



W.P.No.6516 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.6516 of 2022
and W.M.P.No.1772 of 2023

1.Kasiraja Dharmaraj

2.Santha Dharmaraj (deceased)

... Petitioners

(1st petitioner substituted as the only legal heir
of deceased 2nd petitioner vide order dated 11.08.2023
made in Memo USR:23546/2023 in W.P.No.
6516 of 2022)

-VS-

1.Deputy Commissioner (Excise),
Department of Revenue and
Disaster Management,
Government of Puducherry,
Thattanchavadi, Puducherry-605 009.

2.M/s.Taurus and Taurus India
Enterprises Private Limited,
Represented by its Managing Director,
No.16, S.V.Patel Salai,
Zamindar Garden, Pondicherry-605 012.

... Respondents



W.P.No.6516 of 2022

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings No.3591/DCE/S2/FL.1/2003-04/Vol.II/1718, dated 11.02.2022, on the file of the 1st respondent and quash the same and to direct the 1st respondent to cancel the Form FL.1 licence granted by the 1st respondent to the 2nd respondent and take such other penal actions as against the 2nd respondent within a time frame as may be fixed by this Court.

For Petitioners : Mr.S.Subbiah, Senior Counsel
for Ms.Elizabeth Ravi

For R1 : Mr.J.Kumaran, Addl. Govt. Pleader (Pondy)

For R2 : Mr.Rahul Balaji

ORDER

The petitioner assails an order dated 11.02.2022 by which the names of the 1st petitioner and that of the deceased 2nd petitioner were deleted from the FL-1 licence issued to M/s.Taurus and Taurus India Enterprises Private Limited.

2. According to the petitioners, the FL-1 licence was originally issued in the name of the late father of the 1st petitioner. Upon the request of



W.P.No.6516 of 2022

M/s.Taurus and Taurus India Enterprises Private Limited, such licence was later issued in the name of the limited company, but the names of the Directors of the said company, including the petitioners herein, were incorporated in such licence. By alleging that the petitioners did not resign from the Board of Directors of the above mentioned limited company, the present writ petition was filed.

3. Learned senior counsel for the petitioners submits that the resignation letters on which the 1st respondent relied upon were forged. Since the deletion of names was based on forgery, he submits that the impugned order is liable to be quashed. He also submits that the licence was originally issued in the name of Mr.M.Dharmaraj, the father of the 1st petitioner and the husband of the 2nd petitioner. Therefore, he points out that the licence should not have been amended under the impugned order. In support of this contention, he relies upon Rule 203 of the Pondicherry Excise Rules, 1970.

4. In response to these contentions, learned counsel for the 2nd respondent submits that the licence is admittedly in the name of the limited



W.P.No.6516 of 2022

company. In support of this contention, he refers to the licence issued in respect of financial year 2014-2015 and points out that such licence is undoubtedly in the name of the limited company, albeit the names of directors are mentioned by wrongly describing them as partners. Therefore, learned counsel submits that the petitioner has approached the wrong forum for remedy and that if the petitioner is aggrieved by the deletion of his name consequent to his resignation, he should challenge his removal by initiating appropriate proceedings before the National Law Company Tribunal or a civil court.

5. Mr.J.Kumaran, learned Additional Government Pleader for 1st respondent, refers to and relies on the counter affidavit to point out that the FL-1 licence was in the name of the limited company and that the impugned order was issued upon such limited company placing before the 1st respondent a certified true copy of the resolution passed by the Board of Directors of the said company with regard to the resignation of the petitioners.



W.P.No.6516 of 2022

6. The FL-1 licence issued for 2013-2014 is in the name of M/s.Taurus and Taurus India Enterprises Private Limited. There can be no quarrel with the position that a licence is personal to the licensee and such licence cannot be inherited. The 1st respondent has acted on the basis of a request from the limited company/licensee after examining the Board resolution submitted by such company. In those circumstances, there is no infirmity in the impugned order. Therefore, the writ petition is dismissed by leaving it open to the petitioners to avail of the statutory remedy under the Companies Act, 2013 in respect of the alleged unlawful removal as a director or approach a civil court, if permissible. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.02.2024
(1/2)

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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W.P.No.6516 of 2022

SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

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Department of Revenue and
Disaster Management,
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