



W.P(MD)No.26365 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2023

CORAM :

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

W.P(MD)No.26365 of 2022

and

WMP(MD)Nos.20544 of 2022 and 1753 & 1754 of 2023

P.Kannan

... Petitioner

vs.

1. The Managing Director,
Tamil Nadu State Marketing Corporation (TASMAC),
Egmore, Chennai.

2. The District Collector,
Ramanathapuram District.

3. The Senior Regional Manager,
TASMAC,
Madurai Zone,
Madurai.

4. The District Manager,
TASMAC,
Ramanathapuram District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the 2nd respondent vide proceedings in Na.Ka.P4/40612/2022 dated 02.09.2022 and the consequential impugned order passed by the 1st respondent vide proceedings Na.Ka.No.R-3/9099/2022 dated 19.10.2022 and quash the same as illegal and further directing the Respondents 1 to 3 forthwith to close and remove the TASMAL Shop No.6849 and the bar attached thereto which are situated at Door No.210/1 Survey No.58/1D Chettiyamadai, R.S.Mangalam to Paramakudi Highways Road (near to K.S.Selvam Petrol Bulk), Ramanathapuram District.

For Petitioner : Mr.R.Vinoth
For R1, R3, & R4 : Mr.S.Sivanesan
For R2 : Mr.P.Thilak Kumar, Government Pleader

ORDER

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

On 22.11.2022, this Court has passed the following order:-

"Challenge in this writ petition is to the order dated 02.09.2022, passed by the second respondent granting



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permission to shift TASMAL Shop No.6849 from the premises bearing Door No.6/138-1, situated at Varavani Village, R.S.Mangalam Taluk, Ramanathapuram District, to the building bearing Door No.210/1, situated in Survey No.58/1D, Paramakudi Road, R.S.Mangalam Town Panchayat and the consequential order dated 19.10.2022, passed by the first respondent, granting permission to open the said TASMAL Shop at Door No.210/1, with a direction to the respondents 1 to 3 to close the said TASMAL Shop forthwith.

2. According to the petitioner, in the year 2013, the respondents opened TASMAL Shop No.7026 in R.S.Mangalam – Paramakudi Highways Road, Ramanathapuram District and in view of the objections raised by the residents of that locality, the said Shop was closed in the year 2017. Similarly, TASMAL Shop No.6849 was opened during 2017 in Varavani Village and it was closed during April, 2022. Thereafter, the respondents by the impugned orders have opened TASMAL Shop No.6849 in the place wherein TASMAL Shop No.7026 was opened in the year 2013 and closed thereafter in the year 2017 on protest. Aggrieved over the same, the petitioner has filed this writ petition.

3. Since the petitioner has made out a prima facie case for grant of interim order, there shall be an order of interim injunction as prayed for for a period of four weeks.

4. Mr.S.Sivanesan, learned counsel, takes notice for the respondents 1, 3 & 4 and Mr.P.Thilakkumar, learned Government



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5. Post the matter after four weeks."

2. Learned counsel for the respondent TASMAL submitted that the petitioner is having efficacious appeal remedy under Rule 9-A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 and without exhausting such remedy, he has filed this writ petition.

3. In the light of the aforesaid submission, we direct the petitioner to file an appeal under Rule 9-A of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 within a period of two weeks from the date of receipt of a copy of this order. If such appeal is filed within the aforesaid stipulated time, the appellate authority shall pass orders thereon on merits and in accordance with law as expeditiously as possible. Till the disposal of the appeal by the appellate authority, the interim order dated 22.11.2022 granted by this Court shall be in force. If the petitioner does not file appeal within the stipulated time, it is for the respondents to proceed further if there are no legal impediments.



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4. With the above direction, the Writ Petition is disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes
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[D.K.K.,J.] & [L.V.G.,J.]
14.02.2023

To

1. The Managing Director,
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Egmore, Chennai.

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D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
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DATED : 14.02.2023