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W.P.(MD)NO.24218 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24218 of 2023 AND
W.M.P.(MD)Nos.20396 & 20397 of 2023

D.Sekar

... Petitioner

Vs.

1. The Commissioner,
Tamil Nadu Food Safety
and Drug Administration Department,
DMS Campus, 5th Floor, No.359, Anna Salai,
Tenampet, Chennai – 600 006.

2. The Designated Officer,
Tamil Nadu Food Safety and
Drug Administration Department,
Food Safety Wing,
Madurai District.

3. Food Safety Officer,
Madurai Corporation,
Madurai.

4. The Inspector of Police,
C-2, Police Station
(Subramaniapuram police station),
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records from the second respondent impugned notice No.R.No.1894/FSD/2023 dated 26.09.2023 and quash the same.



For Petitioner : Mr.R.Ramasamy
For R-1 & R-2 : Mr.V.Nirmal Kumar,
Government Advocate.

For R-3 : Mr.K.K.Kannan

For R-4 : Mr.A.Albert James,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioner's premises have been sealed by the designated officer under the Food Safety and Standards Act 2006 on the ground that he was selling the banned TOBACCO products.

3. I do not want to go into the legal contentions raised by the learned counsel appearing for the petitioner. Suffice it to say that in a similar case, a learned Judge of this Court vide order dated 06.10.2023 in W.P.(MD)No.24097 of 2023 passed the following order:-



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“ 8.In this case, the petitioner has involved in five similar cases and now realized and filed an affidavit of undertaking that he will not sell any tobacco products and other banned products in his shop. The learned counsel for the petitioner has also placed a photograph that this petitioner has placed a Board to that effect.

9.In view of the undertaking of affidavit given by this petitioner, this writ petition is allowed. The impugned notice is hereby set aside. The second respondent is directed to de-seal the petitioner's shop immediately. In the event, if the petitioner has repeated to commit this offence, it would be treated as an offence under Contempt of Courts Act,1971 also. No costs. Consequently, connected Miscellaneous Petitions are closed.”

4. In the present case also, a similar undertaking affidavit has been filed. Recording the same, the impugned



notice is set aside. The second respondent is directed to de-seal the petitioner's shop immediately. If the petitioner repeats this offence, action would be taken under the Contempt of Courts Act 1971 also. No costs. Consequently, connected miscellaneous petitions are closed.

13.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

Note : Issue order copy on 18.10.2023.

To:

1. The Commissioner,
Tamil Nadu Food Safety
and Drug Administration Department,
DMS Campus, 5th Floor, No.359, Anna Salai,
Tenampet, Chennai – 600 006.
2. The Designated Officer,
Tamil Nadu Food Safety and
Drug Administration Department,
Food Safety Wing,
Madurai District.



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5

W.P.(MD)NO.24218 OF 2023

G.R.SWAMINATHAN,J.

PMU

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