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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.5091 OF 2022

T.Kugan

... Petitioner

.Vs.

1. The Managing Director,
The Tamil Nadu State Marketing
Corporation Ltd.,
CMDA Tower - II,
4th Floor, No.8,
Gandhi Irwin Road,
Chennai - 600 008.
2. The District Manager,
The Tamil Nadu Ware Housing Corporation,
Katpadi Road, Vellore,
Tamil Nadu - 632 004.
3. The District Collector,
Collectorate,
Vellore - 632 009.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the third respondent to shift and relocate the TASMAC shop located in NH 46, Chennai Bangalore Highway, Pallikonda, Vellore District.

For Petitioner : Mr.L.Dhamodharan

For R1 & R2 : Mr.K.Sathish Kumar
Standing Counsel

For R3 : Mr.S.Ravichandran
Additional Government Pleader



ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the third respondent to shift and relocate the TASMAC shop located in NH 46, Chennai Bangalore Highway, Pallikonda, Vellore District.

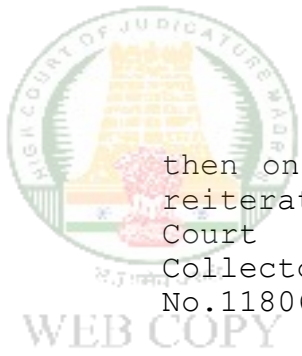
2. There is a TASMAC shop functioning at NH 46, Chennai - Bangalore Highway, Pallikonda, Vellore District adjacent to or very nearer or opposite to the petitioner's School.

3. Because of the running of the TASMAC retail vending shop, very nearer to the petitioner's school, it creates lot of nuisance and hindrance to the school children and the teaching and non-teaching staff, who attend the school everyday, because always there has been a gathering or crowd in front of the school. Therefore, in order to re-locate the said TASMAC retail vending shop, the petitioner had given a representation on 23.09.2021 to the 3rd respondent, District Collector, who is the competent Authority to decide the location of IMFL retail vending shop. However, the said representation according to the learned counsel for the petitioner has not so far been considered.

4. Mr.L.Dhamodharan, learned counsel for the petitioner in this regard would submit that photographs have been filed before this Court in the typed set of documents, which shows the gathering of consumer, who come and take liquor from the said TASMAC shop, who are gathering in front of the school, which is very nearer or very closer to the school compound.

5. Therefore, he seeks indulgence of this Court to issue a direction by way of mandamus to the 3rd respondent to consider the representation of the petitioner's school and decide it, in accordance with law at the earliest.

6. Heard Mr.S.Ravichandran, learned Additional Government Pleader appearing for the respondents 1 and 2, who on instructions would submit that, the Rule 8 and Rule 9 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 has been amended and as per the amended rule, if any objection comes from any quarter from the public, that shall be first considered by the District Collector concern, who is the competent authority to decide the location of the IMFL shop and



then only, the location must be cleared. This position has been reiterated in a recent judgment of a Division Bench of this Court in the matter of K.Ramachandran Vs. The District Collector, Ramanathapuram District and others made in W.P.(MD). No.11806 of 2017 etc., batch dated 14.02.2022.

7. In view of the said legal position and on the basis of the amended rule, the representation now has been submitted by the petitioner's school to the 3rd respondent, District Collector would be considered and decided on merits and in accordance with law.

8. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. The photographs filed by the petitioner's side disclose that definitely there would be some nuisance to the school going children as the IMFL shop, which is in question seems to have been located very adjacent or nearer to the school, where the consumers who want to take liquor from the said shop are gathering in front of the school and this is evidenced from the photographs filed before this Court.

10. If that being so, it seems that there would not be any conducive atmosphere for the school faculties especially in front of the school campus, where the children who are going to school are subjected to some hindrance and nuisance, which would be a vulnerable issues, to be looked into by the District Collector, while deciding the said application submitted by the petitioner's side.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders :

- That there shall be a direction to the 3rd respondent to consider the representation of the petitioner dated 23.09.2021 and decide it by considering it objectively within the meaning of the amended rule referred to above and by taking into account the aforestated observation made by this Court in this order that the school going children at any cost should not be affected or no nuisance or inconvenience to be caused to the school children. Hence, accordingly a pragmatic



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decision shall be taken to relocate the shop at the earliest by the 3rd respondent District Collector, by disposing the said application of the petitioner and the needful can be undertaken by the 3rd respondent as indicated above within a period of six weeks from the date of receipt of a copy of this order.

12. With these observations and directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sp/mp

To

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Vellore - 632 009.

+1cc to Mr.L.Dhamodharan, Advocate, S.R.No.14995
+1cc to the Government Pleader, S.R.No.15447

W.P.NO.5091 OF 2022

MT(CO)
PBS/28/04/2022