

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.6.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS.15514 TO 15520 & 15569 OF 2018 &
WMP.NOS.18418 TO 18424 OF 2018

G.Balasubramanian	..Petitioner in WP.No.15514 of 2018
M.Kannan	..Petitioner in WP.No.15515 of 2018
J.Murali	..Petitioner in WP.No.15516 of 2018
G.Ramadoss	..Petitioner in WP.No.15517 of 2018
S.Kathirvel	..Petitioner in WP.No.15518 of 2018
E.Rajendhiran	..Petitioner in WP.No.15519 of 2018
L.Murali	..Petitioner in WP.No.15520 of 2018
S.Viswanathan	..Petitioner in WP.No.15569 of 2018

Vs

1. The Managing Director, Tamil Nadu State Marketing Corporation Limited
4th Floor, Thalamuthu Natarajan Maligai, Egmore, Chennai-8.
2. The Senior Regional Manager, Tamil Nadu State Marketing Corporation Limited, LLA Building, Anna Salai, Chennai-2.
3. The District Manager, Tamil Nadu State Marketing Corporation Limited, Thirumazhisai, Thiruvallur East, Chennai-123.

..Respondents in WP.No.15514 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.

- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123

..Respondents in WP.No.15515 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.
- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123.

..Respondents in WP.No.15516 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.
- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123.

..Respondents in WP.No.15517 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.
- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123.

..Respondents in WP.No.15518 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.
- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123.

..Respondents in WP.No.15519 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Maligai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
LLA Building Anna Salai Chennai-6.
- 3 The District Manager
Tamil Nadu State Marketing Corporation Ltd.
Thirumazhisai Thiruvallur East Chennai-123.

..Respondents in WP.No.15520 of 2018

- 1 The Managing Director
Tamil Nadu State Marketing Corporation Ltd.
4th Floor Thalamuthu Nadarasan Malgigai
Egmore Chennai-8.
- 2 The Senior Regional Manager
Tamil Nadu State Marketing Corporation Ltd.
SRM Tasmac 141 & 142 MSR Complex
Goundampalayam Coimbatore-30.
- 3 The District Manager
Tamil Nadu State marketing Corporation Ltd.
IMFS Depot Tasco Building Suriyampalayam
Erode-638 316.

..Respondents in WP.No.15569 of 2018

Prayers in WP.Nos.15514 TO 15520 & 15569 OF 2018

WP.No.15514 of 2018:-

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to demand the licence fee of Rs.5,20,012/- for the month of June 2018 from the petitioner bar attached to TASMAC wine shop No.8894 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the licence fee for the month of June 2018 by considering the representation dated 14.6.2018 (WP.No.15514 of 2018).

WP.No.15515 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.4,70,821/- for the month of June 2018 from the petitioner bar attached to TASMAC wine Shop No.8889 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018.

WP.No.15516 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.2,44,297/- for the month of June 2018 from the petitioner bar attached to TASMAC wine Shop No.9169 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP.No.15517 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.2,48,000/- for the month of June 2018 from the petitioner bar attached to TASMAC wine Shop No.505, based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of May 2018 by considering the representation dated 14.06.2018

WP.No.15518 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.2,96,105/- for the month of June 2018 from the petitioner bar attached to TASMAL wine Shop No.8785 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP.No.15519 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.2,87,927/- for the month of June 2018 from the petitioner bar attached to TASMAL wine Shop No.8787 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP.No.15520 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.3,97,731/- for the month of June 2018 from the petitioner bar attached to TASMAL wine Shop No.986 based upon the last month sale of the wine shop and consequently direct the respondents to reduce the license fee for the month of June 2018 by considering the representation dated 14.06.2018

WP.No.15569 of 2018:-

PETITION filed under Article 226 of The Constitution of India praying to issue a writ more particularly in the nature of Writ of Mandamus Directing the respondents not to demand the licence fee of Rs.2,67,124/- for the month of (*) June 2018 from the petitioner bar attached to TASMAL wine Shop No.3551 Based upon the last month sale of the wine Shop and consequently direct the respondent to reduce the license fee for the month of May 2018 by considering the representation dated 20.06.2018

For Petitioners in all the WPs : Mr.M.Manimaran
For Respondents in WP.Nos.
15514 to 15520 of 2018 : Mr.Arumugha Rajan
For Respondents in WP.No.
15569 of 2018 : Mr.K.Sathishkumar

COMMON ORDER

Mr.Arumugha Rajan and Mr.K.Sathishkumar, learned Standing Counsel accept notice for the respective respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. In these writ petitions, the petitioners, who were granted licence to sell eatables and collect empty bottles and cartons in the bar attached to the respective TASMAC retain vending shops, have sought for a direction to the respondents not to demand the licence fee for the month of May/June 2018 from the petitioner bar attached to the respective TASMAC wine shops based upon the last month sale of the wine shops and consequently direct the respondents to reduce the licence fee for the month of May/June 2018 by considering the individual representations.

3. The reason for seeking such a prayer is on account of the fact that around 1700 shops were said to have been closed on and from 29.4.2018 pursuant to the orders passed by the Hon'ble Division Bench of this Court dated 28.4.2018 and that the shops in question, which were not affected by the order of the Hon'ble Division Bench of this Court, had shown an abnormal increase in the sales. Consequently, the respondents now demand that 3.5% of the sales for the month of May/June 2018 should be paid as a licence fee in June/July 2018.

4. The case of the petitioners is that the sales in the shops for the month of May/June 2018 do not reflect the actual figure, that the increase in sales was on account of the closure of the bars, which were abutting the highways and that therefore, the patronage for the shops in question and other similarly located shops are more for the month of May/June 2018 till the Hon'ble Supreme Court passed an order on 23.5.2018 directing to open all the shops abutting the main roads. Consequently, the State Government issued necessary orders on 04.6.2018 directing to reopen all the shops, which were closed pursuant to the order of the Hon'ble Division Bench of this Court dated 28.4.2018. In this regard, the petitioners are stated to have given representations and requested the respondents that a realistic amount may be collected from them

as a licence fee and that the respondents should not mechanically adopt the sale value in the respective shops for the month of May/June 2018 so as to fix the licence fee. The representations are stated to be pending and since the authorities are insisting on 3.5% of the sales for the month of May/June 2018 as a licence fee to be payable in June/July 2018, the petitioners have rushed to this Court.

5. The learned Standing Counsel appearing for the respondents submit that though it may be true that the sales had increased in May/June 2018 only on account of the closure of 1700 shops, the petitioners took advantage of the situation and earned more revenue during the said period and that therefore, the respondent - Corporation was justified in their demand of 3.5% of the sales as licence fee payable by the respective petitioners in June/July 2018.

6. This Court has carefully considered the submissions made by the learned counsel on either side.

7. Though the learned Standing Counsel appearing for the respondents may be right in stating that the petitioners took advantage of the closure of shops abutting the main roads, the fact remains that when more than 1000 shops were closed, the patronage for the other shops, which are remaining open, would be eventually on the higher side, but it is only for a period of one month. Thus, the licence fee, which is demanded from the respective petitioners should have a realistic calculation based on the actual sales, which would normally take place in a shop after the orders are passed by the State Government dated 04.6.2018. Since the licence fee is payable in the month of June/July 2018, this Court is inclined to issue appropriate directions.

8. For all the above reasons, the writ petitions are disposed of by directing the respective petitioners to pay 3.5% of the sales, which occurred during the month of April 2018 as a licence fee for the month of May/June 2018 payable in the month of June/July 2018. The respondents shall accept the same without prejudice to their rights. Along with the payment receipts, the petitioners are also directed to submit representations to the respondents. On receipt of the representations, the respondents shall consider the same, take note of the sales in the respective TSMAC retail vending shops for the months of January, February and March 2018 and take a conscious decision in the matters in accordance with law. The petitioners are further directed to pay the licence fee in terms of the above

directions within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)
Dated:27/06/2018

**(*)Corrected as per order of this Court
dated:03.08.2018**

Sd/-
Assistant Registrar(CCC)
Dated:13/08/2018

//True Copy//

Sub Assistant Registrar

RST

+2ccS to Mr.M.Manimaran,
Advocate, S.R.No.40280 & 40281

**Substituted to the order
already despatched on
28.06.2018**

+1cc to Mr.P.Arumugha Rajan,
Advocate, S.R.No.40127

+1cc to Mr.K.Sathishkumar,
Advocate, S.R.No.40181

WP.No.15514 of 2018 etc.cases

CS/27/06/18
SMI/14.08.2018

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