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**W.A(MD)No.22 of 2022**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM :

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA**

**and**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.22 of 2022

and

CMP(MD)No.536 of 2022

S.Sumesh

... Appellant

vs.

1) Golden Sports and Recreation Club,  
Rep. by its Secretary,  
V.Rajarathinam

2) The Commissioner,  
Prohibition and Excise,  
Ezhilagam, Chepauk,  
Chennai-600 005.

3) The District Collector,  
Madurai Collectorate,  
Madurai.

4) The Superintendent of Police,  
Madurai District,  
Madurai.

5) The Tamil Nadu State Marketing Corporation (TASMAC),  
Rep. By its Managing Director,  
CMDA Building Tower II,  
Gandhi Irwin Salai, Egmore, Chennai - 600 008.

6) The District Manager (TASMAC),  
Madurai South, Madurai District,  
Madurai.

... Respondents

**Prayer W.A(MD)No.22 of 2022:**

Appeal filed under Clause 15 of Letters Patent, against the order dated 22.09.2021 passed in W.P(MD)No.15791 of 2021.

**Prayer in WP(MD). 15791/ 2021 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records of the 2nd respondent in Na.Ka.No.48141/2020Mathu2, dated 6.7.2021 and quash the same as being invalid, illegal and nonest in the eyes of law and direct the 1st respondent to issue FL2 license based on the report

<https://hcservices.ecourts.gov.in/hcservices/>



of the 2nd respondent dated 09.03.2021 in Na.Ka.No.48141/2020/X2

For Appellant : Mr.S.Manikandan

For R1 : Mr.R.Thiagarajan

For R3 & R4 : Mr.P.Subbaraj

Special Government Pleader

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**JUDGMENT**

(Judgment of the Court was made by

**PUSHPA SATHYANARAYANA, J.)**

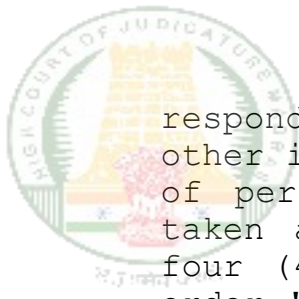
The Writ Appeal is directed against the order dated 22.09.2021 passed in W.P(MD)No.15791 of 2021 by the 6<sup>th</sup> respondent therein.

2. The writ petition was filed by the 1<sup>st</sup> respondent Recreation Club which had applied for FL2 licence under the Tamil Nadu Prohibition Act, 1937. It appears that earlier there was a TASMAC shop that was functioning in the very same premises. Due to public objections and the frequent accidents happening, the said TASMAC shop was closed. Earlier also, the very same appellant had given objections for grant of FL2 licence to the 1<sup>st</sup> respondent herein. An order was passed by this Court on 25.01.2021 in W.P(MD)No.1118 of 2021, directing the 1<sup>st</sup> respondent therein / Commissioner of Prohibition and Excise(i/c), Chennai, to conclude the enquiry after receiving the report from the 2<sup>nd</sup> respondent therein / the District Collector, Madurai District, in tune with the letter dated 20.01.2021.

3. Admittedly, the writ petitioner was not a party in the above proceedings. Based on the opinion sought for by the Assistant Commissioner(Excise), Madurai, from the learned Government Pleader to know whether the shop is located within the prohibited limits, it was found that there was no embargo for grant of licence to the writ petitioner. However, the writ petitioner had given a representation to the District Collector for grant of FL2 licence which was refused by rejecting the application on the ground that the Club is located in the same place where earlier TASMAC shop was there and which was closed. The said order was impugned in the writ petition and the Writ Court had passed the following order:-

'13. Accordingly, this writ petition is disposed of, with the following order:

"the impugned order is quashed and the matter is remitted back to the second respondent for reconsideration. While reconsidering the same, the second respondent shall take into account the report submitted by the Divisional Engineer, Highways Department, Madurai dated 19.02.2021, as well as the earlier report submitted by the second respondent / District Collector dated 09.03.2021 and the second



respondent by considering those proceedings as well as any other inputs received by him, and after giving an opportunity of personal hearing to the petitioner, a decision can be taken and final orders shall be passed within a period of four (4) weeks from the date of receipt of a copy of this order.'''

4. Aggrieved by the abovesaid order, the appellant has preferred the above writ appeal.

5. The main objection of the appellant is that the area where the Club is situate is known for frequent accidents and that there are schools and other public places located nearby. Secondly, earlier TASMAL Shop No.5581 was closed by the 2<sup>nd</sup> respondent only for the same reason. The Writ Court had only quashed the impugned order and remitted the matter back to the 2<sup>nd</sup> respondent for re-consideration. Despite, the learned Judge had directed the District Collector, to consider the report of the Divisional Engineer, Highways Department, Madurai, dated 19.02.2021 and also the earlier report submitted by the erstwhile Collector dated 09.03.2021.

6. If at all the appellant is aggrieved, he is also permitted to raise all his objections and make a representation to the District Collector. If any representation is sent, the 3<sup>rd</sup> respondent / District Collector may afford an opportunity of personal hearing to the appellant also in addition to the opportunity of personal hearing that was given to the writ petitioner and pass appropriate order.

7. Accordingly, the appellant is directed to raise all his objections and send it to the 3<sup>rd</sup> respondent / District Collector, Madurai District, within a week from the date of receipt of a copy of this order. After receipt of the said objections, the District Collector may afford an opportunity of personal hearing to the writ petitioner as well as to the appellant herein and pass orders in the light of the earlier reports referred to in the order of the learned single Judge.

8. With the above direction, the Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar (CS)

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To

1) The Commissioner,  
Prohibition and Excise,  
Ezhilagam, Chepauk,  
Chennai-600 005.

2) The District Collector,  
Madurai Collectorate,  
Madurai.

3) The Superintendent of Police,  
Madurai District,  
Madurai.

4) The Tamil Nadu State Marketing Corporation (TASMAC),  
Rep. By its Managing Director,  
CMDA Building Tower II,  
Gandhi Irwin Salai, Egmore,  
Chennai - 600 008.

5) The District Manager (TASMAC),  
Madurai South, Madurai District,  
Madurai.

+1 CC to M/s.S.MANIKANDAN, Advocate ( SR-2872[F] dated 28/01/2022 )

+1 CC to M/s.SPL.GP ( SR-3105[F] dated 31/01/2022 )

W.A(MD)No.22 of 2022

DATED : 28.01.2022

MGJ(09.02.2022) 4P 8C