



W.P(MD)No.6283 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.6283 of 2023
and
W.M.P(MD)No.5964 of 2023

J.Gnanadoss

... Petitioner

-VS-

1. The State rep by its
Additional Chief Secretary,
Home, Excise and Prohibition Department,
Secretariat, Chennai.

2. The District Collector,
O/o. the District Collector,
Virudhunagar District,
Virudhunagar.

3. The District Manager (TASMAC)
O/o. the District Manager (TASMAC),
Virudhunagar District, Virudhunagar.

4. The Assistant Commissioner (Excise),
O/o. the Assistant Commissioner (Excise),
Virudhunagar.

5. The Block Development Officer
O/o. the Block Development Officer,
Thiruchuli, Virudhunagar District.



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6. The Thasildar,
O/o. the Tahsildar,
Aruppukottai, Virudhunagar District.

7. The Panchayat President,
Senkulam Panchayat,
Virudhunagar District.

8. S.Selvarani
(R8 was impleaded vide order dated 05.07.2023
made in WMP(MD)No.11798 of 2023)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the Respondents to close the TASMACH shop in shop number 11910 situated at P.Vagaikulam Village, Sengulam Post, Aruppukottai Taluk, Virudhunagar District, by considering the petitioner's representations dated 26.04.2022 and 15.09.2022 within the time stipulated this Court.

For Petitioner	: Mr.T.Thirumurugan
For R1	: Mr.P.Thilakkumar, Government Pleader
For R3	: Mr.H.Arumugam
For R5 & R7	: Mr.J.Ashok, Additional Government Pleader
For R8	: Mr.B.Muneeswaran

ORDER

[Order of the Court was made by S.VAIDYANATHAN, J.]

The petitioner has come forward with this writ petition for issuance of a Writ of Mandamus, directing the respondents to close the



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WEB CASTER TASMAC Shop No.11910 situated at P.Vagaikulam Village, Sengulam Post, Aruppukottai Taluk, Virudhunagar District, by considering the his representations dated 26.04.2022 and 15.09.2022 within a time frame.

2. It is contended by the learned counsel for the petitioner that since the TASMAC shop in question is situated in the residential area and causing nuisance to the public, in the light of the judgment of this Court reported in **(2011) Writ Law Reporter 267, The Tamil Nadu State Marketing Corporation Ltd., vs. R.M.Shah and others**, it would amount to offending the right to life guaranteed under Article 21 of the Constitution of India and therefore, the aforesaid TASMAC shop has to be closed.

3. Learned counsel appearing for the TASMAC would submit that neither the TASMAC shop in question is situated in the residential area nor Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, is violated.



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4. We cannot go into the factual dispute as to the location of the TASMAL shop under Article 226 of the Constitution. In the light of the order passed by this Court in **W.P.No.16848 of 2022 dated 04.07.2022, (P.Rajendiran vs. Government of Tamil Nadu)**, the petitioner has got right of appeal. Without exhausting the appeal remedy, the petitioner cannot approach this Court.

5. Hence, this Writ Petition is closed giving liberty to the petitioner to file appeal under Rule 9-A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. No costs. Connected miscellaneous petition is closed.

[S.V.N., J.]

[D.B.C., J.]

05.07.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

1. The Additional Chief Secretary,
Home, Excise and Prohibition Department,
Secretariat, Chennai.



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O/o. the District Collector,
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