



WEB COPY



W.P.(MD)No.24856 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.P.(MD)No.24856 of 2023

and

W.M.P.(MD)No.21051 of 2023

Vivekanandan

: Petitioner

Vs.

1.The State rep. By,

The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai.

2.The District Collector,

Sivagangai District,
Sivagangai.

3.The TASMAL Manager,

TASMAL Department,
Sivagangai District, Sivagangai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, forbearing the respondents 1 to 3 from opening / locating TASMAL Shop S.No.



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196/6, at Kallal Village, Karaikudi Taluk, Sivagangai District, based on the petitioner's representation dated 19.09.2023 and 05.10.2023.

For Petitioner : Ms.S.Prabha
for Mr.D.Rameshkumar
For Respondents 1&2 : Mr.P.Thilak Kumar
Government Pleader
For Respondent No.3 : Mr.H.Arumugam
Standing Counsel

ORDER

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

Captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed as a Public Interest Litigation [PIL] for the sake of brevity].

2.Captioned PIL has been filed in this Court on 10.10.2023, with a mandamus prayer qua location of a proposed TASMACH shop [to be noted, 'TASMACH' stands for 'Tamil Nadu State Marketing Corporation Limited'] in 'Survey No.196/6 at Kallal Village, Karaikudi Taluk, Sivagangai District' [hereinafter 'said shop' and 'said location' for the sake of convenience and clarity].

3.Ms.S.Prabha, learned Counsel representing the Counsel

on record for Pil petitioner advertig to a representation dated



19.09.2023 sent by PIL petitioner to the second respondent [District Collector] submitted that said shop is proposed to be set up in a place which is close to two schools, a temple and some other offices.

4.On a careful perusal of the representation and on considering the submissions of learned Counsel for PIL petitioner, we find that captioned main WP and captioned WMP do not pass muster in the admission board and the prayers deserve to be negated. The reasons are as follows:

i) Setting up of TASMALC shops is governed by a set of Rules captioned 'The Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules, 2003' [hereinafter 'Liquor Vending Rules' for the sake of convenience] which is a piece of subordinate legislation made by the Executive Arm in exercise of Rule making power conferred on it vide 'The Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937)' [hereinafter 'Prohibition Act' for convenience].

ii) Rule 8 of Liquor Vending Rules, captioned 'Location of Shop' says that no shop shall be established in Municipal Corporations and Municipalities within a distance of 50 metres and in other areas 100 metres from any place of worship or educational institutions. There are also certain provisos. It may not be necessary to allude to the provisos or the other sub-Rules of Rule 8



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as the distance as between the educational institutions and the place of worship has not been mentioned either in the representation dated 19.09.2023 or in the support affidavit.

iii) A careful perusal of the representation only talks about the students passing through the said location.

iv) A Division Bench of this Court [to which one of us (M.SUNDAR, J.) was a party] in and by order dated 28.07.2017 in W.P.(MD)No.19181 of 2017, while dealing with a similar situation had held that when the writ petition does not disclose contravention of Rule 8(1) of Liquor Vending Rules, it does not warrant interference by this Court.

5. In the light of the narrative, discussion and dispositive reasoning thus far, captioned PIL petition does not pass muster in the admission board. Captioned main Writ Petition and captioned Writ Miscellaneous Petition thereat are dismissed. There shall be no order as to costs.

[M.S.,J.] & [R.S.V.,J.]

13.10.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

MR

ORDER MADE IN
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