 08.01.2017, and the petitioner had remitted Rs.2,60,391/- on 09.01.2018, apart from Rs.5,00,000/-, which was already remaining in the hands of TASMAC. Therefore, it is submitted that the respondent TASMAC could not have pass the impugned order dated 10.01.2018.

4. It is not known as to whether the District Collector before granting the approval dated 26.04.2016, could authorise a spot inspection to be conducted by one of her officers or whether mechanically she could sign the note file based on the report given by the TASMAC.

5. Further, it is not clear as to whether the premises in question, viz., No.AG 35, 4th Avenue, Shanthi Colony, Anna Nagar, is a place, where such commercial activity is permissible and if so, whether building approval was obtained by the owner of the premises, etc. Therefore, in my considered view, the 'no objection' given by the District Collector dated 26.04.2012, cannot in any manner advance the case of the petitioner.

6. The learned Standing Counsel for the TASMAC submitted that as of now, the respondent TASMAC has taken a decision to close down Shop No.809, and no decision has been taken till date as to whether the shop has been relocated to a different location, since the shop in question itself had been closed pursuant to a policy decision taken by TASMAC.

7. This Court cannot issue any direction compelling the TASMAC to issue licence to the petitioner to sell eatables and collect empty bottles in a non-existing shop. Therefore, the prayer sought for in both the writ petitions cannot be granted. However, in the event, the respondent TASMAC relocates the shop to some other unobjectionable site, then the petitioner should be granted licence for selling eatables and collecting empty bottles and cotton in the bar attached to shop No.809. In this regard, the petitioner is directed to submit a representation, which shall be considered in accordance with law.

8. Accordingly, these writ petitions are dismissed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

abr

To

1.The Managing Director,
TASMAC, 4th Floor,
CMDA Building,
Egmore, Chennai-600 008.

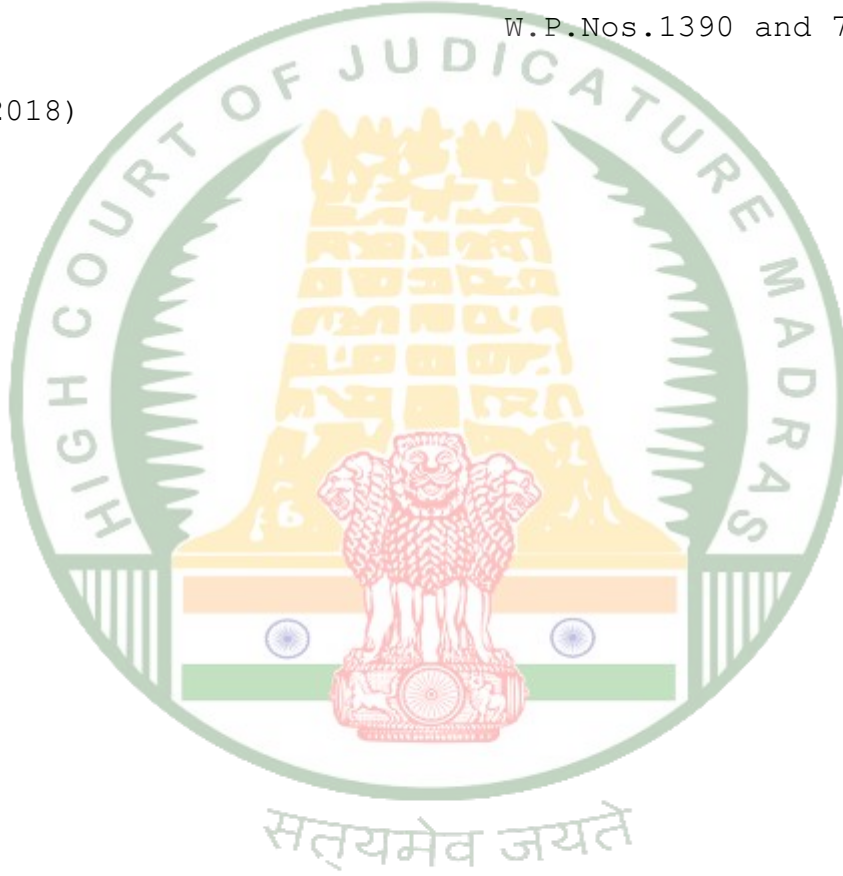
2.The District Manager,
TASMAC, Chennai Central,
No.3, 58, Ambattur, Industrial Estate,
Chennai-600 058.

3.The Collector,
Chennai District, Chennai.

+2cc to Mr.S.Doraisamy, Advocate SR.No.25385, 25386
+2cc to Mr.K.Sathish Kumar, Advocate SR.No.25458, 25457

W.P.Nos.1390 and 7176 of 2018

GN(20/04/2018)



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