



W.P.(MD)No.23355 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.23355 of 2022

A.Patrik Rajasingh

... Petitioner

Vs.

1.The Commissioner,
Prohibition and Excise Department,
Chepauk,
Chennai-600005.

2.The District Collector,
Office of the District Collector,
Nagercoil,
Kanyakumari District.

3.The District Manager,
Tamilnadu State Marketing Corporation Ltd., (TASMAC)
Shenbaganathapuram,
Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first respondent to dispose the petitioner appeal petition dated 03.09.2022 filed under Section 9(A) of Tamilnadu Liquor Retail Vending (in shops and bars) Rules 2003



W.P.(MD)No.23355 of 2022

(Amended) within the time stipulated by this Court.

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For Petitioner :Mr.K.Rajesh

For Respondents :Mr.M.Prakash
Addl.Govt.Pleader for R1 & R2
Mr.S.Sivanesan
Standing Counsel for R3

ORDER

This Writ Petition is filed to direct the first respondent to dispose the petitioner's appeal petition dated 03.09.2022 filed under Section 9(A) of Tamilnadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 (Amended).

2.The Brief facts of the case are as follows:

(i) The petitioner is the absolute owner of the property bearing Building No.11, Chettikulam junction, Nagercoil South Village, Agatheeswaram Taluk, Kanyakumari District, comprised in S.No.N5-74 to 77. The petitioner has constructed a building in the said property. The third respondent approached the petitioner and expressed his desire to establish a TASMALC shop in the petitioner's building. The petitioner has given a No



W.P.(MD)No.23355 of 2022

WEB COPY

Objection Certificate. Based on the said certificate, the third respondent and his officials conducted necessary inspection as per the TASMAL Rules on 27.07.2021 and thereafter, the third respondent sent a proposal to the second respondent for approval of the location of said TASMAL shop in the petitioner's building. The District Collector, Kanyakumari also inspected the property through his officials and on being satisfied with all requirements, approved the proposal to set up the TASMAL, bearing shop No.4756, in the said building, vide proceedings in ROC.R5/22894/2020, dated 22.10.2021. Thereafter, the third respondent has established the TASMAL Shop No.4756 and continued his business without any hindrance. While so, one Mariya Thangam who is a relative of the petitioner has filed a writ petition before this Court in W.P.(MD).No.5435 of 2022, seeking a direction the respondents 1 and 2 not to grant any sanction or order to run the TASMAL Shop No.4756, which is attached with a bar belonging to the 3rd respondent Corporation. Further, the learned counsel for the petitioner submits that when the above writ petition came up for hearing on 13.04.2022, this Court was pleased to observe as follows:

Para No.2.



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W.P.(MD)No.23355 of 2022

"This writ petition was listed for admission on 28.03.2022 and status quo was ordered. Today when the case was taken up for hearing, the learned Additional Government Pleader for the official respondent submits that a decision was taken by the 1st respondent/the District Collector as early as 28.10.2021. It is submitted that any decision taken by the 1st respondent can be subjected to the appeal under Rule 9A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 as amended by G.O.(Ms.).No.17, Home, Prohibition and Excise (VI) Department, dated 13.02.2022."

(ii) Thereafter, the said Mariya Thangam had preferred an appeal before the first respondent. The first respondent, in turn, forwarded the same to the District Collector, Kanyakumari, the second respondent herein vide his proceedings dated 08.06.2022. Based on such appeal filed by the said Mariya Thangam, the District Collector passed final orders, vide his proceedings in Pro.No.R5/22813/2022, dated 19.08.2022, whereby the 3rd respondent was directed to close the said TASMAC Shop No.4756 situated in the petitioner's building. Aggrieved over the above order of the second



W.P.(MD)No.23355 of 2022

respondent, the petitioner has preferred an appeal before the first respondent on 03.09.2022.

3. Section 9(A) of The Tamilnadu Liquor Retail Vending (in shops and bars) Rules, 2003, reads as follows:

9A. Appeal; (1) *Any person aggrieved by an order passed by the collector under sub-rule (3) of rule 8 or under rule 9, may prefer an appeal before the Commissioner of Prohibition and Excise within a period of thirty days from the date of receipt of the order.*

(2) *The Commissioner of Prohibition and Excise shall dispose of the appeal within a period of sixty days.*

4. In view of the above provision, it is seen that any appeal filed ought to be disposed of within a period of 60 days, which is yet to expire. The present writ petition is thus premature. In any view, the first respondent shall dispose of the appeal in compliance with the time line prescribed under Section 9(A) of Tamilnadu Liquor Retail Vending (in shops and bars) Rules, 2003.



W.P.(MD)No.23355 of 2022

WEB COPY

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

11.10.2022

Index: Yes/No
Speaking Order/Non-speaking order

sbm

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W.P.(MD)No.23355 of 2022

MOHAMMED SHAFFIQ, J.

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W.P.(MD)No.23355 of 2022

11.10.2022