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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition No.23011 of 2012

R.Muthuselvan

... Petitioner

Vs.

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Managing Director,
Tamil Nadu State Marketing
Corporation Limited,
735, Anna Salai, MLA Buildings,
4th Floor, Chennai - 2.
- 3.The District Manager,
Tamil Nadu State Marketing
Corporation Limited,
Orikkai, Kancheepuram - 631 501.
- 4.The Superintendent of Police,
Kancheepuram District,
Kancheepuram - 631 501.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to relocate or close down the TASMAC Wine Shop No.4043 functioning at Kancheepuram Town in the light of the letter sent by the 3rd respondent.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.R.P.Pratap Singh,
Government Advocate
for R1 & R4

: Mr.Arumugarajan, Standing Counsel
for R2 & R3

ORDER

The Petitioner has filed the writ petition for mandamus to direct the respondent to relocate or close down the TASMAC Wine Shop No.4043 functioning at Kancheepuram Town in the light of



the letter sent by the 3rd respondent.

2. It is the case that the 3rd respondent already has issued a letter dated 08.06.2011 intimating that the steps are being taken to shift the shop. But, no steps have been taken to shift the shop till today. The petitioner submits that Tasmac shop was located contrary to Rule 8(1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. As per the aforesaid rule, "No shop shall be established in Municipal Corporations and Municipalities within a distance of 50 (fifty) meters and in other areas 100 (hundred) meters from any place of worship or educational institutions".

3. In this connection, the learned counsel for the petitioner submits that the said shop was close to Vinayagar temple, residential house, schools and hospitals. He further submits that there are more than 500 families living in that area and it is very difficult for them to cross the wine shop. Moreover, lot of inconvenience is caused to the public at large. Learned counsel for the petitioner submits that their representation is to relocate the shop has not been considered. He submits that subsequent developments also warrants change or shifting of the shop. He has also furnished the photographs of the shop. He further submits that the prayer of the petitioner is that the shop is within 16 feet road and prima facie to contrary to Rule 8(1) the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. Rule 10 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 reads that the bar shall lie within the shop or adjoining the shop.

4. Per contra, the learned counsel for the 2nd and 3rd respondents submit that the so called letter dated 08.06.2011, was issued stating that the respondents would be shifting the shop as and when they identify the other suitable place. The shop was opened in the year 2003 and at that time the shop was beyond the distance. He further submits that the 3rd respondent in his letter dated 13.11.2019 has stated that the shop was inspected thoroughly by the former District Manager and Assistant Commissioner of excise department, further by the order of the District Collector, the shop was re-opened and running and it is located in the "Commercial Zone" more over as per G.O.32 prohibition and excise (VI) dated 21.05.2018 para no.17(a) and (d), the shop is located.

5. Though there is no bar as on date as no auction has been conducted, I am of the view that instead of giving a positive direction as prayed for by the petitioner, a direction can be given to the respondents to consider the representation of the petitioner. Therefore, the respondents are directed to consider the representation of the petitioner and pass a



speaking order and take appropriate decision as to whether the subject Tasmac shop has to be relocated or not, considering the fact it purportedly located on a road which is less than the 16 feet road and near schools and temples.

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6. The respondents shall pass a speaking order within a period of four weeks from the date of receipt of copy of this order.

7. With the above observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

drl

To

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Managing Director,
Tamil Nadu State Marketing
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- 3.The District Manager,
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Corporation Limited,
Orikkai, Kancheepuram - 631 501.
- 4.The Superintendent of Police,
Kancheepuram District,
Kancheepuram - 631 501.

+1cc to Mr.S.Udaya Kumar, Advocate, S.R.No. 105199
+1cc to Mr.P.Arumugarajan, Advocate, S.R.No. 104650
+1cc to the Government Pleader, S.R.No. 105314

W.P.No.23011 of 2012

GN(23/01/2020)