



W.P.No.26894 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26894 of 2022

A.Joshua

.. Petitioner

Vs

- 1 The District Collector
O/o. The District Collector of Chennai
Chennai – 600 001.
- 2 TASMAL Limited
Rep. by its Managing Director
CMDA Tower II, IV floor
Gandhi Irwin Bridge Road, Egmore
Chennai – 600 008.
- 3 The Regional Manager
TASMAL Limited
735, IV Floor, L.L.A. Building
Anna Salai, Chennai – 600 002.
- 4 The District manager
TASMAL Limited, Kancheepuram North
Thirumizhisai Unit 3, Sembarambakkam
Chennai – 600 123.

.. Respondents



W.P.No.26894 of 2022

WEB COPY

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents not to open the TASMAL wine shop in the proposed location at Door No.433 at No. 1/27, Rajiv Gandhi Street, Karapakkam Village based upon the representation of the petitioner dated 16.09.2022.

For the Petitioner : Mr.M.Manimaran

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent No.1

: Mr.K.Balakrishnan
Standing Counsel
for respondents 2 to 4

ORDER

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

This writ petition has been filed by Mr.A.Joshua, son of Arumukam, a resident of No.51, 3rd Mullai Street, Thiruvalluvar Nagar, Perungudi, Kancheepuram, for a direction on the respondents not to open a Tasmal shop at Door No.433 at No.1/27, Rajiv Gandhi Street, Karapakkam Village.



W.P.No.26894 of 2022

WEB COPY

2. Learned counsel appearing for the petitioner submitted that, being a permanent resident of Kancheepuram District, he is taking care of the villagers and has filed the present writ petition. According to learned counsel, the respondent authorities have proposed to open a Tasmac shop at Door No.433 at No.1/27, Rajiv Gandhi Street, Karapakkam Village, which is a very important junction and is heavily crowded. Moreover, near to the proposed location there are various religious institutions, apart from hospitals and factories, and, therefore, an objection for establishment of Tasmac shop is raised.

3. Learned counsel for the petitioner further submitted that listing out various objections, a detailed representation was sent by the petitioner on 16.9.2022 through registered post and the same was delivered at the office of the District Collectorate, Kancheepuram at about 12.34 P.M. on 17.9.2022. But without considering the representation of the petitioner, the respondent authorities are proposing to open the Tasmac shop in the aforesaid location. Therefore, the petitioner has been advised to file the present writ petition.



W.P.No.26894 of 2022

WEB COPY

4. Placing on record the order dated 17.9.2022 passed by the first respondent District Collector, Mr.P.Muthukular, learned Government Pleader appearing for the first respondent, submitted that admittedly the petitioner has submitted his representation on 16.9.2022 and the same was delivered at the office of the District Collector only at 12.34 P.M. on 17.9.2022, but much before delivery of the representation, an order has been passed to run the proposed Tasmac shop.

5. Learned Government Pleader would submit that as against the order dated 17.9.2022 passed by the first respondent, the petitioner has a remedy of appeal under Section 9A of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 [for short, "*the Rules of 2003*"] before the Commissioner of Prohibition and Excise within a period of 30 days from the date of the order. In any event, since the petitioner is put on notice of the order dated 17.9.2022, he can file an appeal within 30 days from the said date.



W.P.No.26894 of 2022

6. We have considered the submissions made by learned counsel for the parties.

7. It appears that when the respondent authorities have come up with a proposal to set up a Tasmac shop at Door No.433 at No.1/27, Rajiv Gandhi Street, Karapakkam Village, objecting the establishment of the Tasmac shop in the aforesaid location, a representation was submitted on 16.9.2022 by the petitioner to the District Collector, Kancheepuram. The said representation was delivered at the office of the District Collectorate on 17.9.2022 at about 12.34 P.M. and in the meanwhile, an order has been passed by the District Collector to run the proposed IMFL Tasmac shop No.4327 at Survey No.161A/1C Karapakkam Village. As per Rule 9A of the Rules of 2013, an aggrieved party may prefer an appeal before the Commissioner of Prohibition and Excise within 30 days from the date of the order.

8. In view of the availability of statutory appellate remedy to the petitioner as against the order passed by the first respondent dated 17.9.2022, we grant liberty to the petitioner to avail of the



W.P.No.26894 of 2022

appeal remedy as provided under Section 9A of the Rules of 2003 within the time stipulated.

9. The writ petition is disposed of with the above observation.

There will be no order as to costs.

(T.R., ACJ.) (D.K.K., J.)
11.10.2022

Index : Yes/No
bbr

To

- 1 The District Collector
O/o. The District Collector of Chennai
Chennai – 600 001.
- 2 TASMAL Limited
Rep. by its Managing Director
CMDA Tower II, IV floor
Gandhi Irwin Bridge Road, Egmore
Chennai – 600 008.
- 3 The Regional Manager
TASMAL Limited
735, IV Floor, L.L.A. Building
Anna Salai, Chennai – 600 002.
- 4 The District manager
TASMAL Limited, Kancheepuram North
Thirumizhisai Unit 3, Sembarambakkam
Chennai – 600 123.



WEB COPY



W.P.No.26894 of 2022



WEB COPY



W.P.No.26894 of 2022

T.RAJA, ACJ.
AND
D.KRISHNAKUMAR, J.

bbr

W.P.No.26894 of 2022

11.10.2022