

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.12.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.17170 of 2017
& W.M.P.No.18654 of 2017

N.Kalaiyarasan ...Petitioner

Vs

- 1.The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat, Puducherry - 605 001.
- 2.The Secretary Excise Department
Government of Puducherry,
Chief Secretariat, Puducherry - 605 001.
- 3.The Deputy commissioner (Excise),
Government of Puducherry,
Industrial Estate Road, Thattanchavady,
Puducherry.
- 4.The District Collector
Puducherry, Vazhudavu Road,
Petayan Chathiram,
Puducherry - 605 009. ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein not to grant permission to open / re-establish any liquor shop or bar within 500 Meters from the National and State Highways forever.

For Petitioner : Mr.R.Mugundhan

For Respondents: Mr.C.T.Ramesh
Additional Government Pleader
(Pondicherry)

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petition is filed as a Public Interest Litigation by a resident of Shanmugapuram, Puducherry, stating among other things that the Hon'ble Supreme Court of India in the judgement dated 15.12.2016 made in Civil Appeal Nos.12164-12166 of 2006 [The State of Tamil Nadu, Rep. By its Secretary, Home, Prohibition and Excise Department Vs. K.Balu & another] had directed that with effect from 01.04.2017, no shop for the sale of liquor shall be visible from a national or state highway, directly accessible from a national or state highway and situated within a distance of 500 meters of the outer edge of the national or state highway of a service lane along the highway. Subsequently, the said order of the Hon'ble Supreme Court came to be modified in I.A.Nos.4-6, etc., and as per the modified order, prohibited distance has been reduced to 220 meter only in respect of the areas comprised in local bodies with a population of 20,000 people or less.

2. It is further averred by the petitioner that as per the earlier order of the Hon'ble Supreme Court dated 01.04.2017, the liquor shops located within 500 meters from the national and state highways have been closed. By misinterpreting the modified order passed by the Hon'ble Supreme Court, they have reduced the distance only to local body with a population of less than 20,000 and for that purpose, they have taken into consideration the smallest extent of the local body and that should not be the yardstick to be followed and in that event, prohibited distance of 220 meters shall be maintained. In order to circumvent the modified order passed by the Hon'ble Supreme Court, the Union Territory of Puducherry has resorted to such an illegal method and therefore, prays for interference.

3. Per contra, Mr.A.Gandhi Raj, learned Additional Government Pleader (Pondicherry), appearing for the respondents 1 to 4 has drawn the attention of this Court to the counter affidavit of the 3rd respondent, as adopted by the respondents 1, 2 and 4 and would submit that the second largest revenue contributor to the exchequer of the Government of Puducherry is through sale of alcohol and the Union Territory of Puducherry is comprised of 492 sq.km and in those areas, 464 liquor shops are located and as per the earlier order of the Hon'ble Supreme Court, 163 liquor shops were found to be within the prohibited distance and were ordered to be shifted and on account of the modified

order, all liquor shops cannot be located and since the prohibited distance has been reduced to 220 meters, the liquor shops can be located in local bodies with a population of 20,000 people or less.

4. Mr.C.T.Ramesh, learned Additional Government Pleader (Puducherry) appearing for the respondents would submit that the modified order passed by the Hon'ble Supreme Court is strictly complied with and the interpretation sought to be given by the petitioner cannot be adopted and liquor shops in the Union Territory of Puducherry is located, since it being the second largest revenue contributor to the Government of Puducherry and the amount arrived out of the same is utilised for the benefit of the public and therefore, this Court may pass an order for dismissing the writ petition.

5. This Court has also put a specific query to the learned Government Pleader appearing for the respondent as to whether the action being taken to abate the nuisance caused by the drunkard and whether the area in and around the liquor shops are maintained in a sanitary and neat conditions and on instructions, Mr.C.T.Ramesh, learned Additional Government Pleader (Puducherry) appearing for the respondents would submit that those aspects have been taken more care of and if any infraction is noted, and when it is being brought to the knowledge of the concerned authority, immediate and necessary action has been taken to curb the said nuisance and the said fact, on instructions, is placed on record.

6. In the present case on hand, it is the categorical submission of the 3rd respondent, which is also adopted by respondents 1, 2 and 4, that in terms of the modified order, no liquor shops are located within 220 meters either from north and south highways and no liquor shops are visible. In the considered opinion of this Court as long as the respondents strictly comply the Puducherry Guidelines Rules, 1970 and also various orders passed by the Hon'ble Supreme Court of India, the petitioner cannot express any grievances. Of course, it is also open to the petitioner to bring it to the knowledge of the concerned authorities, if any infraction in that regard.

7. In the light of the above facts and circumstances, this Court is of the considered view that grievances expressed by the petitioner had been well addressed by the 3rd respondent as per the contents of the counter affidavit. Therefore, no further orders are necessary.

8. In the result, the writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

TO:-

- 1.The Chief Secretary to Government,
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Chief Secretariat, Puducherry - 605 001.
 - 2.The Secretary- Excise Department
Government of Puducherry,
Chief Secretariat, Puducherry - 605 001.
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Petayan Chathiram, Puducherry - 605 009.
- +1 CC TO GOVERNMENT PLEADER SR.NO. 84682
- W.P.No.17170 of 2017
- A.SK (24/01/2019)

सत्यमेव जयते

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