



W.P(MD)No.2521 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.2521 of 2023
and
W.M.P(MD)No.2311 of 2023**

Vaithiyanathan

... Petitioner

VS.

- 1.The Commissioner,
Prohibition and Excise Department,
No.37 MC + 38f Vadapalani,
Kannappar Thidal,
Periyamedu,
Chennai – 600 003.
- 2.The District Collector,
Collectorate,
Thanjavur District.
- 3.The District Manager,
TASMAC,
Thanjavur.
- 4.The Tahsildar,
Papanasam Taluk,
Papanasam,
Thanjavur District.



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5.The President,
Ganapathi Agraharam Panchayat,
Papanasam Taluk,
Thanjavur District.

6.L.N.Karunakaran

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent herein to dispose the appeal filed by the petitioner as per Rule 8(1) of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003 on merits and in accordance with law.

For Petitioner : Mr.P.Sivachandran

For RR 1, 2, 4 & 5 : Mr.P.Thilak Kumar
Government Pleader

For R – 3 : Mr.H.Arumugam
Standing Counsel

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, directing the first respondent to dispose of the appeal filed by the petitioner as per Rule 8(1) of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003 on merits and in accordance with law.

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2. According to the petitioner, since the third respondent had made an attempt to shift the TASMACH Shop No.8129 to Ganapathy Agragaram Village, Thanjavur District, the petitioner filed a Writ Petition in W.P(MD)No.16998 of 2021, restraining the respondents therein from shifting the shop to a new place and by order dated 26.11.2021, this Court passed the following order:-

"4.In the light of the above facts, this Court directs the Petitioner to submit a fresh representation to the authorities concerned including the District Collector Thanjavur District, who is the competent authority to approve the place for shifting the TASMACH Shop concerned. The Petitioner would submit his objections by way of representation to the District Collector Thanjavur District, the second respondent herein, within a period of two weeks from the date of receipt of a copy of this order. On receipt of which, the District Collector, Thanjavur District/the second respondent herein is directed to issue notice to the Petitioner and other interested parties if any and after affording them an opportunity of personal hearing, pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.



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5. With these directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed."

3. Pursuant to the abovesaid order, dated 26.11.2021, the second respondent directed the petitioner and the sixth respondent to appear for enquiry and by order dated 26.12.2022, the second respondent held that the Temple which is situated within 100 meters from the proposed shop and the said Temple is smaller one and there is no hindrance to the public and directed to shift the shop. Aggrieved by the order passed by the second respondent, the petitioner preferred an appeal before the first respondent on 05.01.2023. Since the said appeal has not been considered, the petitioner has filed the present Writ Petition.

4. The learned Government Pleader appearing for the respondents 1, 2, 4 and 5 submitted that the appeal filed by the petitioner would be disposed of by the first respondent within a time frame fixed by this Court.



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5. Considering the submissions made on either side, the first respondent is directed to dispose of the appeal filed by the petitioner, dated 05.01.2023 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the parties are directed to maintain *status quo*.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [L.V.G.,J.]
08.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



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To

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D.KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
W.P(MD)No.2521 of 2023

DATED : 08.02.2023