



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2022

CORAM

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.22905 of 2021

and

W.M.P. (MD) Nos.19372 of 2021 and 3065 of 2022

Esakkimuthu

... Petitioner

Vs.

1. The District Manager,
TASMAC,
Tirunelveli.
2. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
3. Chandrasekar,
The Inspector of Police,
Alangulam Police Station,
Tenkasi District.

... Respondents

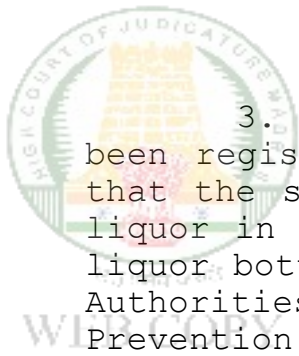
PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the impugned order of the first respondent made in Na.Ka.No.R.1/1346/2021 dated 29.11.2021 in so far as the petitioner and quash the same as illegal and arbitrary.

For Petitioner	:Mr.V.Angusamy
For Respondents	:Mr.B.Jameel Arasu for R1 Mr.N.Sathesh Kumar Addl. Govt. Pleader for R2 and R3

O R D E R

The order of suspension dated 29.11.2021 is under challenge in the present Writ Petition.

2. The petitioner is the employee of TASMAC Shop. On account of certain serious allegations of selling liquor bottles 30 meters away from the shop in an independent manner. For the purpose of selling liquor bottles in an illegal manner for higher prices, the Authorities have initiated the departmental disciplinary action. The petitioner is placed under suspension.



3. The order of suspension reveals that a criminal case has been registered against the petitioner and other employees stating that the supervisors and the employees of TASMAC shop were selling liquor in a room 30 meters away from the TASMAC shop and thus, the liquor bottles were sold for higher price in an illegal manner. The Authorities initiated disciplinary proceedings under the Code of Prevention and Detection of Fraudulent Acts in TASMAC-2014.

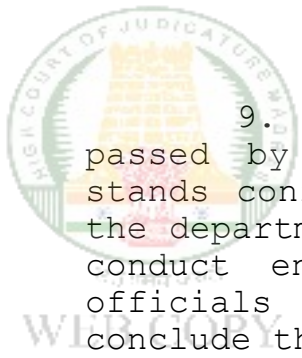
4. The learned counsel for the petitioner made a submission that the petitioner has involved for such illegal activities. However, those disputed facts cannot be adjudicated in the present Writ Petition, as the order of temporary suspension is under challenge in the present Writ Petition.

5. The learned Additional Government Pleader appearing for the second and third respondents brought to the notice of this Court that the investigations had already been completed and charge sheet is yet to be filed.

6. The learned counsel for the TASMAC Management reiterated that the petitioner has involved in serious misconduct and the offence affecting the financial aspects and also running the TASMAC shop in accordance with the rules in force. Thus, the departmental actions initiated are to be proceeded with and by virtue of an interim order, the petitioner is under working in the TASMAC shop. Therefore, further continuance will affect the enquiry proceedings as from the same shop six employees found selling liquor in an illegal manner and allowing all the six employees in the same shop again would cause administrative inconvenience and there is a possibility for tampering the evidence regarding the illegalities already committed, as the disciplinary proceedings are initiated.

7. This Court is of the considered opinion that there is no bar for the respondents to continue the departmental disciplinary proceedings and furthermore, the investigations have already been completed in the criminal case. Therefore, the respondents are empowered to continue the disciplinary proceedings by following the procedure as contemplated and by affording an opportunity to the delinquent employee and conclude the departmental disciplinary proceedings as early as possible. The petitioner is at liberty to defend his case during the course of enquiry. Contrarily, the High Court cannot adjudicate those disputed facts which had to be done with reference to the documents and evidence made available during the course of enquiry.

8. As far as the order of suspension is concerned, there is no infirmity in respect of the order of suspension, as the allegations against the petitioner are serious in nature. However, the Authorities shall proceed with the enquiry and conclude the same as expeditiously as possible.



9. This being the factum, the impugned order of suspension passed by the first respondent in proceedings dated 29.11.2021 stands confirmed. The first respondent is directed to proceed with the departmental disciplinary proceedings by issuing charge memo and conduct enquiry by affording an opportunity to the delinquent officials and by following the procedure as contemplated and conclude the same as expeditiously as possible.

10. With the above directions, this Writ Petition is disposed of. However there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

To

1. The District Manager,
TASMAC,
Tirunelveli.
2. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
3. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.

+1 CC to M/s.SPL GP (SR-10285[F] dated 07/03/2022)

W.P. (MD) No.22905 of 2021
and

W.M.P. (MD) Nos. 19372 of 2021
and 3065 of 2022
04.03.2022

VJI
MS/28.03.2022/3P.5C