



W.P(MD).No.6311 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2022

WEB COPY

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.6311 of 2020

and

W.M.P(MD).Nos.5537 of 2020

M.Chermakkani

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Sub-Collector,
Sub-Collector Office,
Cheranmahadevi Division,
Tirunelveli District.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

4.The District Manager,
Government TASMAL Company,
Tirunelveli District,
Tirunelveli.

5.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli.

6.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District,
Tirunelveli.

...Respondent



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1,2,4,5 to re-opening the TASMAC retail shop no.10685 in the petitioners shop by considering his representation dated 12.05.2020.

For Petitioner : Mr.C.Saravanakumar
For R1, R2, R4 : Mr.T.Amjad Khan,
and R5 Government Advocate
For R3 & R6 : Mr.R.M.Anbunithi,
Additional Public Prosecutor

ORDER

This writ petition has been filed in the nature of Mandamus seeking for a direction to the respondents to re-opening the TASMAC retail shop no. 10685 in the petitioner's shop by considering his representation dated 12.05.2020.

2. The writ petition is filed by the owner of the premises in which the TASMAC retail shop no.10685 is running.

3. It is submitted by the learned counsel for the Respondents that it is only for a licensee to challenge any proceedings with reference to the running of the TASMAC shop or its licence and the owner of the property has no locus to challenge the same. In this regard, reliance was sought to be placed



on the judgment of the Division Bench of this Court in W.A(MD).No.1582 of 2018, wherein, while dealing with the question relating to the closure of TASMACH shop, it was held that owner of the building has no *locus standi* to challenge the same. The following portion of the said order, reads as under:

“9. Firstly, the appellant has no loco standi to question the order of the District Collector impugned in the writ petition. The appellant is only the owner of the building in which the shop bearing No.5513 is located. The appellant has only leased out portion of the building for the purpose of running TASMACH shop bearing No.5513. When the public has grievance or objections for running the shop in the present location, the District Collector has to consider the objections purely on merits, as there is scope of law and order problem and other issues on the account of nuisance and inconvenience caused not only to the public but also the women and school going children in the locality. Merely because, the District Collector has not directed the shifting of another shop in the nearby locality it cannot be presumed that there is no bonafide in the objections for shifting or closure of the shop bearing No.5513. The appellant being the owner of the premises has no right to question the closure of the TASMACH shop or shifting of TASMACH shop to any other locality, merely because he is likely to lose his income. As against the grievance of the public, personal interest of owner of the building cannot have any preference. There is no legal injury. It is well settled that individual interest shall in cases of necessity, yield to that of community.”

4. In view of the judgment of the Division Bench of this court that the owner of the building has been found to be lacking *locus* to challenge any proceedings to licence or closure of TASMACH Shop, this writ petition is liable to be dismissed. This Court intends to make it clear that the right of the



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licensee to challenge any proceedings relating to licence or closure of the TASMAL shop including the impugned proceedings has not been considered in this writ petition. The writ petition is dismissed. This Court has not expressed any view on the right of the licensee to challenge any proceedings, that may have an adverse impact on any of his rights, in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

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6. The Inspector of Police,
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MOHAMMED SHAFFIQ, J.

Lm

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