



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.5562 of 2020

and

W.M.P.(MD)No.4874 of 2020

S.Karthik

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Madurai District,
Madurai.

2.The Senior Regional Manager,
TASMAC,
Office of the Senior Regional Manager,
Madurai Region,
Madurai.

3.The District Manager,
TASMAC, Madurai North,
Madurai.

4.The Assistant Commissioner (Excise),
Madurai Collector Office Campus,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus forbearing the respondents from opening any TASMAC retail shop at 80 feet road, Annanagar opposite to S.P.Hospital, Madurai City.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel
for M/s.Veera Associates

For Respondents: Mr.P.Kannidevan
Additional Government Pleader
for R.1 & R.4
Mr.H.Arumugam for R.2 & R.3

ORDER

(Order of the Court was made by **P.N.PRAKASH, J.**)

This writ petition relates to the opening of a new TASMAC shop in the 80 feet road at Anna Nagar, Madurai. It is seen that, earlier a TASMAC shop was functioning in the junction of Suguna



Stores, Anna Nagar, which was in a 40 feet road. The matter came to the cognizance of this Court via a newspaper report, based on which, this Court registered a *suo-motu* public interest litigation in *Suo-Motu Writ Petition (MD)No.1791 of 2019* and after hearing the Government, directed the closure of the said shop by order dated 31.01.2019. It is the case of the petitioner that the Government has proposed to open a new TASMAC shop in the 80 feet road, which, according to the petitioner, is equally congested area.

2. Mr.Veera Kathiravan, learned Senior Counsel appearing for the petitioner admitted that the proposed shop is nearly 110 meters away from the old shop, whereas, the learned Standing Counsel for TASMAC refuted the said contention and submitted that it is about 300 meters away.

3. The learned Standing Counsel for TASMAC further submitted that the petitioner is an interloper and this is a private interested litigation triggered by a licensee of a TASMAC shop in order to protect his business interest in Vandiyur area, which is hardly 1 km away from the proposed place. However, the learned Senior Counsel appearing for the petitioner objected the same and maintained that the petition has been filed in public interest.

4. But then, the learned Senior Counsel was not able to point out any violation of the rules relating to the opening of the TASMAC shop in the said place. In the absence of any violation, we cannot issue a Mandamus forbearing the respondents from opening the shop. However, there appears to be force in the submission of the learned Senior Counsel that the proposed place is also equally congested area and that would cause equal amount of inconvenience to the public, pedestrians and motorists. It is also seen that there are Hospitals in and around the proposed place.

5. In such view of the matter, we are of the opinion that interest of justice would be served if the District Collector is directed to consider the representation dated 04.03.2020 given by the petitioner and take a decision about the viability of opening of the TASMAC shop in the proposed place.

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

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



To

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Assistant Commissioner (Excise),
Madurai Collector Office Campus,
Madurai.
- 3.+2 CC to M/s.VEERA ASSOCIATES, Advocate
(SR-12529[F] dated 19/03/2020 and SR-12230[F] dated 18/03/2020)
- 4.+1 CC to SPL.GP
(SR-12470[F] dated 19/03/2020)
- 5.+1 CC to Mr.H.ARUMUGAM, Advocate
(SR-12593[F] dated 19/03/2020)

W.P. (MD)No.5562 of 2020

and

W.M.P. (MD)No.4874 of 2020

Dated:18.03.2020

TP (06.05.2020) 3P 6C