



W.P.No.26953 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26953 of 2023

Villa Reddi Naidu

... Petitioner

Vs

The Deputy Commissioner (Excise),
Yanam,
Puducherry.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondent herein to consider the representation made by the petitioner on 07.08.2023 for renewal of FL-2 license for the years 2023-2024 within a time frame as may be fixed by this Court.

For Petitioner : Mr.C.Anbu
For Respondents : Mr.V.Vasanth Kumar
Additional Government Pleader
(Pondy)

ORDER

Mr.V.Vasanth Kumar, learned Additional Government Pleader
(Pondy) takes notice on behalf of the respondent.



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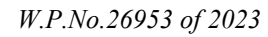
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2. This writ petition is filed for a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 07.08.2023 for renewal of FL-2 license for the year of 2023-2024. The fact of the case is that the petitioner was having a FL-2 license which was valid upto Financial year 1982. Thereafter, the petitioner had not renewed the license. On 16.07.2021, the petitioner sent a request to the respondent herein with a request to renew the FL-2 license. The respondent had responded to the same by a letter dated 29.09.2021, wherein, it has been stated that as follows:

“With reference to the letter cited above, where as a letter has been received by this office requesting for renewal of FL-2 license under the name of M/s.Sri Vijaya Durga Wines, Yanam which was lastly renewed up to year 1982.

In this connection, the applicant is hereby directed to submit all requisite documents for renewal of license along with the Original license issued by the concerned authorities to licensee at the time of issue of license for further course of action.”

3.Pursuant to the aforesaid letter of the respondent, the petitioner claims to have furnished requisite documents and has paid a challan for Rs.15,000/- along with shop lease agreement situated at D.No.9-2-247, NH-216, Yanam – 533 464.



5.The learned Additional Government Pleader (Pondy) for the respondent on the other hand would submit that there is no scope for renewing the license in the light of the decision of the Division Bench of this Court in *P.Thananjayan VS. The Deputy Commissioner (Excise), Government of Puducherry, Industrial Estate Road, Thattanchavady, Puducherry – 605 009* in W.A.No.56 of 2022. In this connection, a reference is made to para 4 of the order reads as under:-

117. Duration of Licence:- [Every F.L.1 and F.L.2 Licence granted under the Chapter shall be valid for the financial year beginning from the 1st of April of the



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date of issue of the licence and ending with 31st March immediately following, unless otherwise stated in the licence issued in a particular case]

[Provided that where it is so otherwise stated in the license issued in a particular case, the proportionate fee for the period beginning from the date upto which the license was issued or, as the case may be, renewed and ending with 31st March immediately following shall be refunded to the licensee:

Provided further that, where license is issued or renewed upto 31st March immediately following full license fee shall be levied for the year irrespective of the date on which the licence is issued.]"

"203: Transfer of lease not permitted – *The right of retail or wholesale vend of liquor shall not be transferred by the licensee except with the previous permission of the Licensing Authority.*

[Provided, however, inclusion of partners other than legal heirs in the right of retail or wholesale vend of liquor shall be permitted on payment of double the licence fee prevailing at the time of such inclusion]"

The respondent would contend that there is a provision for appeal under Section 60 of the said Act and without exhausting the alternate remedy, the appellant has approached this Court by way of writ petition, which was rejected. He would further submit that in terms of the aforesaid provisions extracted, the appellant has no right to continue the business, more so, after a delay of 37 years. The appellant cannot, as a matter of right, demand that the respondent has to accept the penalty and permit him to run the business. He would further submit that in terms of Rule 115A of the aforesaid Rules, an application for renewal of licence should have been filed 30 days prior to the expiry of licence period which is on 31st March of the relevant year. In this case, no steps have been taken to



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renew the licence and there is a delay of 37 years. A party, as a matter of right, cannot demand that he must be provided with licence to run the business. An elaborate discussion has been made by the learned Single Judge while rejecting the request of the appellant and the relevant paragraph at No.17 is extracted below:

"17. In the present case, the petitioner has sought renewal of the licence that stood in his brother's name and that too, after a period of thirty seven (37) years when the licence was last active, viz. 1980 (or 81 as contended by the petitioner). Admittedly, it had lapsed thereafter and the licence holder Singaravelu Nadar made no efforts to revive it even till 1993 when he passed away. There the matter ends. It simply cannot be said that the licence continued to exist in a vacuum even after the demise of the original licence holder when the original licence holder had himself not expressed any interest in reviving the same for thirteen (13) long years. Seen in this context the argument in relation to Section 203 and the entitlement thereunder, is entirely misplaced. In fact, there is considerable delay even on the part of the petitioner in approaching the authorities and the elapse of time between 1980 (or 1981) when the licence had been rendered inoperable and 2017, when he filed a representation seeking renewal, is too wide to be ignored. The petitioner is asking me to bring to life a dead asset, which, I am afraid, one simply cannot do."

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader (Pondy) for the respondent.



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7.The application for renewal of the FL-2 license which was last renewed upto the year 1982. Thereafter there was no further renewal. Thus, the application filed will be prima facie by hit the ratio of this Court in W.A.No.56 of 2022 in the case of ***P.Thananjayan VS. The Deputy Commissioner (Excise), Government of Puducherry, Industrial Estate Road, Thattanchavady, Puducherry – 605 009*** vide order dated 15.09.2022, it is noticed that the petitioner had sought for a identical relief in W.P.No.19473 of 2021. W.P.No.19473 of 2021 was also dismissed by this Court on 14.09.2021.

8.It is however noticed that the petitioner has submitted necessary forms pursuant to a communication dated 29.09.2021 bearing reference No.999/D1/DCEY/Renewal/2021-22 of the respondent. Communication dated 29.09.2021 bearing reference No.999/D1/DCEY/Renewal/2021-22 of the respondent is after the above writ petition was dismissed on 14.09.2021. It indicates that despite dismissal of W.P.No.19473 of 2021 on 14.09.2021, the respondent was still inclined to consider the request of the petitioner dated 16.07.2021 for renewal of FL-2 license which



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expired in the year 1982. The petitioner has also submitted the required documents thereafter. Therefore, there is no merits in the objection of the respondent that the present writ petition is not maintainable.

9. Therefore, this writ petition stands allowed by directing the respondents to consider and pass appropriate orders on the representation dated 07.08.2023 of the petitioner within a period of three months from the date of receipt of a copy of this order. No Costs.

15.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

The Deputy Commissioner (Excise),
Yanam,
Puducherry.



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C.SARAVANAN, J.

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