

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23340 of 2024 &
W.M.P.No.25494 of 2024

1.M.Thilgavathi
2.M.Lakshmi ... Petitioners

Vs.

- 1.The Commissioner,
Prohibition and Excise Department,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.
- 2.The District Collector,
Thiruvalur District,
Thiruvallur.
- 3.The Sub Collector / Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri,
Thiruvallur District.
- 4.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi,
Tiruvallur District.
- 5.The District Manager,
TASMAC Limited,
Thiruvallur West District,
Thiruvallur - 602 603.

6.The Inspector of Police,
Gummidipoondi Police Station,
Gummidipoondi,
Tiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents and their subordinates from establishing / running the TASMACH Shop in the agricultural lands in S.No.573/1A, Irullar Colony, Old Gummidipoondi Village, Gummidipoondi Taluk, Tiruvallur District and consequently direct the respondents to implement the order of the fifth respondent dated 02.03.2024 in Na.Ka.No.Aa1/13/2024 by considering the objections of the petitioner, dated 01.08.2024.

For Petitioners : Mr.M.R.Jothimanian

For Respondents : Mr.P.Balathandayutham
Special Government Pleader
for R1 to R4 and R6

Mr.K.Balakrishnan
Standing Counsel for R5

ORDER

The petitioners, who are adjacent landowners to the proposed establishment of a TASMACH shop in Survey No. 573/1A, Irullar Colony, Old Gummidipoondi Village, Gummidipoondi Taluk, Tiruvallur District, have raised objections against the establishment of the said shop. They initially approached the authorities objecting to the establishment of the shop, which

was in an agricultural area. This objection was accepted, and the fifth respondent dropped the proposal vide proceedings dated 02.03.2024. However, the learned counsel for the petitioners contends that, due to political pressure, steps are now being taken to re-establish the same shop in the disputed location.

2. Mr.P.Balathandayutham, learned Special Government Pleader appearing for respondents 1 to 4 and 6, submits that the District Collector (second respondent), upon receiving a requisition from the fifth respondent, conducted a thorough inquiry and passed an order dated 23.08.2024 approving the establishment of the TASMAC shop with certain conditions imposed. He further submitted that there are no places of worship or educational institutions in the immediate vicinity.

3. Heard the learned counsel on both sides and perused the materials available on record.

4. Before delving into the specifics of the case, it is necessary to refer to Section 8 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003, which governs the location of TASMAC shops:

Section 8. Location of shop. – (1) *No shop shall be established within 50 meters in Municipal Corporations and Municipalities, and within 100 meters in other areas, from any place of worship or educational institution. However, this restriction does not apply to areas designated as "Commercial" or "Industrial" by Development or Town Planning Authorities. Additionally, no shop shall be established within the premises of any hotel. If any place of worship or educational institution is established after the opening of the shop, this rule will not apply retroactively. Furthermore, no liquor shops shall be established in tribal areas covered under the Integrated Tribal Development Project or Hill Area Development Project in the hill areas of Vellore, Salem, Namakkal, Dindigul, Tirunelveli, and Kanniyakumari districts.*

(2) *Every shop must be housed in a pucca building, and no part of the shop shall be thatched, either on the sides or the roof.*

(3) *The shop's location must be approved by the Collector before commencing business.*

It is pertinent to note that Rule 8(3) of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 mandates that no TASMAL shop can be established without the prior approval of the District Collector. In the present case, it is undisputed that the Collector, after conducting due inquiry, passed an order on 23.08.2024, granting approval for the establishment of the TASMAL shop, subject to certain conditions.

5. The prayer in the writ petition is to restrain the respondents from establishing the TASMAL shop in the disputed area. However, during the

pendency of the writ petition, the District Collector's approval has been granted, imposing certain conditions. In view of the fact that the District Collector has already granted approval for the establishment of the TASMACHOP shop, and the petitioners have been duly served with the order on 09.09.2024, the relief sought in this writ petition has become infructuous. The petitioners are at liberty to challenge the said order in the manner known to law, if they are so advised.

6. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, all connected miscellaneous petition is closed.

11.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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