

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.14640 of 2017
and WMP No.15889 of 2017

Sowthappan ... Petitioner
vs.

1. The Managing Director,
Tamilnadu State Marketing Corporation Ltd.,
Gandhi - Irwin Buildings,
Egmore, Chennai - 600 006.

2. The District Collector,
Thiruvallur District.

3. Senior Regional Manager,
TASMAC Ltd., 4th Floor,
No.735, Annasalai,
Chennai - 600 002.

4. The District Manager - TASMAC,
No.1, Bangalore Highways Road,
Chembarambakkam,
Thiruvallur (East),
Chennai - 600 123.

.... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, directing the respondents to refrain from establishing / opening / functioning / operating any new TASMAC outlet against public interest in Door No.100, Mogappair Road, having back entrance through Door No.48-B, Mogappair Road, Sathiya Nagar, Mogappair, Chennai, by disposing of the petitioner's representation dated 06.06.2017 within a time frame fixed by this Court.

For Petitioner : Mr.G.V.Seetha Lekshmi
For Respondents : Mr.P.Arumugarajan (For R1, R3 & R4)
Standing counsel.

Mr.E.Manoharan, (for R2)
Additional Government Pleader

ORDER

(Order of the Court was made by SUBRAMONIUM PRASAD, J)

The present Public Interest Litigation is for a direction to restrain the respondents from establishing / opening / functioning / operating any new TASMAL outlet against public interest in Door No.100, Mogappair Road, having back entrance through Door No.42-B, Mogappair Road, Sathiya Nagar, Mogappair, Chennai.

2. The petitioner is a permanent resident of Door No.77/77, Mogappair Road, Padi, Tiruvallur, Chennai. It is stated in the writ petition that Mogappair Road has four TASMAL Shops. Mogappair Road is about only 1.3kms in length. The petitioner would state that one more TASMAL shop is being proposed to be opened and this shop is very near to Sacred Heart Matric Higher Secondary School and also near Shalom Church. The petitioner would submit that they have given a representation stating that the 5th shop should not be opened. According to the petitioner, the proposal to open the new shop at Door No.100, Mogappair Road, having back entrance through Door No.42-B, Mogappair Road, Sathiya Nagar, Mogappair, Chennai, would cause great hindrance to general public and nuisance to school going children.

3. On notice, District Manager, TASMAL, Tiruvallur (East) District, the 4th respondent has filed counter. According to the 4th respondent there were five shops and that one shop has been shifted to another location and four shops are running in Mogappair at Shop Nos.8932, 8788, 8869 & 8846.

4. Rule 8 of Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 which lays down the criteria for opening a liquor vending shop, reads as follows:

"8. 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.

5. A perusal of the counter would show that none of the conditions have been violated. No material has been filed by the petitioner to show that there have been instances, which has caused inconvenience to the public. Mere apprehension of inconvenience cannot be a ground, not to permit a liquor shop to be opened, if it is otherwise permitted under the rules. The allegation that fifth shop is being opened is not correct.

6. There is no merit in the writ petition. Hence, instant writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

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To

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4. The District Manager - TASMAL,
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Chembarambakkam,
Thiruvallur (East), Chennai - 600 123.

+1cc to Mr. Arumugarajan, Advocate, S.R.No. 10879

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MG (CO)
GN (21/03/2019)



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