



WEB COPY

W.P.Nos.26179, 23234 & 27777 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.26179, 23234 and 27777 of 2023

and

**W.M.P.Nos. 25575, 22773,
& 27267 of 2023**

W.P.No.26179 of 2023

S.Panneerselvam

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai.

2.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
4th floor, Gandhi Irwin Bridge, Egmore, Chennai.

3.The Senior Regional Manager,
TASMAC Limited,
735, IV Floor, L.L.A. Building,
Anna Salai, Chennai 600 002.

4. The District Manager,
TASMAC Limited (Chennai-South),
Plot No.B4, Industrial Estate,
Ambattur, Chennai – 600 053.

Respondents

...



W.P.Nos.26179, 23234 & 27777 of 2023

W.P.No.23234 of 2023

- 1.M.Balamurugan
- 2.S.Amalraj
- 3.Raja Elango
- 4.Mahendra Varman
- 5.Karthikeyan
- 6.Subramanian
- 7.Anjali
- 8.Rengasamy
- 9.Mani
- 10.Anbarasan
- 11.Murugan
- 12.Chandrasekar
- 13.Lakshmana Perumal
- 14.A.Senthilkumar
- 15.Poosappan.K
- 16.N.Subramanian
- 17.M.Rajendra Prabhu
- 18.Arokiaraj.Y
- 19.G.Rajkumar
- 20.K.S.Vihaan
- 21.Kumari
- 22.E.V.Guruvayurappan
- 23.Nageshwari
- 24.D.Balamurugan

... Petitioners

Vs.

- 1.The Secretary,
Department of Home, Prohibition and Excise,
Government of Tamil Nadu,
Secretariat, Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
4th Floor, Gandhi Irwin Bridge Road,



W.P.Nos.26179, 23234 & 27777 of 2023

Egmore, Chennai – 600 008.

... Respondents

W.P.No.27777 of 2023

WEB COPY

- 1.R.K.Kutty
- 2.K.Karuthapandiyan
- 3.S.Balaji
- 4.R.Muthulakshmi
- 5.D.Mohan
- 6.Palanisamy
- 7.M.S.Sadagopan
- 8.Rajakumari

... Petitioners

vs.

- 1.The Secretary,
Department of Home, Prohibition and Excise,
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

- 2.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
4th Floor, Gandhi Irwin Bridge Road,
Egmore,
Chennai 600 008.

...

Respondents

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings dated 20.06.2023 of the 2nd respondent in Rc.No.R3/2833/2023 dated 20.06.2023 to quash the same and further direct the 2nd respondent to open the TASMAR Retail shops that were being



W.P.Nos.26179, 23234 & 27777 of 2023

operated in the petitioners premises.

WEB COPY

For Petitioner(s) : Mr.P.G.Santhosh Kumar
(in W.P.No.26179 of 2023)
: Mr.Hari Radhakrishnan
(in W.P.No.23234 of 2023)
: Mr.Avinash Wadhwani
for Mr.M.Manimaran
(in W.P.No.27777 of 2023)

For Respondents : Mr.J.Ravindran
Additional Advocate General assisted by
Mr.K.Sathish Kumar
[for R2 in W.P.Nos.23234 & 27777 of 2023
and for R2 to R4 in W.P.No.26179 of 2023]
Mr.K.Balakrishnan
Standing counsel for TASMACH
Mr.K.Surendran,
Additional Government Pleader
[for R1 in all W.P's]

COMMON ORDER

These writ petitions have been filed, challenging the impugned proceedings of the 2nd respondent in Rc.No.R3/2833/2023 dated 20.06.2023 and further direct the 2nd respondent to open the TASMACH retail shops that were being operated in the petitioner's premises.

In all these writ petitions, the grievances of the petitioners is pertaining to the decision taken by the respondents to close 500 TASMACH retail shops because the said shops which were being operated in the respective



petitioners' buildings do not meet any of the criteria mentioned in the impugned order.

2. According to the petitioners, they leased out the property to the respondents who built up the shops and bars and had made substantial investment. In such situation, if all of a sudden those TASMACH retail shops are closed, they would incur huge loss.

3. Further, the relationship between the petitioners and the respondents is landlord-tenant relationship. Such fact has been admitted by both the parties. Under these circumstances, the respective learned counsel for the petitioners submitted that in order to close down 500 TASMACH retail shops, the 1st respondent has framed certain guidelines and contrary to such guidelines issued by them, the impugned decision has been taken to close down 500 TASMACH retail shops situated at the petitioners' premises and the Government has also taken a decision to close down those TASMACH retail shops that were situated nearby temples and educational institutions. Therefore, they would submit that it is contrary to their own regulations. Hence, the present writ petitions have been filed.



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4. On the other hand, Mr.J.Ravindran, learned Additional Advocate General, appearing for the respondents would submit in the present case, the *locus standi* to file the present writ petitions is that the Government has taken decision to close down 500 TASMAL retail shops in terms of guidelines that have been framed which are all directory in nature.

4.1 He further submitted that it is for the respondents to take appropriate decision to run or close down the TASMAL retail shops and at any cost, the petitioners cannot approach this Court, challenging the closure order issued by the respondents and if at all, being the owner of the property and if there is any grievances, then the remedy would be not before this Court but before the appropriate forum. Without approaching the appropriate forum, the present writ petitions have been filed, which are not maintainable and liable to be dismissed.

5. He also submitted that if this Court comes to a conclusion that the writ petitions are not maintainable, then the petitioners may be permitted to make proper representation before the Authority concerned to reconsider the decision taken by the respondents and also to approach the appropriate



WEB COPY

6. Heard learned counsels for both sides and also perused the materials available on record.

7. This Court is of the considered view that in the present case, the relationship between the parties is only the owner and the landlord-tenant relationship whereby the tenant is entitled to take decision to close their business. In the event, if any owner is aggrieved from such decision of the tenant and if it is contrary to the agreed terms, then the remedy available for the owners/petitioners is not by virtue of filing the writ petition, but to approach the appropriate forum in accordance with law.

7.1 That apart, the petitioners being the owners of the property, they are not the right persons to challenge the policy decision made by the Government to close down the TASMAC retail shops which is in public interest. The writ petitions filed by the petitioners appear to be in the nature of Public Interest Litigation but the motive is to achieve their personal interest.



WEB COPY

W.P.Nos.26179, 23234 & 27777 of 2



7.2 At any cost, this Court is not inclined to interfere with the policy decision of the Government to close down 500 TASMAL retail shops. Further, it is up to the respondent to take the decision to close down the TASMAL retail shops. Even if there is any lapses in respect of the guidelines, this would not invalidate the ultimate decision of the respondent to close down the shops and it is up to the respondent to take proper action for not taking into consideration for violating the guidelines by the Officers concerned to close down the TASMAL retail shops. Further, the guidelines are not mandatory in nature, but it is guiding in nature.

7.3 Such being the case, this Court is not inclined to interfere with the impugned order passed by the respondents and to issue any directions. Accordingly, this Court is dismissing all the writ petitions. The petitioners are liberty to make representation to the respondents ventilating their grievances. In which case, it is up to the respondent to take a decision to deal with such representations in accordance with law.



WEB COPY

W.P.Nos.26179, 23234 & 27777 of 2



8. Accordingly, the writ petitions stand dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

30.11.2023

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Internet: Yes

Index : Yes / No

Speaking order/Non-Speaking order

Neutral Citation : Yes / No

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai.
2. The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
4th floor, Gandhi Irwin Bridge, Egmore, Chennai.
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KRISHNAN RAMASAMY, J.

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W.P.Nos.26179, 23234, 27777 of 2023

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