



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2022

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.16966 of 2020 and
WMP(MD) No.14189 of 2020

A.Mayandi

... Petitioner

Vs.

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

2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Ramanathapuram 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 the records relating to the impugned order of the first respondent in Na.Ka.No.A2/1467/2020, dated 25.09.2020 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 25.09.2020. By the order impugned in this writ petition, the first respondent directed the petitioner to pay penalty of Rs.11,800/- within three days from the receipt of a copy of that order, for MRP violation.

2.Mr.V.S.Kishok Kumar, learned counsel appearing for the petitioner submits that the petitioner is working as Salesman in Shop No.9990, Udangudi. The second respondent conducted a surprise inspection in the above said shop on 26.08.2020 and found that the liquor bottles were sold above the MRP rate, for which, show cause notice was also issued to the petitioner, as per circular dated 10.10.2017 and penalty was also imposed on the petitioner and other salesmen who are working in Shop No.9990. According to the



learned counsel for the petitioner, on the date of inspection, i.e on 26.08.2020, the petitioner was not available in Shop No.9990. However, he was also held responsible for the alleged violation of MRP. The learned counsel appearing for the petitioner further submits that the petitioner has submitted a detailed explanation to the respondents for the show cause notice, however without considering his explanation, a cryptic order has been passed by the respondents. Hence, this petition.

3.Rebutting the contention raised by the petitioner's counsel that the petitioner is not available in Shop No.9990 on the date of inspection, Mr. Jameel Arasu, learned Standing Counsel appearing for the respondent Corporation submits that the petitioner was present in shop No.9990 on 26.08.2020, on which date, the special team conducted a surprise inspection, where the petitioner is working as salesman and found MRP violation. In order to substantiate the same, the learned Standing Counsel has also produced the Attendance Register of the Shop No.9990.

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

5.Admittedly, TASMAC is facing several complaints with regard to violation of MRP and therefore, the Management has issued a circular, dated 21.01.2019, wherein, it is mentioned that if any sale is made above MRP, the persons, who are responsible for the sale are imposed with penalty of Rs.10,000/- and also they are liable to be transferred. This circular was also under challenge before this Court in W.P(MD) No.2242 of 2020 and the same was dismissed by this Court on 21.01.2019. Some other salesmen have also filed writ petitions as against the order of transfer stating that it would amount to double jeopardy and in a batch of writ petitions in W.P(MD) No.905 of 2020 etc., this Court has dismissed the writ petitions.

6. Here, in the present case, on 26.08.2020, surprise inspection was conducted by the special team in Shop No.9990, where, the petitioner was working as salesman, and found MRP violation. The main contention raised by the petitioner's counsel is that on the date of inspection, the petitioner was not available in the said shop. But, the presence of the petitioner in Shop No.9990 on 26.08.2020 was proved by the Attendance Register produced by the learned standing counsel. More over, one of the salesman admitted the guilt and paid the penalty amount. If there is any MRP violation in a particular shop, all the persons, who are working in the shop are collectively responsible for the violation, as per Circular, dated, 21.01.2019. As such, the petitioner, who was working in the particular shop at the relevant point of time is also held responsible for violation of MRP.



Therefore, I find no merit in the writ petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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,
Thoothukudi District.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation Ltd,
Ramanathapuram District.

Order made in
W.P(MD) No.16966 of 2020 and
WMP(MD) No.14189 of 2020
25.01.2022

SA(05.03.2022) 3P 3C