



W.P.(MD) No.1127 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1127 of 2023
and W.M.P.(MD)Nos.1043 & 1044 of 2023

R.Kumarasamy

... Petitioner

Vs.

- 1.The District Collector,
Office of the Collectorate,
Sivagangai.
- 2.The District Manager,
Tamil Nadu State Marketing
Corporation (TASMAC),
Pala Malai Nagar,
Thondi Road,
Sivagangai, Sivagangai District.

3.K.Sivaraman

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.A5/1651/2022 dated 21.11.2022 and quash the same as illegal and direct the 2nd respondent to issue afresh license to run the Bar to Shop No. 7557 in Ilayangudi, Sivagangai District as per the Rules contemplated in Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules 2003.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.P.Thilak Kumar,
Government Pleader for R1
Mr.H.Arumugam,
Standing Counsel for R2

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No. A5/1651/2022 dated 21.11.2022 and quash the same as illegal and direct the 2nd respondent to issue afresh license to run the Bar to Shop No. 7557 in Ilayangudi, Sivagangai District



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as per the Rules contemplated in Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules 2003.

2. Heard Mr.D.Senthil, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader, who takes notice for the first respondent and Mr.H.Arumugam, learned Standing Counsel, who takes notice for the second respondent. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the third respondent is dispensed with.

3. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The learned counsel appearing for the petitioner submitted that based on the no objection given by the petitioner, the third respondent has run a TASMAL Shop in Shop No.7557 at Ilayanguri, Sivagangai District, in the petitioner's premises from 19.11.2021. All of a sudden on 29.10.2022, the third respondent, on his own, vacated the Bar and handed over the key and taken all



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the property belonged to him and run the Bar on the left side of the TASMAC shop and the second respondent has also passed the impugned order by cancelling the No Objection given by the petitioner. He further submitted that the impugned order passed by the second respondent is totally misconceived and there is no legal sanctity for considering the request of the third respondent and therefore, the same is liable to be dismissed.

5. On a perusal of the records, it is seen that the petitioner has made a representation on 14.11.2022 to the second respondent, seeking for cancellation of the TASMAC shop run by the third respondent in the property in S.No.196/7. Therefore, when the petitioner has given such request to the authority concerned for cancellation of the bar run by the third respondent, now he cannot have any right to seek for a direction to the second respondent to issue afresh licence to run the Bar to Shop No.7557, in Ilayangudi, Sivagangai District and therefore, this Writ Petition is liable to be dismissed. Further, the petitioner has not satisfied the rules and norms framed for filing a Writ Petition as Public Interest Litigation and therefore, we are not inclined to entertain this Writ Petition.



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6. At this juncture, it is appropriate to refer to the following observation made by the Apex Court in *Ashok Kumar Pandey vs. State of West Bengal and others* reported in (2004) 3 SCC 349, the Apex Court at paragraphs 5 to 16, held as follows:-

*“16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of the so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for*



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gaining publicity and giving adverse publicity to their opponents.

The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.”



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7. Public interest litigation is an extremely important jurisdiction exercised by the Supreme Court and the High Courts. The Apex Court in *Neetu v. State of Punjab, (2007) 1 SCC 614*, held that when a particular person is the object and target of a petition styled as public interest litigation, the Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other mala fide object.

8. That apart, in *State of M.P. Vs. Narmada Bachao Andolan, (2011) 7 SCC 639*, the Apex Court has held as follows:-

"13. Strict rules of pleading may not apply in PIL, however, there must be sufficient material in the petition on the basis of which the court may proceed.

The PIL litigant has to lay a factual foundation for his averments on the basis of which such a person claims the reliefs. The information furnished by him should not be vague and indefinite. Proper pleadings are necessary to meet the requirements of the principles of natural justice. Even in PIL, the litigant cannot approach the court to have a fishing or roving enquiry. He cannot claim to have a chance to establish his claim. However, the technicalities of the rules



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of pleading cannot be made applicable vigorously. Pleadings prepared by a layman must be construed generously as he lacks the standard of accuracy and precision particularly when a legal wrong is caused to a determinate class.”

9. In the light of the decisions cited supra, we are not inclined to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.] [R.V., J.]

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NCC : Yes / No

Index : Yes / No

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