



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.8121 of 2022
and
W.M.P (MD) No.6052 of 2022

N.Nambirajan

... Petitioner

-vs-

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower-II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008.

2.The District Collector,
Office of the Collector,
Tirunelveli District.

3.The District Manager,
District Government TASMAL Office,
Ambai Road, Melapalayam,
Tirunelveli District - 627 005.

4.The Assistant Commissioner,
Excise Department,
District Collector Office,
Tirunelveli.

5.The Regional Manager,
Government TASMAL regional office,
Plot No.100, Anna Nagar,
Madurai - 625 020.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents from opening the TASMAL shop in the property of S.No.170/4, Ilayaneri Road, Nanguneri Panchayat, Tirunelveli District due to violation of Rule 8 of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003.



For Petitioner : Mr.K.R.Laxman
For Respondents : Mr.A.K.Manickam,
Spl.Govt.Pleader for R2 and R4
Mr.B.Jameel Arasu,
Standing Counsel for R1, R3 and R5

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O R D E R
(Made by P.N.PRAKASH, J.)

This writ petition has been filed praying for a direction to forbear the respondents from opening a TASMAL shop in the property in S.No.170/4, Ilayaneri Road, Nanguneri Panchayat, Tirunelveli District, in violation of Rule 8 of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003.

2. According to the petitioner, the respondents are contemplating to open a TASMAL shop in the property in Survey No.170/4, Ilayaneri Road, Nanguneri Panchayat, Tirunelveli District, in violation of Rule 8 of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003 and therefore a direction should be given to the respondents not to open the TASMAL shop there.

3. At the outset, the petitioner has not placed any material before us to show that the respondents are intending to open a TASMAL shop in Survey No.170/4, as alleged by the petitioner.

4. Be that as it may, Mr.B.Jameel Arasu, learned Standing Counsel, submitted that there is a TASMAL shop bearing No.10626, at present functioning in Survey No.170/5, Door No.244A, South Nanguneri Village, Ilayaneri Main Road, Nanguneri Taluk, Tirunelveli District, which property belongs to one E.Sudalaikannu. Since the TASMAL authorities felt that the place in which the shop is presently located is not viable, they were intending to shift the shop to the outskirts of the town. However, the said E.Sudalaikannu filed a writ petition in W.P(MD) No.6240 of 2022 for a direction to the TASMAL authorities not to shift the TASMAL shop from his property and that would affect his income. The said writ petition appears to have been disposed of by learned Single Judge with a direction to the TASMAL authorities to consider the representation of E.Sudalaikannu.

5. In such view of the matter, we are of the opinion that, this public interest litigation is premature. However, Rules 9 and 9A of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003 read as follows:-

"9. Shifting of shop.- There shall be no change in the location of shops except with previous permission of the Collector.

[Provided that no such permission shall be given by the Collector unless representation received, if



any, objecting to the change in location of the shop, is considered and orders passed thereon.]

[G.O.Ms.No.17, Home, Prohibition and Excise (VI) Department, dated 13.02.2022]

[9A. Appeal.- (1) Any person aggrieved by an order passed by the Collector under sub-rule (3) of rule 8 or under rule 9, may prefer an appeal before the Commissioner of Prohibition and Excise within a period of thirty days from the date of receipt of the order.

(2) The Commissioner of Prohibition and Excise shall dispose of the appeal within a period of sixty days.]

[G.O.Ms.No.17, Home, Prohibition and Excise (VI) Department, dated 13.02.2022]"

6. If there is any relocation of the said shop to Survey No.170/4, as alleged by the petitioner, it is always open to the petitioner to approach the authorities concerned under Rules 9 and 9A of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003.

7. With the above observation, this writ petition stands closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The District Collector,
Office of the Collector,
Tirunelveli District.
- 2.The Assistant Commissioner,
Excise Department,
District Collector Office,
Tirunelveli.



+1 CC to M/s.K.R.LAXMAN, Advocate (SR-24980[F] dated 10/06/2022)

+1 CC to M/s.SPL.GP (SR-25179[F] dated 10/06/2022)

W.P. (MD) No.8121 of 2022
09.06.2022

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