



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.10.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No.23121 of 2018

and W.M.P. (MD) No.21013 of 2018

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.. Petitioner

Vs

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

4.The Block Development Officer,
Narikudi Panchayat Union,
Virudhunagar District.

5.The Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

6.The Village Administrative Officer,
Sethupuram Village,
Virudhunagar District.

.. Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, forbearing the respondents from opening a TASMAC Shop in Sethupuram Village (Sethupuram-Ilupayur Road), Narikudi Panchayat Union, Thiruchuli Taluk, Virudhunagar District.

For Petitioner : Mr.M.Jothibas

For Respondents: Mr.P.Thilakkumar,

Government Pleader for R1, R3 to R6

Mr.H.Arumugam,

Standing Counsel for R2



ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

At the time when the petition was instituted, the grievance of the petitioner was that a TASMAC shop was proposed to be opened despite the villagers' protests. The shop has since been opened, but closed pursuant to orders passed herein.

2. The petitioner says that if the local residents do not want the TASMAC shop, it is incumbent on the authorities to ensure that the shop is not opened or the shop, if already opened, is shut down and relocated.

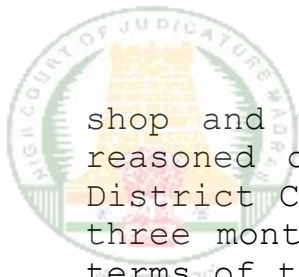
3. There are guidelines in place pertaining to the conditions under which a TASMAC shop may be opened. These guidelines cover diverse areas, including the distance to be maintained from any educational institution or any religious shrine or any highway. It is only upon a location being found appropriate in terms of the guidelines that permission is accorded for a retail outlet to be opened thereat.

4. In the present case it is submitted on behalf of the respondents that due permission has been accorded upon taking into consideration all relevant factors, including the conditions imposed by the applicable guidelines.

5. However, the petitioner labours under a misapprehension that if a majority of the local residents do not want the TASMAC unit to be opened or continued, the relevant unit has to be shut down. If the guidelines do not give the local residents such overwhelming authority, such aspect of the matter cannot be insisted upon.

6. Since the shop had already been opened, the petitioner is permitted to carry a detailed representation to the District Collector, who is the appropriate authority for considering the same. In the event the District Collector finds any basis to the petitioner's representation that the shop has been opened at a place in derogation of the applicable guidelines, the District Collector will take immediate appropriate steps in accordance with law. If the petitioner cannot make out a case of the shop having been opened in violation of the applicable guidelines, the matter has to be closed thereupon.

7. W.P.(MD)No.23121 of 2018 is disposed of by permitting the petitioner to carry a detailed representation to the relevant District Collector within a period of four weeks from date, whereupon the District Collector will conduct an enquiry and afford an opportunity to the representatives of TASMAC, the local



shop and the petitioner to present their views before taking a reasoned decision in the matter. The reasoned decision of the District Collector should be communicated to the petitioner within three months of the receipt of the petitioner's representation in terms of this order.

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8. As it is submitted that the relevant shop has been closed since November 22, 2018, the shop will now be opened only after the petitioner's representation is considered by the District Collector and the location of the shop is found to adhere to the guidelines. However, if the petitioner's representation is not submitted to the District Collector within the time permitted, the District Collector will be entitled to take a decision on the matter without reference to the petitioner.

There will be no order as to costs.

Sd/-

Assistant Registrar (Cr1)

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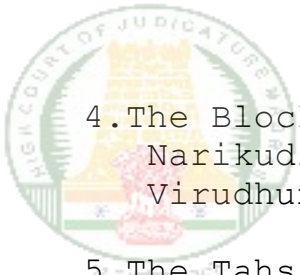
Sub Assistant Registrar(CS)

ps/vsm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Virudhunagar District,
Virudhunagar.
- 3.The Revenue Divisional Officer,
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5.The Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

6.The Village Administrative Officer,
Sethupuram Village,
Virudhunagar District.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-32491[F] dated 25/10/2021)

+1 CC to M/s.M.JOTHIBASU, Advocate (SR-32597[F] dated
26/10/2021)

W.P. (MD) No.23121 of 2018
25.10.2021

RK/UV (02/11/2021) 4P 9C