

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.18906 of 2022

N.Nithyanandham

... Petitioner

Vs.

1.The District Collector,
O/o. The District Collector,
Collectorate Campus,
Thanjavur,
Thanjavur District.

2.The Managing Director,
TASMAC Limited,
Gandhi Irwin Road,
Egmore, Chennai.

3.The District Manager/Sub-Collector,
TASMAC Department,
Thanjavur,
Thanjavur 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 first respondent to shift the TASMAC Shop No.8162 located near agricultural land in Survey No.113-1, 113-11 Thiruchirambalam West Village, Pattukottai Taluk, Thanjavur District by considering the petitioner's representation, dated 04.07.2022 within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawaz Khan
For R1 : Mr.S.Kameswaran
Government Advocate
For R2 & R3 : Mr.H.Arumugam
Standing Counsel

ORDER

In continuation and conjunction with the earlier order passed by this Court, dated 22.08.2022, the following order is passed:

“Mr.S.Kameswaran, learned Government Advocate takes notice for the first respondent and Mr.H.Arumugam, learned Standing Counsel takes notice for the respondents 2 and 3.

2. It is seen that the petitioner had sent a representation on 14.06.2022 followed by another representation, dated 04.07.2022.

3. The grievance of the petitioner is that the petitioner having agricultural land adjacent to TASMACH Shop No.8162 is located. It is located from the year 2017. The bar in fact, conducted in open and disturbing the agricultural activities of the petitioner and others. The consumed alcohol bottles, tumbler and other articles are thrown around the agricultural land causing great difficulties. Hence, he was given complaint from the year 2017. If such time, whenever there is agitation or protest, the revenue authorities promised that shop will be shifted, but so far they have not done anything. Now, recently, another shop was opened in the same village. In view of the same, the petitioner as well as the villagers sought for shifting of the shop.

4. The learned Government Advocate for the first respondent submits that the District Collector, Thanjavur is yet to take decision on both the representations to inform about the stage and steps taken. Further, he seeks small accommodation.

5. The learned Standing Counsel for the respondents 2 and 3 submits that as per Rule 9A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, if at all the petitioner is aggrieved, the petitioner may file an appeal before the

Commissioner, Prohibition and Excise. He further submits that as per the decision in W.A(MD).No.4163 of 2019, this Court, by order, dated 16.12.2019 held that there is no restriction to have wine shop nearby the agricultural land.

6. Post the matter on 30.08.2022.”

2. The learned Government Advocate for the first respondent produced the order of the District Collector, Thanjavur in Na.ka.No.2478/2022/எக்ஸ்2, dated 29.02.2022. The first respondent, by his order, rejected the petitioner's representation confirming that TASMAC Shop No.8162 is comply with all the conditions as per Rule 8 (1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. Further, the shop has been functioning from 11.10.2017. This petition is a motivated one. He further submitted that though the petitioner had sent a letter on 04.07.2022, acknowledgment shown as 14.06.2022, what is the prior representation not produced before this Court. He further submitted that the petitioner has the habit of sending representation periodically and earlier representation, dated 20.04.2022 and 14.06.2022 considered and thereafter, rejected. Hence, he prayed for the dismissal of the writ petition.

3. The learned counsel for the respondents 2 and 3 submits that the inspection was conducted and submitted the report in Na.Ka.No. 509/2022/A6, dated 25.08.2022, wherein, on the report of the Assistant

Commissioner, Department of Prohibition and Excise, the District Collector, Thanjavur gave approval for opening the Shop No.8162. The shop was opened as early as on 11.10.2017. In the same place, the present shop is also located. No untoward incident and no law and order problem arose. In view of the same, the petitioner's representation was rejected.

4. Considering the submission and on perusal of the materials, it is seen that the petitioner's representation was rejected by all the respondents as per the Rule 9A of Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. If the petitioner is aggrieved against the order of the District Collector, Thanjavur, the petitioner is to make an appeal before the Commissioner, Department of Prohibition and Excise, Chennai, within a period of thirty days. The order of the rejection on 29.08.2022. The petitioner has got sufficient time to file an appeal, if he is so advised.

5. Recording the above, the writ petition stands disposed of. No costs.

02.09.2022

Index : Yes / No
Internet : Yes/ No
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