



W.A.No.2734 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2022

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE N.MALA

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P.Ulaganathan

... Appellant

VS

1.Sri Karivaradharaja Swamy Temple,
rep. By its Hereditary Trustee,
S.Sathish Kumar

2.The District Collector,
Master Plan Complex,
NH 205, Tiruvallur 602 001

3.The Licensing Authority
Assistant Commissioner (Excise)
Tiruvallur District.

4.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation
Ltd. (TASMAC)
735, IV Floor, LLA Building,
Anna Salai, Chennai 600 002.

5.The District Manager,
Tamil Nadu State Marketing Corporation
Ltd. (TASMAC)
4, Thiruvallur East, IMFS Depot,
Bangalore High Road,
Chembarambakkam Village,



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Tiruvallur District 600 123.

... Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent Act against the order dated 13.08.2019 in WP No.16780 of 2019.

For the Appellant : Mr.S.Rajendrakumar
For the Respondent : Mr.R.Shunmugasundaram,
assisted by Mr.K.Sathish Kumar
Standing Counsel,
for respondents 2 to 5.

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

The writ appeal has been filed against the order dated 13.08.2019 whereby, the writ petition preferred by the first respondent herein was allowed with the following direction:

"7.In the light of the above observations, the petitioner is granted liberty to approach the first respondent with a representation seeking for relocation of TASMACH shop No.8855 functioning at S.No.81/1 near Sri Karivaradharaja Swamy Temple in Nerkundran Village, Thiruvallur District and on receipt of such representation, the first respondent herein shall conduct a proper enquiry and pass appropriate orders, without reference to the



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distance prohibition referred to under Rule 8(1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, as expeditiously as possible and in any event, within a period of three months from the date of receipt of such representation from the petitioner."

2. It is submitted that the aforesaid direction has been given to consider the writ petitioner's representation without reference to the distance prohibition referred to under Rule 8(1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. This is going against the statutory provision. We agree with the writ appellant and find that the direction quoted above is *de hors* the rules and thus, not sustainable. It is informed that the Tasmac shop has already been shifted and if that is so, then the writ appeal can be treated as infructuous.

3. However, before disposing of the appeal, we want make it clear that the direction of the writ court to consider the representation of the petitioner, and accordingly conduct enquiry to pass an appropriate order without reference to the distance



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prohibition, is not appropriate and to that extent, the order of learned Single Judge is set aside.

4. With the aforesaid, the writ appeal is disposed of. There will be no order as to costs. Consequently, CMP 17919 of 2021 is closed.

(M.N.B., CJ.) (N.M., J.)

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To

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2.The District Collector,
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M.N.Bhandari, CJ.
and
N.Mala, J.

(tar)

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