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WP(MD)No.30982 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.30982 of 2023
and W.M.P(MD).Nos.26565 to 26567 of 2023

Masanamuthu

.. Petitioner

vs.

1.The Commissioner

Tamil Nadu Food Safety and Drug Administration Department,
DMS Campus, 5th Floor,
No.359, Annasalai Teynampet,
Chennai.

2.The Designated Officer,

Tamil Nadu Food Safety and Drug Administration Department,
Food Safety Wing,
Tiruchirappalli District.

3.The Food Safety Officer,

Tiruchirppalli Corporation,
Tiruchirppalli District.

4.The Inspector of Police,

Manikandam Police Station,
Tiruchirappalli District.
Crime No.168 of 2023

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking



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issuance of a Writ of Certiorari, calling the entire records from the second respondent impugned notice in Na.Ka.No.2741/U.Pa.Thu/Trichy/2023 dated 15.12.2023 and quash the same.

For Petitioner : Mr.C.Suresh Kannan

For Respondents : Mr.G.V.Vairom Santhosh,
Additional Government Pleader for R1 and R2
Mr.R.B.Law Associates for R3
Mr.S.S.Madhavan,
Government Advocate for R4

ORDER

The petitioner is running a grocery shop in Srirangam Taluk. On 15.12.2023, the second respondent conducted inspection in the shop of the petitioner and found five pockets of Tobacco products. Therefore, the second respondent has issued a Sale prohibited Notice under Section 36(3)(b) of the Food Safety and Standards Act, 2006 and sealed the petitioner's shop, against which, the present Writ Petition has been filed.

2. The learned counsel appearing for the petitioner submits that without knowing the fact that it is a banned product, the petitioner has sold that product and that was also only in five numbers. The petitioner has now realized his



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mistake and has also come forward with an affidavit of undertaking that hereafter he will not sell any tobacco products and other banned products in his shop. He further submits that the grocery shop is only the livelihood of the petitioner and his family and if the shop is not reopened, his entire business would be affected. He further submits that a similar writ petition filed by one D.Muthupandi in W.P(MD).No.24097 of 2023 was entertained by this Court and it was allowed on 06.10.2023, based on the undertaking of affidavit filed by the said Muthupandi.

3. Mr.G.V.Vairom Santhosh, learned Additional Government Pleader takes notice for the respondents 1 and 2. Mr.R.B.Law Associates takes notice for the third respondent.

4. Mr.S.S.Madhavan, learned Government Advocate takes notice for the fourth respondent and submits that the second respondent has conducted inspection in the shop of the petitioner on 15.12.2023 and during that time, he was found in possession of five pockets of banned products and based on the report given by the second respondent, a criminal case was registered by the fourth respondent and final report was filed before the concerned Court. The petitioner has admitted the guilt and paid the fine amount. He further submits that the



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petitioner is not having any previous case.

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5. This Court considered the rival submissions made by both sides and perused the materials available on record.

6. The petitioner is running a grocery shop in Srirangam Taluk and he was issued with the Sale prohibited Notice as per Section 36(3)(b) of Food Safety and Standards Act, 2006 and his shop was sealed by the second respondent. The petitioner has now realized his mistake and filed an affidavit of undertaking that he will not sell any tobacco products and other banned products in his shop. In similar circumstances, this Court has allowed the writ petition filed by one D.Muthupandi in W.P(MD).No.24097 of 2023 on 06.10.2023, based on the affidavit of undertaking given by him. Since the petitioner has no previous case and now realised his mistake and filed an affidavit of undertaking as stated above, the impugned notice issued by the second respondent dated 15.10.2023 is set aside. The second respondent is directed to de-seal the petitioner's shop. In the event, the petitioner commits this offence again, it would be treated as an offence under the Contempt of Courts Act, 1971.



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7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

22.12.2023

Index : Yes / No
NCC : Yes / No
Internet : Yes
ssb

Note: Issue order copy on 18.01.2024

To

- 1.The Commissioner
Tamil Nadu Food Safety and Drug Administration Department,
DMS Campus, 5th Floor,
No.359, Annasalai Teynampet,
Chennai.
- 2.The Designated Officer,
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B.PUGALENDHI, J.

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