



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.[MD]No.6399 of 2019

and

W.M.P.[MD]Nos.5107 & 5108 of 2019

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Hotel Visaka,
Represented by its Partner,
V.A.Tilak Raj, S/o.A.Varatharaj,
No.70/7, Balavinayagar Kovil Street,
Thoothukudi - 628 002.
Thoothukudi District.

: Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise (VIII) Department,
Fort St. George,
Chennai - 9.

2.The Commissioner of Excise and Prohibition,
O/o. The Commissioner of Excise and Prohibition,
Chepauk, Chennai - 5.

: Respondents

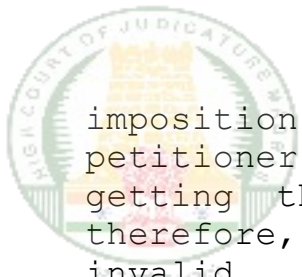
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring the exorbitant enhancement of Application Fee, License Fee, Privilege Fee in respect of One star and other Hotels by way of amendment of the Tamil Nadu Liquor (License and Permit) Rules, 1981 vide Government Order in G.O.(Ms).No.5, Home, Prohibition and Excise (VIII) Department dated 18.02.2019 issued by the first respondent as illegal, without jurisdiction and consequently for a direction, directing the second respondent to permit the petitioner to apply for renewal of FL3 License by way of levying the existing Application Fee, License Fee, Privilege Fee to the tune of Rs.3000/-, Rs.10,000/- and Rs.3,00,000/- respectively within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

[Order of the Court was made by
The Hon'ble Chief Justice]

This is a challenge raised to the validity of the



imposition of enhanced fee for FL3 license granted to the petitioner. The contention raised is that the legislative act of getting the schedule approved has not been accomplished and therefore, any demand raised on the basis of enhanced fee is invalid.

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2.Certain other grounds have been also taken, indicating the exorbitant nature of the fee, as far the petitioner, which is now sought to be released.

3.The counter affidavit has been filed on behalf of the respondents and paragraphs 9 and 10 of the counter affidavit categorically state that the petitioner had been granted the license, which pre-supposes the condition of having agreed to pay any enhanced fee in future in relation to the said privilege of the licence of FL3 granted to the petitioner.

4.We have also perused the license granted to the petitioner which has been filed along with the typed set of papers and we find that the said averment of the counter affidavit is compatible with the terms and conditions of the license.

5.The petitioner, once agreed to the payment of any enhanced fee for grant or renewal of license in future, the same cannot now be questioned on the ground of any such invalidity as alleged, more so, in view of the fact that the proposal of the Excise Department has been given effect to by issuing a notification in terms of the provisions of the Tamil Nadu Prohibition Act, 1937.

6.We, therefore, find no reason to entertain this writ petition on behalf of the petitioner, which is accordingly consigned to records. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

MR



To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise (VIII) Department,
Fort St. George,
Chennai - 9.

2.The Commissioner of Excise and Prohibition,
O/o. The Commissioner of Excise and Prohibition,
Chepauk, Chennai - 5.

+1 CC to SPL.GP (SR-8777[F] dated 27/02/2020)

+1 CC to MR.T.LAJAPATHI ROY, Advocate (SR-9148[F] dated
28/02/2020)

ORDER MADE IN
W.P. [MD]No.6399 of 2019
26.02.2020

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