



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition (MD)No.2242 of 2020

and

W.M.P. (MD).Nos.1894 to 1896 of 2020

N.Mohanraj

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Head Quarters,
4th Floor, CMDA Tower -2,
Egmore,
Chennai 600 008.

2. The Senior Zonal Manager,
Tamil Nadu State Marketing Corporation Limited,
Tiruchirapalli Division,
Trichy.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the first respondent in his proceedings in Na.Ka.No.R-2/14589/2018 (Circular No.02/2019), dated 21.01.2019 and consequential order passed by the third respondent in his proceedings in Na.Ka.C.V.2/011/2018, dated 25.01.2020 and quash the same.

For Petitioner : Mr.M.Jothibas

For Respondents : Mr.H.Arumugam

Standing counsel for TASMAL

O R D E R

This writ petition has been filed challenging the proceedings in Na.Ka.No.R-2/14589/2018 (Circular No.02/2019), dated 21.01.2019 of the first respondent and the consequential order passed by the third respondent in Na.Ka.C.V.2/011/2018, dated 25.01.2020 and quash the same.

2. The main contention of the petitioner is that the third respondent, by the impugned order, dated 25.01.2020, has imposed the fine amount to the petitioner, for selling the liquor bottle for



petitioner submitted that one person cannot be punished for two times. Therefore, the petitioner has filed the present writ petition to quash the Circular as well as the impugned order.

3. Mr.H.Arumugam, learned Standing counsel appearing for the respondents submitted that as per the Circular of the Managing Director, TASMAL, Chennai, in Na.Ka.No.R-2/14589/2018, dated 21.01.2019, if MRP violation is found even for first time for Rs.10 to Rs.19, the Salesman and the Supervisor, who indulged in such act will be transferred for a Shop having less sales. He further submitted that the person, who committed a guilt, as a matter of right, cannot come before this Court and challenge the order of transfer and to maintain the discipline and for better administration only the petitioner was transferred. Therefore, there is no merit in the writ petition and the same is liable to be dismissed.

4. Heard the learned counsel for the petitioner, the learned Standing counsel appearing for the respondents and perused the materials available on record.

5. On perusal of the Circular dated 21.01.2019, it appears that in case, if anybody's selling the liquor bottles for more than the M.R.P., the respondents can impose a fine along with G.S.T., and in addition to that, they can also transfer. This Court is of the view that when a person is involved in a malpractices, it is the duty of the respondents to take adequate measures to prevent this type of malpractices. So, with that intention only, the Circular has been issued and in order to prevent frequency of malpractices, it is mandatory to make transfer and the same cannot be considered as a double punishment as stated by the learned counsel for the petitioner. In the present case, the fine amount has not been paid. In the TASMAL Shops, when the malpractices are found or if there is any wrong movement or certain illegalities, it is the discretion of the respondents to pass transfer orders and the same cannot be challenged and unless and until some stringent measures are taken by the respondents against the wrong doers, there is no chance for the respondents to curtail these type of illegalities. Hence, this Court do not find any merit in the present writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note:

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In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Managing Director,
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Trichy.
- 3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Karur District.

+1 cc to Mr.H.ARUMUGAM ,Advocate, SR No.26296

+1 cc to Mr.G.M.LAW OFFICE ,Advocate, SR No. 26113

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SGS (CO)
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