



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.6852 of 2022

and

W.M.P.(MD).No.5269 of 2022

S.Zakir Ussain

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation,
(TASMAC),
CMDA Tower,
Chennai.

2.The District Collector,
Trichy District,
Trichy.

3.The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC),
Trichy.

4.The Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC),
Old Collectorate Office,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to forbear the respondents from opening/establishing the TASMAC liquor shop (Shop No.10281) at Door No.22, TS.No.2/7, Kallukuli, Pudukottai Road, Mudukkupatti, Trichy District by considering the petitioner's representation, dated 29.03.2022 within the period that may be stipulated by this Court.

For Petitioner : M/s.A.Afriitha Fathima
For M/s.Ajmal Associates

For R1, R3 & R4 : Mr.B.Jameel Arasu

For R2 : Mr.M.Prakash
Additional Government Pleader



ORDER

The petitioner has filed this writ petition for a writ of Mandamus to forbear the respondents from opening/establishing the TASMAL liquor shop (Shop No.10281) at Door No.22, TS.No.2/7, Kallukuli, Pudukottai Road, Mudukkupatti, Trichy District by considering the petitioner's representation, dated 29.03.2022

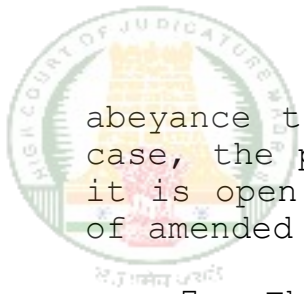
2. It is the specific case of the petitioner that the respondents had opened the TASMAL shop in the year 2019 but had closed down the shop after public protest.

3. The learned counsel for the petitioner submitted that in the same place, the respondents are proposing to reopen the shop, which is contrary to the Provisions of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. The learned counsel for the petitioner further submits that already there is an another TASMAL shop in the same vicinity and on this count also, opening of second TASMAL shop is not warranted.

4. The learned counsel for the respondents submits that the petitioner is fighting for a proxy battle on behalf of the other shop owner, which is located in the vicinity. It is submitted that the District Collector had passed an appropriate order and had taken a decision after examining the report regarding the feasibility of second TASMAL shop in the same vicinity. It is therefore submitted that there is no merit in the present writ petition. That apart, it is submitted that the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 has been amended and there is an alternate remedy before the Commissioner of Prohibition Excise and therefore it is open for the petitioner to approach the Commissioner in accordance with the aforesaid Rules. Therefore, the present writ petition is liable to be dismissed.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents 1, 3 and 4 and the learned Additional Government Pleader for the second respondent.

6. The petitioner's concern appears to be genuine as two TASMAL shops are being opened in the same vicinity. Even, if there is a demand, it does not justify the reopening of two TASMAL shops. Be that as it may, the petitioner's representation, dated 29.03.2022 is directed to be considered by the first respondent and appropriate orders shall be passed by the first respondent. This exercise shall be carried out by the first respondent within a period of thirty days from the date of receipt of copy of this order. It is needless to state that before passing any such order, the petitioner shall be heard. The respondents shall keep all the further proceedings in



abeyance till the disposal of the petitioner's representation. In case, the petitioner is still aggrieved by such order to be passed, it is open for the petitioner to approach the Commissioner in terms of amended Rule 9A of the aforesaid Rules.

7. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Managing Director,
Tamil Nadu State Marketing Corporation,
(TASMAC),
CMDA Tower,
Chennai.

2.The District Collector,
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Trichy.

3.The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC),
Trichy.

4.The Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC),
Old Collectorate Office,
Trichy.

+2 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-18452[F] dated 13/04/2022)

+1 CC to M/s.SPL.GP. (SR-18613[F] dated 13/04/2022)

W.P(MD).No.6852 of 2022
12.04.2022

RD(06.05.2022) 3P 8C