



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.09.2019**

CORAM:

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY**

W.P.(MD).No.19425 of 2019

Mohammed Jaffer

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary,
Department of Home,
Prohibition and Excise,
Secretariat,
Chennai-9.

2.The Tamil Nadu State Marketing
Corporation (TASMAC) Ltd.,
Chairman and Managing Director,
Thalamuthu Natarajar Building,
Egmore,
Chennai-008.

3.The District Collector,
Dindigul,
Dindigul District.

4.The District Manager,
Tamil Nadu State Marketing
Corporation (TASMAC) Ltd.,
Dindigul,
Dindigul District.

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to consider the petitioner's representation dated 22.10.2018 filed before the 3rd respondent to direct the 4th respondent to shift the TASMAC shop in Shop No.3390 situated at Servaikaranpatti, Kottanatham Panchayat, Gugiliamparai Union, Dindigul District to some other locality ie., away from Government Primary School, Servaikaran Patti within time frame as stipulated by this Court.



For Petitioner : Mr.S.Sarvaganprabhu
For R1 & R3 : Mr.A.K.Baskara Pandian
Special Government Pleader
For R2 & R4 : Mr.H.Arumugam

ORDER

WEB COPY

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.S.Sarvaganprabhu, learned counsel appearing for the petitioner, Mr.A.K.Baskara Pandian, Special Government Pleader learned appearing for the respondent Nos.1 and 3 and Mr.H.Arumugam, learned counsel appearing for the respondent Nos.2 and 4.

2.By consent on either side, this writ petition is taken up for disposal.

3.This writ petition designed as Public Interest Litigation voices the grievances of the people of the locality objecting to the location of TASMAL retail vending liquor shop bearing No.3390 at Servaikaranpatti, Kottanatham Panchayat, Gugiliamparai Union, Dindigul District

4.One of the grounds raised in the writ petition is that the Liquor shop is located very near to the Government Primary School and it is a great nuisance and hindrance to the public and the school going children.

5.The learned counsel appearing for the petitioner has drawn our attention to a resolution passed in the Grama Shaba in its meeting held on 17.10.2018 requesting the officials for shifting the shop and this resolution has been placed before the authorities for taking a favourable decision. Since no action was initiated from October 2018, the petitioner has moved this Public Interest Litigation.

6.The learned Standing Counsel appearing for the second and the fourth respondents submitted that the shop has been located strictly adhering to the distance rules and the school which is stated to be in existence is 150 metres away from the shop and it does not infringe the distance rules. Further, it is submitted that the shop is in the same location from 2012 onwards. Further, it is submitted that whether the views taken by the Grama Shaba would not be mandatorily binding on the authorities, which has been referred to a Larger Bench of this Court.

7.In our considered view, though the collective view of the General Public may not legally bind the authorities, nevertheless the voice raised by the public cannot be ignored. In any event, nobody has got fundamental right to trade in liquor and in the instant case, the TASMAL which is a Government Organisation, has



been granted the exclusive privilege to trade in liquor throughout the state of Tamil Nadu. Therefore, in our considered view, the views of the public can also be taken into consideration.

8. With the above observation, we direct the District Collector, Dindigul, to look into the grievance of the petitioner and to direct one of his subordinate officers to conduct a surprise inspection of the area, take the views of the parents, who sent their children to the Government Primary School, the views of the Principal, Teachers of the school and other local traders etc., and submit a comprehensive report to the District Collector, Dindigul, based on which, the District Collector, Dindigul, may take an informed decision in the matter. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To:

1. The Principal Secretary,
State of Tamil Nadu, Department of Home,
Prohibition and Excise, Secretariat, Chennai-9.

2. The District Collector,
Dindigul, Dindigul District.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate SR-86038[F] dated 10/09/2019
+1 CC to M/s.H.ARUMUGAM, Advocate (SR-86221[F] dated 10/09/2019
+1 CC to M/s.GP (SR-86142[F] dated 10/09/2019

W.P. (MD) .No.19425 of 2019
09.09.2019

NS

MS/01.10.2019/3P.6C