

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20/6/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.488 of 2019

Janakiraman

... Petitioner

Vs

1. The District Collector  
Kanchipuram Collector Office  
Kanchipuram District.
  2. The District Revenue Officer  
Tambaram  
Chennai.
  3. The Director  
Tamil Nadu State Marketing Corporation Ltd  
TASMAC  
Kanchipuram.
  4. The Regional Officer  
TASMAC  
Kanchipuram.
  5. The Tahsildar  
Tambaram  
Chennai.
- ... Respondents

Prayer    Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to consider the petitioner's representation, dated 21/8/2018 and remove the liquor shop at No.1/569, Vengaivasal Mambakkam main road, Kanchipuram District.

For petitioner    ... Mr.B.Kumarasamy

For respondents    ... Mr.E.Manoharan  
Additional Government Pleader  
for R.R.1, 2 and 5.

Mr.P.Arumuga Rajan  
for R.R.3 and 4.

## O R D E R

(Order of the Court was made by Subramonium Prasad,J)

Instant writ petition is for a direction to the respondents, to consider the petitioner's representation, dated 21/8/2018 and remove the liquor shop, at No.1/569, Vengaivasal Mambakkam main road, Kanchipuram District.

2. In the affidavit filed in support of the writ petition, petitioner states that about 9,000 people are living in Vengaivasal Panchayat Veerabadra Nagar and Susila Avenue. Zingma School is functioning in the said area. Two TASMAC shops are being run by the respondents 2 to 4 at Narayana Chettikulam, Vengaivasal Mambakkam main road inner side, in Shop Nos.4483 and 4465 and two TASMAC shops are running on back side of the Gold Winner Oil company, in Shop Nos.4461 and 4497. Respondents 2 to 4 are running one more shop, at Vengaivasal to Tambaram road in Shop No.4519. According to the petitioner, there are 5 TASMAC shops are running in the area. Despite the fact that five TASMAC shops are running the said area, respondents 2 to 5, have inspected the meikkal poramboke lands, in S.F.No.2/9, for the purpose of constructing a new TASMAC shop with bar, in No.1/569, Vengaivasal Mambakkam main road. Petitioner further states that liquor shops, cannot be permitted to be opened, on meikkal poramboke area. Accordingly, petitioner has sent a representation, dated 21/8/2018. Since no action has been taken, petitioner has come forward with the present writ petition.

3. Heard Mr.B.Kumarasamy, learned counsel for the petitioner, Mr.E.Manoharan, learned Additional Government Pleader for the respondents 1, 2 and 5 and Mr.P.Arumuga Rajan, for the respondents 3 and 4.

4. The District Manager, TASMAC Ltd., Kanchipuram, has filed counter affidavit and the relevant paragraphs are extracted hereunder:-

"6. Proposal was initiated after inspecting the site and found there is no Rule 8 (1) violation, i.e, no place of worship or educational institution within 100 meters from the proposed site. The nearest educational institution by name of Ravindranath Bharathi High School to the proposed site is at 330 meters distance from the shop and nearest place of worship is Saibaba temple at 300 meters. The State Highway (2.5km) and National Highway (9.20 km) are all very much more than 500 meters from the site. The site is in compliance with G.O.Ms.No.32, Home, Prohibition

and Excise Department VI dated 21/5/2018.

7. After considering the above facts and circumstances, first respondent has passed an order, dated 12/12/2018. At the time of proposal, the petitioner had made representation objecting the proposal and when he was given an opportunity of personal hearing, he failed to appear.

8. Above location is not in violation to any of the norms laid down by the Hon'ble Supreme Court or any rules stipulated in Rule 8 (1) of Tamil Nadu Liquor Retail vending (in shops and bars) Rules, 2003, framed under Tamil Nadu Prohibition Act, 1937.

10. The Hon'ble First Bench of this Court, on 13/4/2017, in W.P.No.8902 of 2017, in a similar line of cases, held as follows:-

"Needless to mention that the liquor shop shall only be relocated in accordance with law and in particular, the Tamil Nadu Liquor Retail Vending (in shops and bars) Rules, 2003 framed under Tamil Nadu Prohibition Act, 1937, taking into consideration the judgment of the Supreme Court and of this Hon'ble Court, in this regard."

5. Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, reads thus:-

"Location of shop: (1) No shop shall be established in Municipal Corporations and Municipalities within a distance of 50 (fifty) metres and in other areas 100 (hundred) metres from any place of worship or educational institutions:

Provided that the distance restriction shall not apply in areas designated as "Commercial" or "Industrial" by the Development or Town Planning Authorities:

Provided further that no shop shall be established within the premises of any hotel:

Provided also that if any place of worship, educational institution comes into existence subsequent to the establishment of the shop, the provisions of this rule shall not apply:

Provided also that no liquor shops shall be established in any tribal areas covered under Integrated Tribal Development Project and Hill Area Development Project in the Hill area of Vellore, Salem, Namakkal, Dindigul, Tirunelveli and Kanniyakumari Districts.

(2). Every shop shall be housed in a pukka building and no part of the shops shall be thatched either on the sides or on the roof.

(3). The shop shall be in the location approved by the Collector before commencing the business in the shops."

6. Judicial review under Article 226 of the Constitution of India postulates that whether Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, has been violated or not. A perusal of the entire writ petition does not reflect as to how Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, has been violated.

7. In view of the fact that there is no violation of Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, instant writ petition cannot be entertained and accordingly, the same is dismissed. No costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The District Collector, Kanchipuram Collector Office  
Kanchipuram District.
  2. The District Revenue Officer, Tambaram, Chennai.
  3. The Director, Tamil Nadu State Marketing Corporation Ltd  
TASMAC, Kanchipuram.
  4. The Regional Officer  
TASMAC, Kanchipuram.
  5. The Tahsildar, Tambaram, Chennai.
- +1 cc to Mr.P.Arumugarajan, Advocate, Sr.No. 51052  
+1 cc to Mr.B.Kumarasamy, Advocate, Sr.No. 50770  
+1 cc to The Government Pleader, Sr.No. 51141

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SVI (CO)  
CSL/30.07.2019