



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(PD)(MD)No.19855 of 2017
and
W.M.P.(MD)No.16135 of 2017

G.Iyappan

...Petitioner

Vs.

- 1.The Chairman,
Prohibition and Excise,
Tamil Nadu State Marketing Corporation Limited,
Chennai.
- 2.The Commissioner and Secretary,
Prohibition and Excise Department,
Secretariat, Chennai.
- 3.The Collector,
Prohibition and Excise,
Virudhunagar District,
Virudhunagar.
- 4.The Deputy Commissioner,
Prohibition and Excise,
Virudhunagar District.
- 5.The Assistant Commissioner,
Prohibition and Excise, Virudhunagar District.
- 6.The District Manager,
Prohibition and Excise,
TASMAC Division,
Virudhunagar District,
Virudhunagar.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to close the TASMAC Wine shop No.11840, functioning at Sattur to Kalugumalai State High Way No.187 and at nearer to Sivakasi bus stand or shifted to some other place thereon.



For Petitioner : Mr.V.R.G.Mohan
For R1 and R3 : Mr.A.K.Baskara Pandian
Special Government Pleader
For R2, R4 to R6 : Mr.H.Arumugam
Standing counsel

COMMON ORDER

[Order of this Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.V.R.G.Mohan, learned counsel for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondents 1 and 3 and Mr.H.Arumugam, learned standing counsel for the respondents 2 and 4 to 6.

2. This writ petition has been filed to close down the TASMAL retail vending shop situated at Sattur to Kalugumalai State High Way No.187 and at nearer to Sivakasi bus stand.

3. During the pendency of the writ petition, an Advocate Commissioner was appointed to inspect the site in question and he has submitted that the shop is situated next to the Sivakasi Bus stand. Though it does not violate the Distance Rule, still bearing the public interest in mind, the TASMAL should take a pragmatic decision. The bar license was cancelled, since the amount was not remitted.

4. Considering the location, we are of the view that the bar should not be established in the shop because, the shop is situated very next to the Sivakasi Bus stand. Therefore, there may be a direction to the TASMAL not to grant any permission for establishment of bar attached to Shop No.11840. So far as shifting of shop is concerned, there was an allegation that the writ petitioner was sponsored by FL2 Licensee. Taking note of this submission, we directed that an inspection to be conducted by the Assistant Commissioner (Excise), Virudhunagar, who has conducted an inspection and submitted a report stating that there is no violation committed by the FL2 licensee.

5. Be that as it may, the respondent, TASMAL being a State owned Corporation should ensure that their business activities should not disturb the normal public. Considering the location of the liquor shop as a hindrance, we direct that a pragmatic decision to be taken in this regard as to whether the shop can be relocated in some other place.



6. With the above, direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Chairman,
Prohibition and Excise,
Tamil Nadu State Marketing Corporation Limited,
Chennai.

2.The Collector,
Prohibition and Excise,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-91878[F] dated 15/10/2019)

+1 CC to M/s.GP (SR-91924[F] dated 15/10/2019)

ORDER MADE IN
W.P. (PD) (MD) No.19855 of 2017
14.10.2019

JMN(24.10.2019) 3P : 5C