



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.27177 of 2019

&

W.M.P. (MD)No.23488 of 2019

and

W.P. (MD)No.3602 of 2020

&

W.M.P. (MD)No.3126 of 2020

W.P. (MD)No.27177 of 2019:-

Bagavathiraj, S/o.Gurusikku

... Petitioner

Vs.

1.The District Collector,
Collector Office Campus,
Theni District.

2.The Assistant Commissioner,
Prohibition and Excise Department,
Collector Office Campus,
Theni District.

3.The Tahsildar,
Tahsildar Office,
Uthamapalayam,
Theni District.

4.The District Manager,
Government TASMAL Office,
Karuvelanayakanpatty, Theni.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents herein not to open the TASMAL Shop at Survey No.630/2, Old Patta No.888, New Patta No.2189, Door No.89-A, based on the petitioner's representation, dated 16.12.2019.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel
for Mr.A.Anbalakan

For R1 to R3 : Mr.R.Murugan
Additional Government Pleader



For R4

: Mr.B.Jameel Arasu

W.P. (MD)No.3602 of 2020:-

M.Baskaran

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Theni District,
Theni.

2.The Senior Regional Manager,
TASMAC,
Office of the Regional Manager,
Theni Region,
Madurai.

3.The District Manager,
TASMAC, Karuvelyanayakanpatti,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the entire records in Na.Ka.No.35151/2019/PP1, dated 21.01.2020, by the first respondent, quash the same and consequently, forbearing the respondents from opening any TASMAC retail shop, bearing No.8557 in Survey No.629/A/1, Door No.89/A, Maariyappan Kottam Street, K.K.Patti, Ward No.2, Uthamapalayam Taluk, Theni District.

[Prayer amended, vide order dated 24.02.2020, made in W.M.P.(MD) No.3125 of 2020 in W.P.(MD)No.3602 of 2020]

For Petitioner

: Mr.W.Pamelin

For Respondent No.1

: Mr.K.P.Krishnadoss
Special Government Pleader

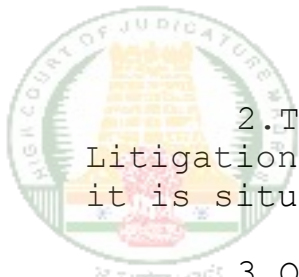
For Respondent Nos.2&3

: Mr.B.Jameel Arasu

COMMON ORDER

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

As both the cases pertaining to the same shop, the same are disposed of by this common order.



2. These Writ Petitions have been filed as Public Interest Litigations, seeking to close the TASMACH Shop on the ground that it is situated within the prohibited distance.

3. On a perusal of the affidavit filed by respondent No.3 in W.P.(MD)No.3602 of 2020, we do not find that the TASMACH Shop in question is not located within the prohibited distance. It is obviously located beyond the prohibited distance of the School. Therefore, we do not find any merit in these Writ Petitions and hence, the same are liable to be dismissed.

4. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**Sd/-
(27.01.2021)**

BEING MENTIONED ORDER DATED 01.02.2021

This Petition having been posted on this day "For Being Mentioned". In pursuance to the order of the Court dated 27.01.2021 and made herein in the presence of the above said advocates, this Court made the following order:

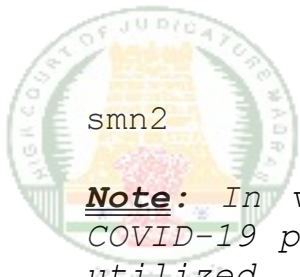
Though the matter stands posted for being mentioned at the instance of the learned counsel for the petitioner, who submitted that the School is situated nearer to the TASMACH shop.

2. We already considered this issue, while passing order on 27.01.2021. We cannot conduct a roving enquiry in the matter. There is no need to discredit the report of the Tahsildar, Uthamapalayam. It is not the case of the petitioner that the Tahsildar is hand in glove with the TASMACH authorities. In such view of the matter, the petition stands dismissed.

**Sd/-
Assistant Registrar (CS-I)**

// True Copy //

**/ /2021
Sub Assistant Registrar (CS)**



smn2

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,
Collector Office Campus,
Theni District.
- 2.The Assistant Commissioner,
Prohibition and Excise Department,
Collector Office Campus,
Theni District.
- 3.The Tahsildar,
Tahsildar Office,
Uthamapalayam,
Theni District.
- 4.The Senior Regional Manager,
TASMAC,
Office of the Regional Manager,
Theni Region,
Madurai.
- 5.The District Manager,
Government TASMAC Office,
Karuvelanayakanpatty, Theni.

+1 cc to Mr.W.Pamelin, Advocate SR.No.3140

+1 cc to The Special Government Pleader Sr.No.2369

W.P. (MD)No.27177 of 2019
and
W.P. (MD)No.3602 of 2020
27.01.2021

KM (04.03.2021) 4P 8C