

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.31981 of 2019
and
W.M.P.No.32222 of 2019

M/s.Hot & Cold
Rep. by its Partner G.Senthil Kumar
S/o.Mr.Govindarajulu ...Petitioner

vs.

The Deputy Commissioner (Excise)
Government of Puducherry
Puducherry. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in Order No.3506/DCE/S2/FL.2/2003-04/Vol.II/591 dated 09.11.2019 and quash the same.

For Petitioner :Mr.V.T.Gopalan
Senior Counsel
for Mr.Manoj Sreevalsan
For Respondent :Mr.J.Kumaran
Additional Government Pleader (P)

O R D E R

Mr.J.Kumaran, learned Additional Government Pleader takes notice for the respondent. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. Challenge made in this writ petition is against the order of the respondent dated 09.11.2019, wherein and whereby, the petitioner was directed to shift FL.2 licensed premises to the old premises (No.174/11A, S.V.Patel Salai, Puducherry) from where it was shifted.

3. Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioner submitted that the impugned order was passed in violation of principles of natural justice, since the petitioner

was not heard before issuing the order impugned in this writ petition. He further contended that the respondent has chosen to pass the impugned order only at the instance of the business rivalry viz., one K.Prabakar, that too, without giving an opportunity of hearing their objections. He also contended that there are several liquor shops like that of the petitioner in the very same location and however, the petitioner alone is targeted because of the rival business being run by the said Prabakar, very near to the petitioner's Shop.

4. The learned Additional Government Pleader appearing for the respondent submitted that the impugned order was passed after considering the objections raised by the public as well as the said K.Prabakar, since the location of the petitioner's shop is hindrance to the public and also a source of nuisance. However, he is not disputing the fact that the petitioner was not given any personal hearing before passing the impugned order.

5. It is seen that the petitioner was originally running the liquor shop at No.174/11A, S.V.Patel Salai, Puducherry and the said shop was shifted to the present location after obtaining permission from the authorities concerned. Now, the present impugned order has been issued directing the petitioner to shift the shop to the original premises from where it was shifted. It is seen that before passing the impugned order, the petitioner was issued with a notice dated 10.10.2019 calling for their objections. It is further seen that the petitioner had also given their explanation on 23.10.2019. The only grievance of the petitioner before this Court is that personal hearing was not given to them before passing the impugned order.

6. The learned Additional Government Pleader fairly submitted that no such personal hearing was given and therefore, the matter may be remitted back for giving an opportunity of personal hearing and passing a fresh order.

7. Considering the above stated facts and circumstances and without expressing any view on the merits of the matter, this Writ Petition is allowed and the impugned order is set aside only on the ground that the petitioner was not given personal hearing. In other words, this Court is not expressing any view on the merits of the reasons stated in the impugned order, as this Court is remitting the matter back to the respondent to pass fresh order after hearing the petitioner. Accordingly, the respondent shall hear the petitioner and all other interested parties and thereafter, pass fresh orders on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. Though the impugned order is set aside, since the matter is remitted back for fresh consideration, the petitioner is directed not to run the shop in

the present premises till a fresh order is passed by the respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

mk

To

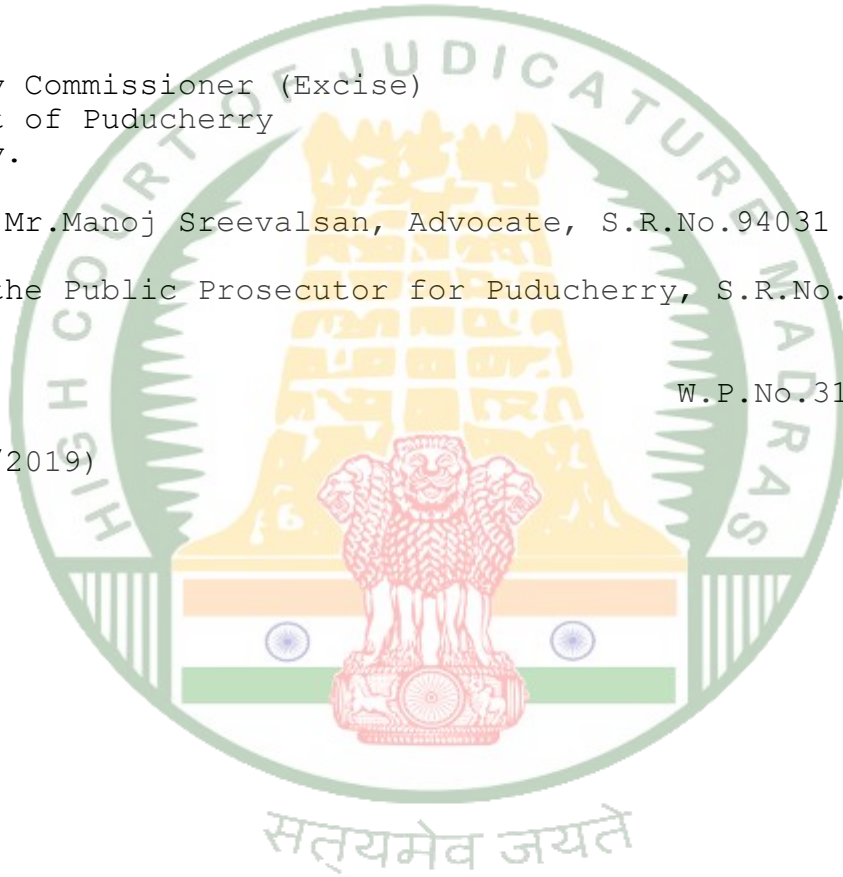
The Deputy Commissioner (Excise)
Government of Puducherry
Puducherry.

+2 ccs to Mr.Manoj Sreevalsan, Advocate, S.R.No.94031

+1 cc to the Public Prosecutor for Puducherry, S.R.No.94212

W.P.No.31981 of 2019

PVS (CO)
SSM(14/11/2019)



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