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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1818 of 2022

Rangarajan Narasimhan

.. Petitioner

Vs.

1. The Additional Chief Secretary to Govt.
Govt. of Tamil Nadu
Secretariat, Chennai 600 009.
2. The Commissioner
Tamil Nadu State Marketing Corporation Limited
CMDA Tower-II, IV Floor
Gandhi Irwin Bridge Road
Egmore, Chennai 600 008.
3. The Secretary to Govt.
Agriculture and Farmers Welfare Department
Govt. of Tamil Nadu
Secretariat, Chennai 600 009.
4. The Principal Secretary
Environment, Climate Change and Forests Department
Govt. of Tamil Nadu
Secretariat, Chennai 600 009.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to ban the usage of glass bottles by TASMAL to sell liquor through their outlets all over Tamil Nadu.

For the Petitioner : Mr.Rangarajan Narasimhan
Party-in-Person



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For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 & 3

Mr.K.Sathish Kumar
for respondent-2

Mr.T.Seenivasan
Spl. Govt. Pleader (Forest)
for respondent-4

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The public interest litigation has been filed for a direction to the respondents to ban the usage of glass bottles by TASMAC to sell liquor through their outlets all over Tamil Nadu.

2. The petitioner-in-person submits that the use of glass bottles is affecting the environment as per the studies made by the experts and, therefore, appropriate direction has been sought to ban the use of glass bottles at all the outlets of TASMAC in Tamil Nadu.

3. We have considered the submissions made by the petitioner-in-person.

4. The petitioner, appearing in person, has appended with the petition an article intituled "Life Cycle Assessment of Beverage Packaging" and a newspaper report. The solitary basis for seeking the relief is that usage of glass bottles is a menace and it is hazardous to the environment as it is non-degradable. It is also alleged that broken glass bottles cause serious injury to livestock and farmers, as the users litter them at open places and agricultural fields.

5. At the outset, it needs to be emphasised that the court is not an expert to enter into the technical issue, that too based on research material, as to what sort of bottle should be used for selling liquor. Admittedly, TASMAC is wholly owned by the Government of Tamil Nadu. Therefore, the decision to use plastic bottle or glass bottle or any other material for that reason has to be taken as a policy decision by the Government keeping in mind the views of the experts. It is not for this Court to direct usage of any particular material for selling



liquor or to inhibit the usage of any material based on such research material, the veracity of which cannot be examined by this court.

6. At this juncture, it is apt to refer to the Rules to Regulate the Public Interest Litigations filed under Article 226 of the Constitution of India framed by the Madras High Court. Rule 6 of the said Rules reads as under:

"6. The affidavit filed by the petitioner must contain the averments that he has filed the writ petition based on his information and his personal knowledge. If he has filed the writ petition based on an information received from any other source, he must clearly indicate the source. If it is a newspaper report, the affidavit shall clearly state as to whether the deponent has verified the facts by personally visiting the place or talking to any responsible person or Reporter or Editor of the newspaper concerned."

[emphasis supplied]

Except enclosing the article intituled "Life Cycle Assessment of Beverage Packaging", nothing has been stated by the petitioner as to the veracity of the contents of the said article and what groundwork he has done to ensure its authenticity. It is also amply clear from the aforesaid Rule that the affiant, who relies on a newspaper report, must personally visit the place or talk to any responsible person or reporter or editor of the newspaper. Nothing has been placed on record to show the efforts taken by the petitioner in this regard. It is trite that those who invoke the jurisdiction of the court, that too by way of a public interest litigation where locus standi is waived, should exercise restraint and not plunge into areas wherein they are not well-versed.

7. Apropos usage of glass bottles for selling liquor, it needs to be noted as an illustration that the State of Maharashtra, vide government order dated 11.1.2016 directed the usage of glass bottles, instead of plastic bottles. However, an interim order was passed by the Bombay High Court on 1.4.2016 in W.P.No.565 of 2016 enjoining the government from giving effect to the government order, in view of the ban on use of plastic bottles. The said interim order was extended until further orders and the writ petition is pending even as on date, meaning thereby that plastic bottles are continued to be used for selling liquor. The said illustration is given only to fortify the conclusion drawn by us aforesaid that it is the government which has to take a policy decision on the issue and it is not for the



courts to direct usage of any particular material for selling liquor.

8. Littering of any kind of waste - whether it is plastic or glass bottle, apart from other materials, is an offence and the Municipalities and Corporations are empowered to levy penalty and proceed in accordance with law. The petitioner should have requested the authorities concerned to seek strict enforcement of the laws. Ultimately, all that is required is to create a sense of awareness among the public regarding the disposal of bio-degradable and non-degradable wastes. It is the Government, which is the appropriate authority, to issue guidelines to strictly enforce the penal provisions, apart from increasing the spots where trash receptacles can be placed, but for the reasons aforesaid, use of glass bottles cannot be prohibited.

9. It needs to be noted at this juncture that when relief claimed is qua a policy decision of the government, before approaching this court seeking issuance of a writ of mandamus, the petitioner ought to have made a representation to the Government for consideration in the light of research material, if any. The petitioner without taking recourse to such measure and waiting for the decision thereon by the Government, has directly approached this court seeking total ban on usage of glass bottles for selling liquor.

10. The glass bottles are used not only for liquor, but for other beverages also in the State of Tamil Nadu; across the country; and, also world wide. Thus, if the direction sought by the petitioner-in-person is given, it would have a bearing even on the use of glass bottles to contain any liquid or semi-liquid material, other than liquor. The petitioner-in-person has failed to refer to any provision of law which prohibits the usage of glass bottles.

11. For the foregoing reasons, the direction sought by the petitioner cannot be granted. The writ petition is dismissed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar



To:

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+1cc to the Government Pleader, SR.No.8635
+1cc to Spl.Government Pleader, SR.No.8373

W.P.No.1818 of 2022

KSM(CO)
CB(18/02/2022)