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W.P.No.9910 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.9910 of 2024
and
WMP.No.10930 of 2024

Rajavel

... Petitioner

Vs.

The State rep by
The District Manager,
TASMAC Limited,
Cuddalore,
Cuddalore District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of suspension dated 21.08.2023 issued by the respondent vide letter no. bearing A1 (RV)/661/2023 and to quash the same and consequently direct the respondent to allow the petitioner to continue in service with all consequential benefits.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.C.Ramesh
for TASMAC



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ORDER

The Writ Petition is filed challenging the impugned order of suspension dated 21.08.2023.

2. The facts relevant for the disposal of the Writ Petition are that upon interception of a person who was riding a two-wheeler, it was found that he had a sack full of liquor bottles. Therefore, all the bottles were seized. Upon seizure, he is said to have made a voluntary confession in which he said he had bulk purchased all the bottles from the present TASMACH shop. Therefore, the petitioner is also added as the second accused in the said case. In view of the said criminal case and in contemplation of the disciplinary enquiry the petitioner is suspended by the impugned order dated 21.08.2023.

3. The learned counsel for the petitioner would submit that the number of bottles is categorically and clearly mentioned in the FIR itself. Adding the total contents, that does not cross the maximum limit of 4.5 litres, which is prescribed by the Government of Tamil Nadu for personal consumption. When the sale made by the petitioner does not cross the limit of 4.5 litres and



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a particular person is entitled to purchase that amount of liquor, no misconduct can be alleged against the petitioner for selling that quantity to the individual. If, after purchase, that individual is indulging in any illegal sales, then those offences can be tried only against the said individual, and no misconduct can be pointed out as against the Writ Petitioner.

4. Per contra, the learned counsel appearing on behalf of the respondent corporation would submit that the criminal case is still pending and the petitioner is arrayed as the second accused in that case. It is a case of bulk sales, and therefore, the suspension order is issued. Disciplinary proceedings will be duly undertaken by the respondent.

5. I have considered the rival submissions made on either side and perused the materials on record in this case.

6. The Court takes into consideration the following factors:

(i) The rules framed by the Government of Tamil Nadu i.e., the Tamil Nadu Liquor (possession for Personal Consumption) Rules, 1996 vide SRO - A-47 (a) 1996 prescribed the limit for possession of liquor for personal



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consumption, which is as follows:

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"2. Possession of liquor for personal consumption :- No person shall possess the liquor mentioned in column (1) of the Table below, which have already been specified under sub-clause (i) of clause (i) of sub-section (i) of Section 4 of the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937, for personal consumption, in excess of the quantity specified in the corresponding entries in column (2) thereof:

1 TABLE

Amended vide G.O.(MS) No.14, H.P.&EVI Department,
dated 09.06.2017

<i>Liquor</i> <i>(1)</i>	<i>Quantity</i> <i>(in</i> <i>Liters)</i> <i>(2)</i>
(1) Indian made Foreign Spirits	4.5
(2) Foreign Liquor	4.5
(3) Beer	7.8
(4) Wine	9.0

* Published in Part III, Section 1(a) of the Tamil Nadu

Government Gazette Extraordinary, dated the 17th April 1996."

While it is san logic that such a huge quantity is allowed by the



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government for personal consumption, as far as the present case is concerned, as rightly pointed out by the learned counsel for the petitioner, upon addition of the total quantity of the liquor, it does not cross 4.5 litres.

(ii) Secondly, the primary allegation on which the FIR is filed is that the individual has confessed that he wanted to sell the liquor bottles illegally, and that allegation is confined only to the said third party who purchased the bottles from the shop.

(iii) Even though the petitioner is suspended on 21.08.2023 now we are on June 2024, neither the charge sheet is filed in the criminal case nor any charge memorandum issued to the petitioner.

7. Considering the overall facts and circumstances of the case and considering the fact that even though the order of suspension was issued on 21.08.2023, the respondent has not reviewed the suspension, the respondent can take up the exercise of review of the suspension, and considering the above factors, which are recorded by this Court, consider the case of the petitioner for revocation of the suspension.



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WEB COPY 8. In view thereof, this Writ Petition is disposed of on the following

terms:

- (i) Within four weeks from the date of receipt of a copy of this order, the respondent corporation shall undertake the exercise of reviewing the suspension of the petitioner and pass orders by duly considering the revocation of the suspension of the petitioner.
- (ii) No costs. Consequently, the connected miscellaneous petition is closed.
- (iii) A copy of this order is also marked to the Secretary to Government, Home, Prohibition, and Exercise Department to reconsider whether such a huge quantity of the liquor should be available for personal consumption.

21.06.2024

Neutral Citation :Yes/No
jrs



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To
The District Manager,
TASMAC Limited,
Cuddalore,
Cuddalore District.

Copy to:

The Secretary to Government,
Home, Prohibition and Exercise Department.



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