



W.P.(MD)No.25076 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.25076 of 2022

and

W.M.P.(MD).Nos.19171 & 19174 of 2022

M.Nanthakumar

... Petitioner

Vs.

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

2.The District Collector,
Office of the District Collector,
Thanjavur District.

3.The Assistant Commissioner,
Excise Department,
Thanjavur District.

4.The Regional Manager,
Tamilnadu State Marketing Corporation (TASMAC)
Thanjavur Region,
Thanjavur.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, calling for the



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records pertaining to the impugned order issued by the first respondent in M9M)AA.2(2)/7206/2021 dated 12.10.2022 quash the same and consequently directing the first to third respondents to renew the license of the petitioner.

For Petitioner :Mr.S.Ramsundarvijayraj
For Respondents :Mr.T.Amjadkhan
Government Advocate for R1 to R3
:Mr.H.Arumugam
Standing Counsel for R4

ORDER

The present writ petition is filed challenging the impugned order issued by the first respondent in M(M)AA.2(2)/7206/2021 dated 12.10.2022 and to consequently, direct the first to third respondents to renew the license of the petitioner.

2. It is submitted that the petitioner is presently Managing Director of Pandiyar residency, Thanjavur. Originally in the year 1993 a deed of partnership was executed for establishing the Pandiyar Residency at Thanjavur, in which, the petitioner's father Mr.S.Mani was a Managing Director with his sons M.Jeyabalan, M.Sekar and the petitioner being



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managing partners. The said Hotel Pandiayar Residency has a restaurant and FL3 Bar license. The FL3 Bar license was issued to the petitioner in terms of Tamilnadu Liquor (License and Permit Rules 1981), based on the application submitted in the year 1994. The petitioner has been running the FL3 Bar in the name of Pandiayar Residency for over 28 years. The petitioner's father Mr.S.Mani died in the year 2014. During the life time of the petitioner's father, he had executed a will dated 21.02.2014 by virtue thereof the petitioner inherited the D Schedule property including the Pandiayar residency along with the permit of FL3 license. It is submitted that since then, the petitioner has been running FL3 Bar in Pandiayar Residency, periodically renewing the license with the Respondents. While so, the petitioner submitted an application for renewal on 20.03.2022 for the period 2022-2023 along with the necessary documents and requisite fees. The petitioner's application for renewal was rejected on the premise that the land patta and document of the Pandiayar residency must be in the name of individual for renewal of license. The said order was challenged before this Court by way of W.P.(MD).No.12222 of 2022 and this Court was pleased to pass the following order, which is extracted hereunder;



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“7.Considering the rival submissions and on perusal of the materials on record, it is seen that earlier, the petitioner's father Mani as a Managing Director along with his sons was running the Hotel Pandiyar Residency, for which, FL3 license was granted. During his life time, the petitioner's father bequeathed a Will, devolving upon 'D' Schedule properties to the petitioner, including the Hotel Pandiyar Residency, Lodge, and the Bar. Now, after the demise of his father and brother, the petitioner has become the exclusive owner of the Hotel pandiyar Residency. The exclusive right of the Bar has been devolved on the petitioner. The petitioner had already filed an application for renewal and transfer of FL3 licence to his name along with requisite documents and fee. In view of the same, this Court finds that there is no reason to deny the petitioner's request for renewal and transfer of FL3 licence. Hence, the first respondent is directed to consider the application of the petitioner and grant FL3 licence to him, is he is otherwise eligible, without any further delay, preferable, within a period of three weeks from the date of receipt of a copy of this order.”



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3.It is submitted by the learned counsel for the petitioner that the impugned order has been passed pursuant to the order of this Court in W.P(MD).No.12222 of 2022, whereby the respondents has again rejected the petitioner's request for renewal and transfer of the FL3 license in the name of the petitioner on the premise that the will has not been registered. It is further submitted that the “No Objection Certificate” has been obtained from the legal heirs of the deceased (Mr.S.Mani), which was also furnished to the respondent, which has been completely disregarded while rejecting the renewal and request for change of the license in the name of the petitioner.

4.Mr.T.Amjadkhan, learned Government Advocate appearing on behalf of the respondents 1 to 3 submits that the impugned order may be set aside with the direction to issue notice to the other legal heirs and thereafter pass an order.

5.In view of the submissions made on either side, this Writ Petition stands closed by setting aside the impugned order in M(M)AA.



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2(2)/7206/2021 dated 12.10.2022 passed by the first respondent and further directing the respondents to re do the entire proceedings after putting the petitioner and other legal heirs on notice. The respondent shall thereafter pass an order on the petitioner's request for renewal and transfer of FL3 Bar licence to his name on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any views with regard to the merits of the representation and it is open to the respondents to consider the representation on its own merits. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking Order/Non Speaking Order

sbn



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MOHAMMED SHAFFIQ, J.

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