



Cont. P.(MD) No.1511 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**Cont. P.(MD) No.1511 of 2023
in
W.P.(MD) No.5654 of 2019**

K.K.Ramesh

... Petitioner

-VS-

- 1.Ajay Kumar Bhaila,
Home Secretary,
Union of India,
Ministry of Home Affairs,
North Block,
New Delhi – 110 001.
- 2.K.Phanindra Reddy,
Home Secretary,
State of Tamilnadu,
Fort St. George, Secretariat,
Chennai – 600 009.
- 3.Thiru Gagandeep Singh Bedi,
Principal Secretary,
State of Tamil Nadu,
Health & Family Welfare Department,
Fort St. George, Secretariat,
Chennai – 600 009.
- 4.Tmt.P.Amudha,
Chairman,
Tamil Nadu State Marketing Corporation Limited,
CMDA Tower – II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.



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5.Shankar Jiwal,
Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.

... Respondents

PRAYER : Petition filed under Section 11 of Contempt of Courts Act, praying to punish the respondents herein for their wilful disobedience of the order passed by this Court in W.P.(MD) No.5654 of 2019 dated 04.01.2023.

For Petitioner : Mr.T.R.Subramanian
for M/s.R.Kannan

For 1st Respondent: Mr.K.Govindarajan,
Deputy Solicitor General of India

For Respondents 2: Mr.R.Baskaran
3 and 5 Additional Advocate General,
Assisted by Mr.T.Villavan Kothai
Additional Government Pleader

For 4th Respondent: Mr.H.Arumugam

ORDER

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

The Contempt Petition is filed alleging wilful disobedience of the order passed by this Court on 04.01.2023 in W.P.(MD) No.5654 of 2019.

2. The petitioner filed the Writ Petition in W.P.(MD) No.5654 of 2019 for issuance of a Writ of Mandamus, directing the first respondent to instruct the respondents 2 to 5 to impose a licensing system to regulate the Sale, Purchase and Usage of Indian Made Foreign Liquor (TASMAC) to the consumers in order to protect its legitimacy of consumption of liquor by considering the petitioner's representation dated 04.02.2019.



3. However, the Writ Petition was considered along with few other Writ Petitions and this Court considering the lengthy arguments of the learned counsel on either side passed the following order on 04.01.2023 in the batch of cases:

“20. Further, it may not be out of place to mention the report of the World Health Organisation, which states that reducing the harmful use of alcohol and its associated health and social burden is a public health priority and which deserves focus by the respective Central and State Governments. Therefore, it is just and necessary that effective steps must be taken to reduce the menace of liquor consumption, in order to safeguard the public health and welfare. Though this court is not oblivious that policy decision of the Government cannot be interfered judicially, considering the larger public interest, the following directions / suggestions are issued in these writ petitions:

(i) The central Government may take into consideration and give instructions to the State of Tamil Nadu and Director General of Police to impose a licensing regime for sale, purchase and usage of Indian Made Foreign Liquor.

(ii) The State Government shall give necessary instructions to the retail outlet shops through TASMAL that only the consumer, who has an alcohol license, can be permitted to buy Indian Made Foreign Liquor.

(iii) The labelling requirements under the Food Safety and Standards (Alcoholic Beverages) Regulations, 2018 and the Food Safety and Standards (Packaging and Labeling) Regulations, 2011 shall be strictly complied with.



(iv) The state government shall also consider printing the labels, displaying price list and contact details for registering complaints in Tamil.

(v) The state government and TASMAC shall ensure the strict compliance of the regulations relating to management and administration of staff, etc.

(vi) The state Government shall ensure that liquor is not sold to persons below 21 years of age.

(vii) The state government and the TASMAC may consider reducing the business hours i.e., between 2.00 PM and 8.00 P.M. considering the public health and welfare.”

4. The grievance of the petitioner is that the respondents have not complied with any of the directions issued by this Court. The learned counsel for the petitioner has made reference to clauses (i) and (ii) of paragraph No.20 of the order, wherein the Central Government was directed to give instructions to the State of Tamil Nadu and Director General of Police to impose a licensing regime for sale, purchase and usage of Indian Made Foreign Liquor and the State Government was directed to give necessary instructions to the retail outlet shops through TASMAC that only the consumer, who has an alcohol license, can be permitted to buy Indian Made Foreign Liquor.

5. It is brought to the notice of this Court that IMFL is not in the Central List or in the concurrence list. In such circumstances, the contention of the learned counsel for the petitioner cannot be countenanced. Learned Deputy Solicitor General of India on instructions states that the first



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respondent is not competent to direct State Government in this regard. It is to be noted that intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors comes under Entry 8 of List II. Hence, the Central Government cannot compel the State Government to impose a licensing regime for sale, purchase and usage of Indian Made Foreign Liquor. Further, when prohibition is introduced in the State and there is a total ban, regulations or licence is required to buy Indian Made Foreign Liquor. The procedures regarding grant of licence to consumers is necessary only when sale of liquor is permitted only to persons who have permit / licence. In this State, prohibition is lifted and TASMAC shops are opened by the State Government. Hence, it is reported that no licensing procedure can be imposed to restrict buying alcohol. In such circumstances, it is reported that the suggestion of this Court cannot be legitimately implemented.

6. As regards the labelling requirements under the Food Safety and Standards (Alcoholic Beverages) Regulations, 2018 and the Food Safety and Standards (Packing and Labeling) Regulations, 2011, it is reported before this Court that the respondents have strictly complied with the directions. It is not pointed out by any specific reference to infer that there is violation of conditions. Apart from that, the petitioner has not made any allegations in the affidavit with regard to any other violations than introduction of licence to permit any one to buy Indian Made Foreign Liquor.



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7. This Court has earlier directed the State Government to consider printing the labels, displaying price list and contact details for registering complaints in Tamil. This Court also appointed an Advocate Commissioner to inspect the shops in and around Madurai to find out whether the display of price list and contact details is available or not. Mr.M.Karal Marx has filed a report indicating that the shops were inspected by the Advocate Commissioner along with the petitioner's counsel and every one of the shop which has been visited by them contains the price list and the contact details. Therefore, the Advocate Commissioner himself has reported compliance. In these circumstances, this Court finds no merit in the Contempt Petition.

8. However, this Court, from the photographs exhibited by the learned Advocate Commissioner, is able to see that price lists have been placed without support to make it permanent. In such circumstances, this Court directs that the price list should be affixed in a permanent board / frame near the cash counter so that every one who visits the shop will notice it. When this Court enquired about the uploading of the price list in the fourth respondent website, Mr.H.Arumugam, learned Standing Counsel for the fourth respondent submitted that already the price list is uploaded in the website. Hence, there is no requirement for issuing such direction.



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9. The fourth respondent is directed to pay a sum of Rs.25,000/-
(Rupees Twenty Five Thousands only) to the learned Advocate
Commissioner, who has done a good job in a short span of time.

10. In view of the above, the Contempt Petition is closed.

[S.S.S.R, J.] [D.B.C., J.]
23.08.2023

Index : Yes / No
Neutral Citation : Yes / No
sj

To

- 1.Mr.Ajay Kumar Bhaila,
Home Secretary,
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Ministry of Home Affairs,
North Block,
New Delhi – 110 001.
- 2.Mr.K.Phanindra Reddy,
Home Secretary,
State of Tamilnadu,
Fort St. George, Secretariat,
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Principal Secretary,
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Health & Family Welfare Department,
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and
D.BHARATHA CHAKRAVARTHY, J.

sj

4.Mr.Shankar Jiwal,
Director General of Police,
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