



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2018

CORAM :

**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.P.(MD) No.7338 of 2018
and WMP.(MD) No.7026 of 2018

A.Pandaram .. Petitioner

vs.

1.The District Collector,
Collectorate Campus,
Tirunelveli District.

2.The District Manager (TASMAC),
I.M.F.S. Deport, TASCOT Unit,
Melapalayam,
Tirunelveli.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents from establishing/putting up a TASMAC shop in the junction of Kalakadu - Nanguneri Road, Tirunelveli District.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : Mr.A.K.Baskara Pandian
Spl. Government Pleader
for respondent No.1

Mr.B.Jameel Arasu
for respondent No.2



(2)

ORDER

(Made by Ms.Indira Banerjee, Chief Justice)

This writ petition by way of public interest litigation has been filed seeking, *inter alia*, a writ of mandamus forbearing the respondents from establishing a TASMAC shop at the junction of Kalakadu - Nanguneri Road in Tirunelveli District.

2. It appears that earlier a writ petition (W.P.(MD) No.13149 of 2017) had been moved by the same writ petitioner and an interim order had also been obtained. The writ petition was finally disposed of by an order dated 31.8.2017 of a Division Bench comprising *K.K.Sasidharan and G.R.Swaminathan, JJ.*

3. It appears that at the time of final hearing, it had been submitted on behalf of the respondents that the District Collector, Tirunelveli had not received any proposal for setting up of a TASMAC shop at the said location as apprehended by the writ petitioner. The writ petition was found to be premature and disposed of, but with a direction that if such proposal was received in future by the second respondent, the first respondent would afford the writ petitioner an opportunity of hearing.

4. This writ petition has been moved on the allegation that construction of the TASMAC shop has already commenced. Two photographs have been produced, which clearly indicate that the construction is at the crossing of Kalakadu - Nanguneri junction, at a point where three roads converge.

5. On behalf of the respondents, it is again submitted that no decision has yet been taken on the request to permit the setting up of the TASMAC shop at the location in question.

6. Before any decision is taken, the respondent authorities may, as directed by the Division Bench of this Court by its order dated 31.8.2017, give the writ petitioner an opportunity of hearing.

7. It also appears that the road is a State Highway and any TASMAC shop by the side of the State Highway and visible from the State Highway would necessarily be hit by the judgment and/or order of the Hon'ble Supreme Court in *State of Tamil Nadu, rep. by its Secretary, Home, Prohibition and Excise Department v. K.Balu*, reported in (2017) 2 SCC 281, as modified by the subsequent orders. The respondent authorities would also have to keep this aspect in mind and ensure that there is no violation either of any order of the Hon'ble Supreme Court or the jurisdictional High Court or Rule 8 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003.



(3)

8. The writ petition is, accordingly, disposed of. No costs. Consequently, WMP (MD) No.7026 of 2018 is closed.

Sd/-

WEB COPY

Assistant Registrar (CSI)

/True Copy/

Sub Assistant Registrar

To:

1.The District Collector,
Collectorate Campus,
Tirunelveli District.

2.The District Manager (TASMAC),
I.M.F.S. Deport, TASCOT Unit,
Melapalayam,
Tirunelveli.

+1cc to The Special Government Pleader, SR.Nos.60248

+1cc to Mr.Niranjana S.Kumar, Advocate, 60065

+1cc to Mr.B.Jameel Arasu, Advocate, SR.No.60102

bbr

RL/6C/3P/SKN/RSK/SAR3/16/4/2018

W.P. (MD) No.7338 of 2018

05.04.2018