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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26762 of 2021

(Through Video Conferencing)

Mr.N.Sathiaah,
S/o.Nagu,
3/72, Adhavatur,
Auvadaiyar koil Taluk,
Kalabam,
Pudukottai - 614 629

... Petitioner

Vs

1. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
Coimbatore.

2. The District Manager / Sub Collector,
Tamil Nadu State Marketing Corporation Limited,
Coimbatore.

... Respondents

Prayer Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents herein, their men, agents, servants or any one claiming under them from in any manner disturbing the petitioner's TASMAR Retail outlet shop cum bar shop No.1688 situated at Kallarai Veethi, Sowripalayam, Coimbatore- 641 028 till finalizing fresh tender.

For Petitioner : Mr.M.Jaikumar

For Respondents : Mr.K.Sathish Kumar
Standing Counsel

ORDER

Mr.K.Sathish Kumar, learned Standing Counsel takes notice on behalf of the respondents.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.



3. It is the complaint of the petitioner that he has been given license for a period of two years starting from 01.11.2019 to 31.10.2021 to collect the bottles and sell eatables in the TASMAC Shop/bar located at TASMAC Retail outlet shop cum bar shop No.1688 situated at Kallarai Veethi, Sowripalayam, Coimbatore - 641 028.

4. The uniform case of the petitioner is that the petitioner has a private arrangement with the owner of the property where the TASMAC bar attached to the shop is being run and that the respondents have now floated a fresh tender on 14.12.2021 for out sourcing the activity of collecting bottles and vending food items in the bar premises by ousting the petitioner.

5. It is the case of the petitioner that almost fifteen months and fifteen days of the entire license period of the petitioner remained unutilized due to lock down and the restrictions imposed due to the outbreak Covid-19 pandemic.

6. It is submitted that though the petitioner was not required to pay the license fee during the lock down period when the TASMAC Shop/bar remained closed, nevertheless, the petitioner was paying the rents to the owner of the bar premises which was independently taken on lease from the owner of the property.

7. It is further submitted that the petitioner had also maintained the staff even during the time when the TASMAC Shops/bars had to be closed due to lock down imposed during the first and second wave of Covid-19 pandemic.

8. The learned counsel for the petitioner submits that the tender was advertised on 14.12.2021 for the proposed tender, the tender advertisement states that the forms can be downloaded from the website of the respondents TASMAC Limited. It is submitted that the forms are not available on the website of the respondents TASMAC Limited for being downloaded and that the petitioner was driven to approach the respective District Managers of the respondents TASMAC Limited, who is not giving the Tender Forms to the petitioner and an attempt is being made to oust the petitioner from participating in the tender process.

9. The challenge to the proposed tender is also for the alleged glaring violation of the Provisions of the Tamil Nadu Transparency in Tenders Act, 1998 and their Rules made there under.

10. It is submitted that the minimum of fifteen days notice is required as per the Rules. It is further submitted that there is only a paper compliance of the Rules inasmuch as the Forms for participating in the tender are not being made available to the petitioner.



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11. It is submitted that the respondents are bound to follow the procedures prescribed under the aforesaid Rules for both outsourcing the purchase of goods or services. As the services of the petitioner is being ousted/proposed to be ousted in favour of the third parties who are close to the second respondent, the proposed auction should be stopped.

12. The learned counsel for the petitioner further submits that the petitioner has heavily invested in developing the bar facility and therefore the petitioner should be given further opportunity to run/operate in the bar premises attached to the TASMAL Shops which is admittedly under the petitioner custody.

13. Opposing the prayer, the learned Standing Counsel for the respondents submits that the petitioner is attempting to scuttle the tender process by making wrong statement. It is submitted that the Tender Forms are available in the website. In any event, these forms will be given to all the existing license holders whose licenses are currently valid as on date.

14. It is submitted that it is for the petitioner to submit offer and participate in the tender process on 30.12.2021 and the highest bidder will be awarded the tender to collect bottles and vend food items in the bar attached to the TASMAL Shop.

15. It is further submitted that the highest bidder will have to satisfy the requirements of the Government Order which contemplates "No Objection Certificate" (NOC) from the owners of the premises.

16. Recording the submissions of the learned Standing Counsel for the respondents, there shall be a direction to the respective District Manager of TASMAL in each of the District and Taluk to directly furnish physical copies of the application to each of the existing licensees like petitioner to submit the proposal/bid in a sealed cover on or before 30.12.2021 before 2.00.p.m.

17. The petitioner is at liberty to participate in the tender by offering the bids on or before 30.12.2021 before 2.00.p.m, by complying with the conditions stipulated in the Tender Advertisement dated 14.12.2021.

18. The respondents shall open tender and award the contract to the successful bidders and grant license to operate at the bar premises subject to the successful bidders also producing "No Objection Certificate" (NOC) from the owner of the property where such bar is located.



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19. Considering the same, I do not find any reasons to pass any orders in this writ petition. This writ petition stands closed with the above observations. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rgm

To

1. The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Limited,
Coimbatore.
2. The District Manager / Sub Collector,
Tamil Nadu State Marketing Corporation Limited,
Coimbatore.

+1 cc to Mr.M.Jaikumar, Advocate Sr.NO. 6971

W.P.No.26762 of 2021

RGN(CO)

A.SK(21.01.2022)