



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.P. (MD) No.19723 of 2020

and

W.M.P. (MD) No.16447 of 2020

M.Jegatheesan

: Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC) Ltd.,
50/57, TANSIDCO Complex, Nanjikottai Road,
Thanjavur District.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus forbearing the respondents herein from any way opening the TASMAC shop in the proposed location at No.1872, Raja Veethi, Karanthai, Thanjavur, based on the petitioner's representation dated 14.12.2020.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader
for R.1 & R.3
Mr.H.Arumugam,
Standing Counsel for R.2

ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

The petitioner has come forward to file this writ petition for the second time, after the dismissal of the earlier writ petition in W.P.(MD)No.4731 of 2020 dated 05.03.2020. In the said writ petition, the following order has been passed:-



"It is the case of the petitioner that the respondents are proposing to give licence for establishing a TASMAL Shop within 100 metres distance from Government High School and Uma Maheswaranar Higher Secondary School, in Raja Veethi, Karanthai, Thanjavur, to prevent which, this Public Interest Litigation has been filed. Even, in Paragraph No.4 of the affidavit filed by the petitioner, he has stated that the proposed TASMAL Shop will be located within 100 metres distance from the said two Schools.

2. Rule 8 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003, fixes a prohibited distance at 50 metres in respect of Corporations. Thanjavur is, admittedly, a Corporation. In such view of the matter, we are not inclined to issue any directions in this Writ Petition and hence, the same stands dismissed. However, the first respondent shall bear in mind the extant Rules, while deciding to establishing the TASMAL shop at the said place. No costs. Consequently, the connected miscellaneous petition is closed."

2. The learned Counsel for the petitioner submitted that the grievance of the petitioner, this time, is different, whereas, the learned Standing Counsel for the second respondent / TASMAL submitted that the averments are verbatim the same in the affidavit filed by the petitioner on the earlier occasion and made specific reference to paragraph nos.1 to 7 in the affidavit.

3. We find no merit in this writ petition. The petitioner has failed in the earlier attempt and this subsequent writ petition is not maintainable. Even in the earlier writ petition, the petitioner has raised the plea with respect to the existence of Schools and the places of worship. The petitioner has taken the very same plea, once again, which is nothing but a re-litigation. Even otherwise, the plea which is available at the earlier point of time and not taken, cannot be allowed to be raised by way of a subsequent proceeding claiming the same relief.

4. In such view of the matter, this Court is not inclined to entertain this writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



gk

To

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur District.

+1 CC to SPL GP (SR-124[F] dated 05/01/2021)

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-140[F] dated 05/01/2021)

W.P. (MD) No.19723 of 2020
04.01.2021

VB (18.01.2021) 3P 5C