



W.P(MD).No.16929 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.16929 of 2022

M.Masanam

... Petitioner

Vs.

1.The District Collector,
O/o. District Collectorate,
Tenkasi District,
Tenkasi.

2.The Managing Director,
TASMAC Limited,
4th Floor, 37G8, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore,
Chennai-600 008.

3.The District Manager,
TASMAC Limited,
Munnerpallam,
Melapalayam,
Tirunelveli District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to not to shift the TASMAC retail Shop No.10606 by considering the petitioner's representation dated 06.07.2022.



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For Petitioner : Mr.R.Aravind Raj
For R1 : Mr.P.Subbaraj
Special Government Pleader
For R2 & R3 : Mr.B.Jameel Arasu
Standing Counsel

ORDER

The petitioner sent a representation to the respondents on 06.07.2022 making his objections for shifting TASMACH Shop No.10606 from the petitioner's premises to the premises of one Petchimuthu. According to the petitioner, from 24.10.2017, TASMACH Shop No.10606 functioning in the petitioner's premises situated in the idol spot, without any violation of conditions. Further, no public gave any objections for the petitioner's shop. This being so, now, suddenly, the respondents attempting to shift the shop to a smaller place of 150 square feet, which belongs to one Petchimuthu. Since, the Petchimuthu is encouraged by the Department for the best reasons known to them, the petitioner sent a representation, which is not considered.

2. The learned Standing Counsel for the respondents 2 and 3 submits that it is true that the Shop No.10606 presently functioning in the petitioner's premises. It is imperative that the owner of shop to give consent and No Objection Certificate to run the official bar. For the year 2022, the petitioner refused to give No Objection Certificate. In view of the same, bar could not



be auctioned, causing loss of revenue to TASMAC. On the other hand, the petitioner using the earlier bar premises, running illegal bar. The TASMAC officials on several occasions warned the petitioner for the same. Despite the same, the petitioner continues to run the illegal bar. There are lot of complaints from the public and others and further due to loss of revenue, the TASMAC officials decided to shift the shop and now found nearby place owned by one Petchimuthu, after physical verification suitability. The District Collector, Tenkasi also given consent for shifting of the shop. Thereafter, Managing Director authorised to shift the shop. Now, the shop is likely to be shifted shortly. The petitioner if at all has got any grievance, the petitioner is to file an appeal under Section 9A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 before the Commissioner, Prohibition and Excise within a period of 30 days from the date of receipt of copy of this order.

3. The learned Special Government Pleader for the first respondent submits that on the report received from the Assistant Commissioner and the concerned Thasildar, revenue officials, who conducted spot inspection and found the premises of one Petchimuthu satisfying all conditions. Thereafter, gave a report based on which the District Collector, Tenkasi given consent for shifting of the shop. Prior to the issuance of consent on 19.05.2022, there was



no objection received from the petitioner. Now, the orders passed and it is for the petitioner to approach the appellate authority to file an appeal before the concerned authority.

4. The learned counsel for the petitioner at this stage submits that the order passed on 19.05.2022 and within 30 days, the petitioner ought to have filed an appeal but due to the filing of the writ petition, some delay caused. Hence, the appeal would not be considered on merits. The delay to be condoned.

5. Considering the same and perusal of the material, it is seen that the petitioner has got some grievance, to be raised in appeal. In view of the same, the petitioner's appeal to be considered by the Commissioner, Prohibition and Excise, as per Section 9 A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 on merits. The delay is condoned and hence no objection to be raised on the point of limitation. The petitioner is directed to file an appeal within a period of 15 days from the date of receipt of copy of this order, thereafter, the Commissioner, Prohibition and Excise is directed to pass appropriate orders on the petitioner's appeal on merits and in accordance with law within a period of thirty days.



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6. With the above direction, the writ petition stands disposed of. No costs.

01.08.2022

Index : Yes / No
Internet : Yes/ No
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M.NIRMAL KUMAR, J.

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