



WEB COPY



W.P.No.22879 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.22879 of 2022

and

W.M.P. Nos.538 and 3076 of 2023

V. Sasikumar

...

Petitioner

vs

1. The District Collector,
Chennai District,
District Collector Office,
62, Rajaji Salai,
Chennai - 600 001.

2. The Commissionerate of Prohibition
and Excise Department,
Government of Tamilnadu,
Chepauk,
Chennai - 600 005.

3. The Managing Director,
TASMAC,
Egmore,
Chennai - 600 008.

4. The Senior Regional Manager,
TASMAC Ltd.,
No.735,
4th Floor,
LLA Building,
Anna Salai,
Chennai - 600 002.



W.P.No.22879 of 2022

5. The District Manager,
TASMAC,
Kancheepuram (North) District,
TASMAC Ltd.
Thirumazhisai Unit - III,
Sembarambakkam,
Chennai - 600 123.

6. Ashok Velan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 5 to open TASMAC Retail Vending Shop No.4448 along with the Bar in Survey No.35/1A1, Rajiv Gandhi Salai, Seevaram Village, Perungudi Municipality, Sholinganallur Taluk.

For Petitioner	:	Mr.R. Thiagarajan for Ms.Vasudha Thiagarajan
For Respondents	:	Mr.S. Ravikumar Spl. Govt. Pleader for R1 Mr.K.Balakrishnan, Spl. Govt. Pleader for R2 to R5 Mr.K.Raveendran for R6

ORDER

By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.



W.P.No.22879 of 2022

WEB COPY

2. Mr.S. Ravikumar, learned Special Government Pleader accepts notice for the 1st respondent. Mr.K.Balakrishnan, learned Special Government Pleader accepts notice for the respondents 2 to 5. Mr.K.Raveendran, learned counsel accepts notice for the 6th respondent.

3. This writ petition has been filed for a Mandamus seeking for a direction to the respondents to open the TASMAL retail vending shop No.4448 along with Bar in Survey No.35/1A1, Rajiv Gandhi Salai, Seevaram Village, Perungudi Municipality, Sholinganallur Taluk.

4. The petitioner was granted licence to run the aforementioned shop. However, according to the petitioner, arbitrarily without issuing any notice to him, the respondents have stopped supplying liquor to the aforementioned shop from the month of June 2022 onwards. The petitioner claims that he has invested huge amount of money and he has already suffered irreparable loss and hardship on account of a sudden non supply of liquor to the aforementioned shop. Under such circumstances, he has sought for a direction from this Court to the respondents to open the TASMAL retail vending shop and resume supplies as was done earlier.



W.P.No.22879 of 2022

5. A counter affidavit has been filed by the respondents denying the allegations of the petitioner. According to them, due to the objections received from the local residents in the place where the liquor shop is located, including the 6th respondent, who is the landlord, they had to temporarily close down the shop on 03.06.2022 after intimating the petitioner. They have also contended that if aggrieved by the temporary closure order dated 03.06.2022, the petitioner is having the statutory appellate remedy under Rule 9A of the Tamil Nadu Liquor Vending Shops and Bar Rules, 2003 for opening the closed TASMAL shop. Hence, according to them, the writ petition is not maintainable, since an alternate efficacious statutory appellate remedy is available to the petitioner.

6. Heard Mr.R.Thiagarajan, learned counsel for the petitioner, Mr.S.Ravikumar, learned Special Government Pleader appearing for the 1st respondent, Mr.K.Balakrishnan, learned Special Government Pleader appearing for the respondents 2 to 5 and Mr.K.Raveendran, learned counsel appearing for the 6th respondent.

7. As seen from the counter affidavit filed by the respondents, the subject liquor shop was temporarily closed on 03.06.2022 and the reason for the closure of the shop was intimated to the petitioner on 03.06.2022.



W.P.No.22879 of 2022

8. The learned Special Government Pleader appearing for the 5th respondent has placed before this Court the temporary closure order dated 03.06.2022. However, as seen from the temporary closure order dated 03.06.2022 issued by the respondents, the copy of the same has not been served on the petitioner. Even though the temporary closure order refers to various recipients, the name of the petitioner is not found.

9. The learned counsel for the petitioner also contends that no such temporary closure order dated 03.06.2022 was served on the petitioner. No documentary evidence has been placed before this Court by the respondents to prove that the closure order dated 03.06.2022 was served on the petitioner. The petitioner has been running the shop pursuant to a licence from 28.05.2022 after relocation as per the respondent's order. The petitioner has all of a sudden not received the supplies and categorically contends that he was not aware of the temporary closure order dated 03.06.2022 passed by the respondents. According to him, only now, he has come to know that the temporary closure order was passed by the respondents on 03.06.2022 as he has not received any such order from the respondents till date. A copy of the order was also given to the learned counsel for the petitioner and he would submit that the



W.P.No.22879 of 2022

petitioner is not a recipient of the said order and it is therefore very clear that he has not been served with the said order. The petitioner has also stated in the affidavit filed in support of this writ petition that he has spent huge amount of money by way of investment to run the subject liquor shop.

10. After giving due consideration to the affidavit filed in support of this writ petition as well as the counter affidavit filed by the respondents and after giving due consideration to the temporary closure order dated 03.06.2022 under which the petitioner's shop was ordered to be closed, it is clear that the principles of natural justice has been violated by the respondents as no opportunity of hearing was granted to the petitioner prior to closure of the petitioner's shop. Arbitrarily without granting any opportunity of hearing, the supplies have also been stopped by the respondents to the petitioner's shop. Unless and until an opportunity of hearing is granted to the petitioner, the petitioner's shop ought not to have been closed by the respondents. Admittedly, no court orders have also been passed to close down the petitioner's shop. While that be so, necessarily, the respondents ought to have afforded an opportunity of hearing to the petitioner before closing down the petitioner's liquor shop.



W.P.No.22879 of 2022

11. For the foregoing reasons, this Court directs the 5th respondent to open the retail vending shop No.4448 along with Bar in Survey No.35/1A1, Rajiv Gandhi Salai, Seevaram Village, Perungudi Municipality, Sholinganallur Taluk and resume supplies to the petitioner's shop within a period of two weeks from the date of receipt of a copy of this order. In case, the respondents decide to take further action against the petitioner for closure of the subject shop, they have to take action only in accordance with law, after giving notice to the petitioner as well as the 6th respondent and after giving them an opportunity to raise whatever objections they have with regard to the said notice.

12. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

Note : Issue order copy on 16.02.2023

Index:Yes/No

Neutral Citation:Yes/No

vsi2



WEB COPY



W.P.No.22879 of 2022

ABDUL QUDDHOSE, J.

vsi2

To

1. The District Collector,
Chennai District,
District Collector Office,
62, Rajaji Salai,
Chennai - 600 001.
2. The Commissionerate of Prohibition
and Excise Department,
Government of Tamilnadu,
Chepauk,
Chennai - 600 005.
3. The Managing Director,
TASMAC,
Egmore,
Chennai - 600 008.
4. The Senior Regional Manager,
TASMAC Ltd.,
No.735,
4th Floor,
LLA Building,
Anna Salai,
Chennai - 600 002.
5. The District Manager,
TASMAC,
Kancheepuram (North) District,
TASMAC Ltd.
Thirumazhisai Unit - III,
Sembarambakkam,
Chennai - 600 123.

W.P. No.22879 of 2022

15.02.2023