In the High Court of Judicature at Madras

Dated : 11.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.17143 of 2018
and
W.M.P.No.20405 of 2018

C.Sivasubramani ...Petitioner

Vs

1.The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
rep.by its Managing Director,
CMDA Tower, Gandhi Irwin Road,
Egmore, Chennai-8.

2.The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
rep.by its Senior Regional Manager,
LLA Building, Anna Salai, Chennai-2.

3.The Tamil Nadu State Marketing
Corporation Limited (TASMAC),
rep.by its District Manager,
Thirumazhisai Industrial Estate,
Thirumazhisai-600 1243 ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus forbearing the respondents from demanding the huge licence fee of Rs.6,25,000/- for the month of May 2018 for shop No.9008 from the petitioner and consequently direct the respondents to reduce the licence fee for the month of May 2018 based on the actual sales in the petitioner's bar premises.

For Petitioner : Mr.JSVS Sarveswara Rao

For Respondents : Mr.P.Arumugha Rajan

ORDER

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

2. In this writ petition, the petitioner, who was granted licence to sell eatables and collect empty bottles and cartons in the bar premises, has sought for a direction to forbear the respondents from demanding huge licence fee for the month of May 2018 for his shop premises and consequently direct the respondents to reduce the licence fee for the month of May 2018 based on the actual sales in the bar premises, in which, the petitioner had been granted a licence to sell eatables and collect empty bottles and cartons.

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 2018 should be paid as a licence fee in June 2018.

4. The case of the petitioner is that the sales in the shop for the month of May 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 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 petitioner is stated to have given representation 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 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 2018 as a licence fee to be payable in June 2018, the petitioner has 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 2018 only on account of the closure of 1700 shops, the petitioner 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 petitioner in June 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 petitioner 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 petitioner 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 2018, this Court is inclined to issue appropriate directions.

8. For all the above reasons, the writ petition is disposed of by directing the petitioner to pay 3.5% of the sales, which occurred during the month of April 2018 as a licence fee for the month of May 2018 payable in the month of June 2018. The respondents shall accept the same without prejudice to their rights. Along with the payment receipts, the petitioner is also directed to submit representation to the respondents. On receipt of the representation, the respondents shall consider the same, take note of the sales in the petitioner's bar premises for the months of January, February and March 2018 and take a conscious decision in the matters in accordance with law. The petitioner is 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 WMP is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To
1.The Managing Director,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
CMDA Tower, Gandhi Irwin Road,
Egmore, Chennai-8.

2.The Senior Regional Manager,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
LLA Building, Anna Salai, Chennai-2.

3.The District Manager,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Thirumazhisai Industrial Estate,
Thirumazhisai-600 124

+2cc to Mr.JSVS.Sarveswara Rao Advocate SR.No.45071

GMR(CO)
sm:25.7.2018