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W.P.No.16046 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16046 of 2022

and

W.M.P.No.15382 of 2022

G.Manimaran

....Petitioner

Vs

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort. St.George,
Chennai – 600 009.

2. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai – 600 005.

3. The District Collector,
Tiruppur

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records comprised in Letter No.P(P)E 5(2)/25143/2007 dated 27.09.2019 passed by the 2nd respondent, quash the same and consequently direct the respondents to consider the application of the petitioner dated 08.05.2002.

For Petitioner : Mr.R.Bharanidharan

For Respondent : Mr.P.Balathandayutham
SGP



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ORDER

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This Writ Petition has been filed calling for the records comprised in Letter No.P(P)E 5(2)/25143/2007 dated 27.09.2019 passed by the 2nd respondent, quash the same and consequently direct the respondents to consider the application of the petitioner dated 08.05.2002.

2. This is the second round of litigation before this Court. Petitioner had earlier filed an application for grant of license to manufacture Indian made liquor as early as 08.05.2002. However, by the Commissioner of Prohibition and Excise, the same was rejected vide order dated 15.06.2006. Under this circumstances, petitioner approached this Court in W.P.No.29164 of 2007 to quash the aforesaid order dated 15.06.2006 passed by the respondent Commission of Prohibition and Excise. By an order dated 23.0.2009, this Court has ordered as follows:

Respondent is directed to reconsider the case of the petitioner and shall pass appropriate orders as per TN IMFS(M) Rules, within a period of eight weeks from the date of receipt of copy of this order.

3. However, thereafter no further orders were passed which led to



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filing filing of contempt petition by the petitioner before this Court. An order dated 16.02.2010, Contempt Petition No.541 of 2009 was closed.

Again petitioner approached the respondent once again in W.P.No.34934 of 2013 for mandamus for respondent to reconsider the petitioner's representation dated 08.09.2019, 29.09.2010 and 11.01.2013, in response to the application filed by the respondent on 08.05.2002. The said Writ Petition was however dismissed by this Court by vide its order dated 16.12.2014. Under this circumstances, petitioner approached this Court in W.A.No.307 of 2013. By an order dated 10.04.2018, the Division Bench of this Court passed the following order:

The order dated 16 December 2014 is set aside. We direct the respondent to consider and dispose of the application submitted by the appellant on merits and as per law. It is open to the respondent to call upon the appellant for further particulars or documents, in case, production of such documents are necessary for considering the application on merits. The appellant shall comply with the direction within the time permitted by the respondents.

*The intra Court appeal is allowed as indicated above.
No costs.*



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4. Pursuant to the aforesaid directions of this Court of Division Bench dated 16.12.2014, the Commissioner of Prohibition and Excise sent a communication to the District Collector in his proceedings dated 19.06.2018 to give the report. Pursuant to the order dated 10.04.2018 in W.A.No.307 of 2013, the respondent had proceeded to pass the impugned order, wherein the content of the report of the Collector dated 19.07.2019 has been extracted. In the impugned order, it has been stated that the petitioner has not complied with the requirements under Rule 4,5 and 7 of Tamil Nadu Indian Made Foreign Spirits (Manufacture Rules, 1981).

5. The learned counsel for the respondents further referred to the counter, wherein it is stated that the District Collector, Tiruppur District vide Letter No.10632/2019/Excise -1 dated 19.07.2019 has stated that the petitioner has not submitted any of the documents requested as on date and hence the representation of the petitioner cannot be examined and his petition may be rejected, therefore, petition is liable to be rejected. It is further stated that the 2nd respondent in its letter dated 27.09.2019 has also informed the petitioner about the representation dated 08.05.2002 for setting up of Indian Made Foreign Spirits manufacturing unit in the name



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of Shri Murugan Distilleries at Survey No.486/2, Kadaiyur Village,
Kangeyam Taluk, Tiruppur District cannot be considered.

6. That apart, it was stated that, as per Rule 7(1) of the aforesaid rules, prior approval of the Government is required for setting up the Indian Made Foreign Spirits Manufacturing Unit and it is the policy decision of the Government.

7. Petitioner has been chasing his application since 08.05.2002. Reading of the rule 4,5 and 7 of the aforesaid rules does not indicate that the petitioner was lacking in any manner. As far as the policy decision of the Government is concerned, it cannot be arbitrary. All that was required was consideration of the application is whether petitioner's application satisfied the required Rule 4,5 and 7 of the Tamil Nadu Indian Made Foreign Spirits (Manufacture Rules, 1981). Further, in the report dated 19.07.2019 of the District Collector, Tirppur vide Letter No. 10632/2019/Excise-1 was also not justified to the petitioner before the impugned order was passed.



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8. Under these circumstances, this Court is of the view that the impugned order is liable to set aside with a direction to the respondent to pass fresh order taking stock of the report of the District Collector. It is made clear that the petitioner shall furnish all the documents which are required for processing the application. This order shall be passed as expeditiously as possible preferably within a period of three months from the date of receipt of copy of the order.

9. With the above observations and directions, this Writ petition is disposed of. No costs.

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Index : Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma



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To

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2. The Commissioner of Prohibition and Excise,
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C.SARAVANAN, J

Sma

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