



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **02.01.2018**
CORAM:

THE HONOURABLE MR.JUSTICE **M.SATHYANARAYANAN**
and
THE HONOURABLE MRS.JUSTICE **R.HEMALATHA**

W.P (MD) No.18576 of 2017
and
W.M.P (MD) No.14975 of 2017

S.P.Karuppasamy

.. Petitioner

Vs.

1. The District Collector,
Theni District, Theni.

2. The District Manager,
TASMAC, Theni District,
Theni.

3. The Assistant Commissioner (Tax),
District Collector's Office,
Theni, Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents herein from any way allowing to establish the TASMAC shop at nearby MGR Statue, Aundipatti Taluk, Theni District, on the basis of the representation, dated 12.09.2017, given by the petitioner.

For Petitioner

: Mr.M.Dinesh
for M/s.Veera Associates

For Respondents 1 and 3

: Mr.A.K.Baskarapandian,
Special Government Pleader.

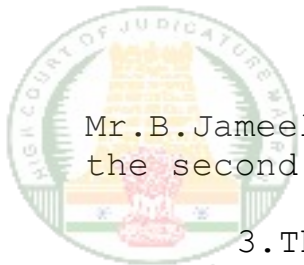
For Respondent No.2

: Mr.B.Jameel Arasu

ORDER

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

By consent, this writ petition itself, is taken up for final disposal.



Mr.B.Jameel Arasu, learned counsel, accepts notice on behalf of the second respondent.

3.The petitioner claiming to be a resident of Meenakshi Sundara Nadar Street, Kullapuram Sandhi, Aundipatti, Theni District, has filed this writ petition as a Public Interest Litigation, stating among other things that in Vaigai Dam Road, near the temple, Government Headquarters Hospital and Bus Stand, the second respondent is proposing to establish a liquor shop and in this regard, a representation, dated 12.09.2017, has been submitted to the respondents, requesting them, not to locate the said shop within the prohibited area and despite receipt and acknowledgment, no orders have been passed so far and in the interregnum, attempts are being made by the second respondent to locate a liquor shop and hence, the petitioner is constrained to approach this Court by filing this writ petition.

4.The learned counsel appearing for the petitioner has drawn the attention of this Court to Rule 8 of the Tamil Nadu Liquor Retail Vending [In Shops and Bars] Rules, 2003 and would submit that since the shop is sought to be located by the second respondent within the prohibited distance, the District Collector cannot grant licence to do so and hence prays for appropriate orders.

5.Per contra, the learned counsel appearing for the second respondent, has invited the attention of this Court to the counter affidavit filed by the second respondent and would submit that the second respondent has submitted a proposal to the first respondent for locating the TASMALC shop at Aundipatti and clarification is sought for, with regard to the Judgment reported in **(2017)2 SCC 281 [State of Tamil Nadu v. K.Balu]** and the proposal is also pending with the first respondent and as such the apprehension expressed by the petitioner is wholly unfounded and further this writ petition is also pre-mature and prays for dismissal of the same.

6.This Court has considered the rival submissions and perused the materials available on record.

7.In the light of the stand taken by the second respondent in the counter affidavit and that a proposal has been submitted to the first respondent for location of the liquor shop in the disputed area, this Court, directs the first respondent to take note of the objection in the form of representation, dated 12.09.2017, and pass appropriate orders in accordance with law, with regard to the location of the liquor shop by the second respondent, in the disputed area in question and communicate the order to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.



8. The writ petition stands disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District, Theni.
2. The District Manager,
TASMAC, Theni District,
Theni.
3. The Assistant Commissioner (Tax),
District Collector's Office,
Theni, Theni District.

+ 1 cc TO M/S.Veera Associates , Advocate in SR No. 40262

+ 1 cc TO Mr.B.Jameel Arasu , Advocate in SR No. 40209

smn

AE/KK/SAR4/18.01.2018/3P/6C

ORDER MADE IN
W.P (MD) No.18576 of 2017
and
W.M.P (MD) No.14975 of 2017
02.01.2018