



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.14366 of 2020

and

WMP.Nos.17835, 17836 & 18035 of 2020

M/s.New Continental Bar (License No.63/FL2)
Rep. by B.Ramu
No.236, Cuddalore Main Road,
Thavalakuppam,
Puducherry-605007.

...Petitioner

Vs

1. The Commissioner (Excise)
Government of Puducherry
Office of the Excise Commissioner
Secretariat, Puducherry-605 001.
2. The Deputy Commissioner (Excise)
Excise Department,
Govt. of Puducherry
Thattanchavadi
Puducherry.
3. The Tasildhar (IMFL)
Office of the Deputy Commissioner
Excise Department,
Govt. of Puducherry
Thattanchavadi, Puducherry.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of certiorarified mandamus calling for the records of the 3rd respondent in Proceedings No.3328/DCE/S2/FL2/2003-04/Vol.II dated 11.09.2020, quash the same and consequently forebear the respondents from interfering with the shifting of the liquor stock from the FL2. Licensed premises in R.S.No.110/5 of Thavalakuppam Revenue Village, Moogambigai Nagar to R.S.No.84/2A, Cuddalore Main Road, Thavalakuppam (Original premises).



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For Petitioner : No Appearance
For Respondents : Mr.J.Kumaran
Additional Government Pleader
(Puducherry)

O R D E R

The petitioner has sought a quash of order dated 11.09.2020 and a direction to forbear the respondents to interfere with the shifting of stock of liquor from the FL2 licenced premises in R.S.No.110/5 of Thavalakuppam Revenue Village, Moogambigai Nagar to R.S.No.84/2A, Cuddalore Main Road, Thavalakuppam, being the original premises.

2.When the matter had come up on 28.06.2021, I had passed the following order:

2. The prayer of the petitioner is for a writ of certiorarified mandamus to quash an order of the third respondent i.e. Tahsildar, rejecting the request of the petitioner for shifting of the liquor shop from FL2, Licensed premises in R.S.No.110/5 of Thavalakuppam Revenue Village, Moogambigai Nagar to R.S.No.84/2A, Cuddalore Main Road, Thavalakuppam, which was the original premises from where the petitioner was running the liquor shop prior to judgment of the Supreme Court in S.L.P.(Civil).Nos.12164 and 12173 of 2016 dated 15.06.2016.

3. In the aforesaid judgment, the Supreme Court had directed all shops selling liquor/alcohol that were situated within 500 meters of the outer edge of the National/State highway to be relocated. The aforesaid order had been clarified thereafter on 11.07.2017 in S.L.P.(Civil) No.10243 of 2017 and 23.02.2018 in C.A.Nos.12164 and 12166 of 2016, as a consequence of which, the Government of Puducherry vide Gazette publication in Ms.No.1 dated 12.02.2020, permitted the license holders to shift back to their original venues subject to valid representation received from them. The petitioner thus availed of the relocation benefit and has also paid relocation fee of a sum of Rs.2,50,000/-. A total of 23 licensees appear to have availed of this benefit. 21, including the petitioner, have paid license fees and are awaiting orders for re-shifting. Two licensees have been permitted to shift back to the place they were originally functioning from.

4. The reason accorded to the rejection of the petitioner's request is that Gazette Notification dated 12.02.2020 had been passed without necessary approval from the Lieutenant Governor



and as such till such time valid approval was granted, it could not be acted upon. The Union Territory has received shifting fees and has been holding the same since 06.03.2020. There is also an element of discrimination insofar as two licensees have been given the benefit based on Gazette Notification dated 12.02.2020, which is now being sought to be kept in abeyance.

5. Let a decision be taken in this regard within a period of two weeks from today.'

3. Today a memo is filed by Mr. J. Kumaran, learned Additional Government Pleader (Pudhucherry) to the effect that the approval has been granted by the Lieutenant Governor and the request of the petitioner for shifting of the shop has also been acceded to by order dated 08.07.2021.

4. Recording the aforesaid, as nothing further survives in this writ petition, the impugned order is set aside. As a consequence, this writ petition is closed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS)

// True Copy//

Sub Assistant Registrar

vs

To

1. The Commissioner (Excise)
Government of Puducherry
Office of the Excise Commissioner
Secretariat, Puducherry-605 001.
2. The Deputy Commissioner (Excise)
Excise Department,
Govt. of Puducherry
Thattanchavadi
Puducherry.



3. The Tasildhar (IMFL)
Office of the Deputy Commissioner
Excise Department,
Govt. of Puducherry
Thattanchavadi, Puducherry.

+1cc to Government Pleader for Puducherry, S.R.No.33135

W.P. No.14366 of 2020
and
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UM (CO)

SU (04/08/2021)