IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 37809 of 2016

K. Selvaraj ... Petitioner

-vs-

1. The Managing Director,
Tamilnadu State Marketing Corporation,
Gandhi Irvin Road,
Egmore, Chennai.

2. The District Manager,
Tamilnadu State Marketing Corporation,
TASMAC,
Thiruppur District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of SE.MU.NA.KA.No.Q6/13264/2016, dated 19.10.2016 issued by the First Respondent Managing Director, Tamilnadu State Marketing Corporation TASMAC and quash the same, subsequently direct the Respondents to permit the Petitioner to run the bar attached with the TASMAC Shop No.2318, Bar license No.040/2015 at Nochippalayam, Thiruppur District.

For Petitioner : Mr. M.Balaji

For Respondents: Mr. K.Sathish Kumar,
Standing Counsel

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O R D E R
(through video conference)

Heard Mr. M.Balaji, Learned Counsel for the Petitioner and Mr. K.Sathish Kumar, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been issued Licence No. 040/2015 dated 07.08.2015 to run bar attached with TASMAC retail vending Shop No. 2318 at Nochipalayam with effect from 01.08.2015 and he had been arrested by the Inspector, Veerapandi Police Station on 15.08.2016 for keeping 26 bottles of golden choice brandy 180ml at the back side of O.X.O. Vest Company. The First

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Information Report bearing No 495/2016 under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937, had been filed against the Petitioner. The Second Respondent had issued a show cause notice on 22.12.2015 to the Petitioner for keeping the liquor bottles in the bar premises illegally for retail sales and had ultimately cancelled the licence issued to the Petitioner to run bar, which was sealed on 16.08.2016. It is also informed that since the Petitioner refused to receive that cancellation order, it had been affixed on the sealed door of the bar. The Petitioner had challenged that order in W.P. No. 30702 of 2016 before this Court, which was disposed by order dated 02.09.2016 stating as follows:-

> "3. Considering the fact that the 3rd respondent has considered the petitioner's reply and passed the impugned order, the petitioner is directed to file an appeal to the 1st respondent as against the impugned order, enclosing all the details and records that he may possess. The petitioner can also state about what happened to the criminal case which was registered against him. The petitioner is granted two weeks time to file the appeal and the 1st respondent shall consider the same within a period of three weeks from the date of receipt of a copy of the appeal petition."

The Petitioner thereafter filed appeal before the First Respondent, who had conducted enquiry on 26.09.2016 and confirmed the order of cancellation of licence passed by the Second Respondent by order dated 19.10.2016, which is impeached in this Writ Petition.

3. It is submitted by the Learned Counsel for the Petitioner that in the aforesaid order dated 02.09.2016 in W.P. No. 30702 of 2016 passed by this Court, it had been specifically mentioned that the Petitioner could state what had happened to the criminal case which was against him, but at the time when the appeal was heard by the First Respondent, the Petitioner could place the orders passed by the Criminal Court. It is further contended that the cancellation of licence also entails adverse civil consequence to the Petitioner inasmuch as out of the sum of Rs. 7,27,800/- deposited as security, a sum of Rs. 5,14,651/- had been forfeited for violation of conditions and the remaining amount of Rs. 2,13,149/- have been adjusted as under:-

S. No.	Particulars	Amount
1.	Licence fee for August 2016 (15 days)	Rs. 1,76,081/-
2.	Interest for late payment from August 2015 to till date of termination of licence	Rs. 37,068/-

In such circumstances, it is pleaded that if the proceedings

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in the appeal are re-opened and the Petitioner is permitted to place the aforesaid relevant materials, it would enable him to mitigate the loss incurred.

4. Having regard to the aforesaid submissions made, this Court without expressing any view on the correctness or otherwise on the merits of the controversy involved, sets aside the impugned order in Se. Mu. Na. Ka. No. Q6/ 13264/2016 dated 19.10.2016 passed by the First Respondent and remits the appeal for fresh consideration. The Petitioner shall place all materials which he relies in support of his contentions before the First Respondent on or before 30.11.2020. Thereafter, the First Respondent shall afford full opportunity of personal hearing to the Petitioner, deal with each of the contentions raised and pass reasoned orders in the appeal on merits and in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment and file report of such compliance by 31.12.2020 before the Registrar (Judicial) of this Court.

5. The Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

msm

To

1.The Managing Director,
Tamilnadu State Marketing Corporation,
Gandhi Irvin Road,
Egmore, Chennai.

2.The District Manager,
Tamilnadu State Marketing Corporation,
TASMAC,
Thiruppur District.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

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MP(CO)
GN(19/11/2020)

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