



W.P.No.19132 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.19132 of 2023

Human Rights and Consumer Protection Society  
Rep. by its General Secretary  
R.Muruganantham  
107, Lenin Street  
Kuyavarpalayam  
Puducherry 13.

.. Petitioner

Vs.

1. Deputy Commissioner (Excise)  
Government of Puducherry  
Puducherry.
2. M/s. Alankar Wines Private Limited (27/FL II)  
No.1, Mahatma Gandhi Road  
Muthialpet, Puducherry  
Also at  
No.106, Kamaraj Salai  
Thattanchavady  
Puducherry.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus forbearing the 1<sup>st</sup> respondent from



W.P.No.19132 of 2023

permitting the 2<sup>nd</sup> respondent to have the shop at No.106, Kamaraj Salai, Thattanchavady, Puducherry from No.1, Mahatma Gandhi Road, Muthialpet, Puducherry.

For the Petitioner : Mrs.S.Radha Gopalan

For the Respondents : Mr.S.Raveekumar  
Government Pleader (Pondy)  
for Respondent-1

Mr.J.Manoj Sreevalsan  
for Respondent-2

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mrs.S.Radha Gopalan, learned counsel for the petitioner, Mr.S.Raveekumar, learned Government Pleader (Pondy) for the first respondent and Mr.J.Manoj Sreevalsan, learned counsel for the second respondent.

2. The writ petition was filed on the premise that the wine shop of the second respondent proposed to be opened is within the prohibited distance from the Church and the National Highway.



W.P.No.19132 of 2023

WEB COPY

3. In the matter before the Apex Court in the case of *Kanagachettikulam Makkal Podhunala Eyakkam v. Union of India [SLP (C) No.10377 of 2022]*, it was observed by the Apex Court that the Rules applicable in the Union Territory of Puducherry permits the location of liquor shop beyond 100 meters of an educational institution and even temple/mosque. The Apex Court observed that the shop should be shifted beyond 500 meters. The review was sought by the Union Territory of Puducherry. The said order, it appears, has been reviewed and it has been observed that the prohibited distance would be 50 meters in such cases.

4. Learned counsel for the petitioner submits that still the distance is less than 50 meters between the Church and the wine shop proposed to be opened by the second respondent. It is only across the road. The Engineer has given a certificate that the distance is only 41 meters. Reliance is also placed on the google map to submit that the distance is only 35.9 meters between the Church and the shop to be established by the second respondent.



W.P.No.19132 of 2023

WEB COPY

5. Per contra, learned Government Pleader for the first respondent and learned counsel for the second respondent submit that the distance between the said Church and the proposed shop is 52 meters. Reliance is placed on the status report filed by the first respondent.

6. In a writ jurisdiction, it may not be possible for us to enter into the said disputed questions of fact. The distance has to be calculated considering the shortest pathway/lane/street/road generally used by the public and the same shall be measured from gate to gate as provided under Rule 113(2)(c).

7. We direct that the Commissioner (Excise) shall, under his supervision, direct the measurement of the distance from the religious institution as alleged in the presence of the second respondent and the petitioner and thereafter, take decision with regard to the location of the shop of the second respondent within the permissible limit and or prescribed limit as the case may be.



W.P.No.19132 of 2023

WEB COPY

8. With these observations and directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, W.M.P.No.18387 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

21.03.2024

Index : Yes/No  
Neutral Citation : Yes/No

kpl

To

Deputy Commissioner (Excise)  
Government of Puducherry  
Puducherry.



WEB COPY



W.P.No.19132 of 2023

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(kpl)

W.P.No.19132 of 2023

21.03.2024