



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

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THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.13347 of 2020 and
WMP(MD) Nos.11180 & 11181 of 2020

M.Mahadevan

Petitioner

Vs.

1.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Tirunelveli District.

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Virudhunagar District.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for records relating to the impugned order of the first respondent in R.1/1774/2020 dated 07.09.2020 and quash the same as illegal.

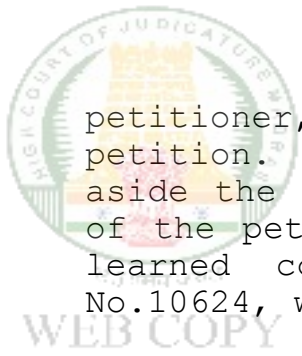
For Petitioner	:Mr.V.S.Kishok Kumar
For Respondents	:Mr.B.Jameel Arasu
	Standing Counsel

O R D E R

This writ petition is filed as against the order, dated 07.09.2020, imposing a sum of Rs.11,800/- as penalty on the petitioner, for MRP violation.

2.The case of the petitioner is that the petitioner is a salesman in Shop No.10624. He was on leave from 01.07.2020 to 07.07.2020 and joined duty only on 08.07.2020. On 07.07.2020, the District Manager along with special squad conducted a surprise inspection in the Shop No.10624, and they noticed that the liquor bottles were sold beyond the MRP rates. The grievance of the petitioner is that though the petitioner was on leave on the date of inspection, he is held responsible for the MRP violation, that took place in the above said shop and imposed with penalty of Rs.11,800/-. Hence, this petition.

3.The learned counsel appearing for the petitioner submits that the petitioner was on leave on the date of inspection. While so, the respondents have imposed the penalty of Rs.11,800/- on the



petitioner, for MRP violation, by the order impugned in this writ petition. Therefore, the learned counsel prays this Court to set aside the impugned order. More over, in order to prove the absence of the petitioner in the said shop on the date of inspection, the learned counsel relied upon the Attendance Register of Shop No.10624, which is produced before this Court.

4.On the other hand, the learned Standing Counsel appearing for the respondents submits that on 07.07.2020, the District Manager, Virudhunagar along with the Special Squad conducted a surprise inspection in Shop No.10624, where the petitioner is working as salesman and found MRP violation. He relied on the Circular in Na.KaK2/14589/2018, dated 22.01.2019, wherein, it was held that the persons who are responsible for MRP violation shall be imposed with penalty and also subjected to transfer. Hence, the petitioner was imposed with penalty of Rs.11,800/-, vide proceedings in R.1/1774/2020 dated 07.09.2020. Therefore, there is no need to interfere with the impugned order.

5.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. Perusal of the Attendance Register shows that the petitioner has not signed in the Attendance Register from 01.07.2020 to 07.07.2020. However, the petitioner is also held responsible for the violations, which were noticed by the special squad at the time of inspection on 07.07.2020, in shop No.10624. In the absence of any material to prove the petitioner's presence in the particular shop at the time of inspection, the impugned order, imposing penalty on the petitioner is liable to be set aside.

7.Accordingly, the impugned order is set aside and the matter is remanded to the respondent to conduct an enquiry afresh, after affording an opportunity to the petitioner and to verify the Attendance Register and the Wage Register and to take further course of action, in accordance with law.

8.With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

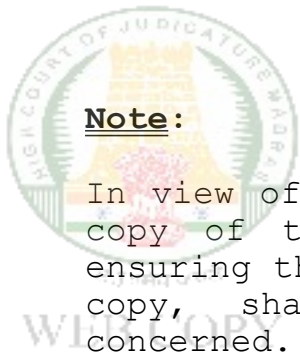
Assistant Registrar(AD-II)

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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Tirunelveli District.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Virudhunagar District.

Order made in
W.P(MD) No.13347 of 2020 and
WMP(MD) Nos.11180 & 11181 of 2020
25.01.2022

MK/03.03.2022/3P/3C