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W.P(MD).No.20787 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.20787 of 2022

and

W.M.P.(MD).No.15085 of 2022

P.Navaneethan

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Trichy District.

2.The District Manager,
Tamilnadu State Marketing Corporation Limited,
Trichy 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 not to relocate or reopen any TASMALC shop situated at Town Survey No.311, New Ward-C, Block-14, Trichy-Chennai bye pass road, Vellithirumutham Village, Srirangam Taluk, Trichy District by the petitioner representations dated 20.06.2022 and 09.07.2022.

For Petitioner : Mr.S.Vinayak

For 1stRespondent : Mr.P.Subbaraj
Special Government Pleader

For 2ndRespondent: Mr.B.Jameel Arasu
Standing Counsel



ORDER

This writ petition has been filed seeking for a mandamus to direct the respondents not to relocate or reopen any TASMAC shop situated at Town Survey No.311, New Ward-C, Block-14, Trichy-Chennai bye pass road, Vellithirumutham Village, Srirangam Taluk, Trichy District by considering the petitioner representations dated 20.06.2022 and 09.07.2022.

2.Mr.P.Subbaraj, learned Special Government Pleader takes notice for the first respondent and Mr.B.Jameel Arasu, learned Standing Counsel takes notice for the second respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel appearing for the petitioner submitted that there is a bus stand located near the proposed TASMAC shop. Previously, there was one TASMAC shop was in existence at Town Survey No.311, New Ward-C, Block-14, Trichy-Chennai bye pass road, Vellithirumutham Village, Srirangam Taluk, Trichy District. Due to the functioning of TASMAC shop about four years ago, there was several accidents took place and about 60 people died in the vicinity near the wine shop. Due to sustained agitation and demonstration by the Public, the first respondent/the District Collector closed



the said TASMAC shop. Now, the second respondent is again contemplating to relocate the TASMAC shop to the same Survey No.311, where previously TASMAC shop was in existence and closed four years back, due to the public objections. There are several houses located in and around the place with school going students, college going students, senior citizens and others their life would be affected, if the TASMAC shop is permitted to reopen. Further, the place is on the National High Way of Trichy-Chennai bye pass road, which is a prohibited area as per the direction of the Honourable Apex Court. In violation of the direction of the Honourable Apex Court, the respondents proposed to open the shop taking advantage of G.O.(Ms.).No.32, Home Prohibition and Excise (VI) Department, dated 21.05.2018. Hence, the petitioner sent representation to the first respondent on 20.06.2022 and 09.07.2022, so far the first respondent had taken any steps. He further submitted that the place, in which, the shop is to be located is surrounded on the eastern side and southern side by the land of Namakkal Tractor Association, wherein, several lorries are regularly parked and it would become a place for the lorry drivers to park the vehicle and to have liquor, thereafter, drive the vehicle under intoxication and potential of accident is very much there. Further, the shop is adjacent on the northern side, with the national highway, clearly denoting that service road parallelly runs along with



the National High Way. The second respondent is making all arrangements to open the shop immediately. Hence, the present writ petition.

4.The learned Special Government Pleader appearing for the first respondent submitted that so far the proposal not cleared and no consent has been given by the Collector. The petitioner's representation dated 20.06.2022 and 09.07.2022 received through post and both are under consideration. He further submitted that when the proposal of the second respondent received, the petitioner's objections would be considered, if required, they would be given personal hearing for making objections.

5.The learned Standing Counsel appearing for the second respondent submitted that the second respondent in his proceedings in Na.Ka.No. 864/2020/C.V-5(1) dated 10.06.2022, submitted that, following the guidelines issued by the supreme court in Civil Appeal Nos.12164 to 12166 of 2016, dated 15.12.2016, the direction of the Madras High Court in W.P.No.23974 of 2017, dated 28.04.2018, the guidelines issued by the District Manager, TASMAL Limited, Chennai, in R3/5482/2017, dated 28.04.2018, is in compliance to G.O.Ms.No.32, dated 21.05.2018, on the representation of S.Gandhi, the owner of property in Survey No.311, New Ward-C, Block-14,



Trichy-Chennai bye pass road, Vellithirumutham Village, Srirangam Taluk, Trichy District, the place was inspected and verified and found that it is suitable for opening TASMACH shop. Further, there was no objection from the public and the place is also not within 100 metres of any school or college. Hence, the place found suitable and report submitted to the District Collector, Trichy District. After obtaining his consent, the same would be forwarded to the Commissioner of Prohibition and Excise, who shall pass appropriate orders. He further submitted that only after obtaining orders from the authorities, the said shop will be opened.

6.Considering the submissions and perusal of the materials available on records, it is seen that the petitioner is a villager of Nadukondaiyampettai, who sent representations on 20.06.2022 and 09.07.2022 to the respondents.

7.In view of some serious objections from nearby residents, the first respondent/District Collector, after considering the grievance of the petitioner and others, cause inspection of place, have a complete topography of the place and if found the place is within proximity of the National Highway and within the prohibited area, he shall take appropriate decision. The Collector, the guardian of the District is to take decision considering the welfare of the



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public villages, students and others.

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8.The first respondent is directed to conclude his inspection and pass appropriate order within a period of thirty (30) days from the date of receipt of a copy of this order.

9.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

01.09.2022

Index : Yes / No
Internet : Yes/ No
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To

The District Collector,
Office of the District Collector,
Trichy District.

M.NIRMAL KUMAR, J.

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