



W.P.No.24380 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24380 of 2024
& W.M.P.No.26638 of 2024

M/s.Sree Balaji Traders,
Rep by its Partner, K.Sowmiya,
Having Office at No.18/37A-6,
R.K.S. Building,
Paramathi Road,
Namakkal 637 001.

... Petitioner

Vs.

- 1.The Additional Chief Secretary,
Home, Prohibition and Excise Department,
State of Tamilnadu, Fort St.George,
Chennai.
- 2.The Commissioner,
Office of Commissionerate of Prohibition and
Excise Department,
Chepauk, Chennai 600 005.
- 3.The Managing Director,
Tamilnadu State Marketing Corporation Ltd.,
Gandhi-Irwin Bridge,
Egmore, Chennai 600 008.



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4.National Industrial Corporation Private Ltd.,
Rep by its Executive Director,
Mr.Ved Prakash Gupta,
Office at #801-803, Ashokk Bhawan,
No.93, Nehru Place, New Delhi 110 019.

5.M/s.Golden Vats Pvt. Ltd.,
Rep by its Director,
No.272, 3rd Floor,
Avvai Shanmugam Salai,
Gopalapuram, Chennai 600 014.

6.M/s.Southern Agrifurane Industries Pvt. Ltd.,
Rep by its Managing Director,
No.1, 9th Cross Street,
Dr.Radhakrishnan Salai,
Chennai 600 004.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 and 2 to consider the representation dated 08.08.2024 and refrain the 1st respondent from processing any license for brand and label for the alcoholic product under the brand NICOLS “Black & Gold French Brandy VSOP” by adding or removing any words in the State of Tamilnadu during the tenure of license granted in GOMS No.42, (Home prohibition and excise III Department dated 04.11.2019).



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For Petitioner : Mr.V.Raghavachari, Senior counsel
for Mr.R.Rajarajan

For Respondent : Mr.P.Balathandayutham,
Special Government Pleader
for R1 & R2

Mr.K.Sathishkumar,
Standing counsel for R3

ORDER

This writ petition has been filed to direct the 1st and 2nd respondents to consider and dispose of the petitioner's representation dated 08.08.2024.

2. Mr.P.Balathandayutham, learned Special Government Pleader, takes notice on behalf of the respondents 1 and 2 and Mr.K.Sathishkumar, learned Standing counsel, takes notice on behalf of the 3rd respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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3. Mr.V.Raghavachari, learned Senior counsel appearing for the petitioner would submit that the petitioner had approached the 4th respondent, who is the owner of brand name NICOLS “Black & Gold French Brandy VSOP” and conveyed their desire to act as the Franchisee of the 4th respondent. In this regard, the 4th respondent issued a letter of exchange dated 13.09.2019 and the parties, viz., petitioner, 4th respondent and 5th respondent, had entered into the Franchise Agreement and the Tripartite Agreement. Subsequently, during the middle of the year 2022, a dispute arose between the parties with regard to the supply and payment. Under these circumstances, the 4th respondent had issued a termination notice dated 26.04.2023 to the petitioner. Aggrieved over the said termination notice, the petitioner filed a suit against the 4th respondent.

4. Further, he would submit that pending the aforesaid suit, the 4th respondent had entered into a fresh Franchise Agreement with the 6th respondent and some other 3rd parties, which is illegal since the brand and label “Black & Gold French Brandy VSOP” was already granted in



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the name of the 5th respondent vide the aforesaid Tripartite Agreement and Franchise Agreement. In this regard, the petitioner had given a detailed representation dated 08.08.2024 to the respondents 1 and 2. However, the same was not at all considered by them till date. Hence, this petition has been filed.

5. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that there is no proof with regard to the submission of the representation dated 08.08.2024 and hence, he requests this Court to direct the petitioner to furnish a copy of the said representation, so as to enable the respondents 1 and 2 to consider and dispose of the same. Hence, he requests this Court to pass any appropriate orders.

6. In reply, the learned Senior counsel for the petitioner would submit that the petitioner has already submitted his representation, however, he fairly submit that he will advise his client to provide a copy of the said representation to the concerned Authority.



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7. Heard the learned Senior counsel for the petitioner and the learned Special Government Pleader and the learned Standing counsel for the respondents 1 to 3 and also perused the materials available on record.

8. In the present case, it appears that contrary to the Tripartite and Franchise Agreement, the 4th respondent had entered into a fresh Franchise Agreement with the 6th respondent and some other 3rd parties. In this regard, a representation dated 08.08.2024 has also been made by the petitioner, however, the same was not considered by the respondents 1 and 2 till date. Further, it was submitted by the learned Special Government Pleader that no such representation was available with the respondents 1 and 2.

9. In view of the above, this Court directs the petitioner to furnish a copy of the representation dated 08.08.2024 to the respondents 1 and 2. Thereafter, the respondents 1 and 2 are directed to consider the said representation dated 08.08.2024 and dispose of the same on its own merits and in accordance with law within a period of 4 weeks from the



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date of submission of a copy of this said representation by the petitioner.

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10. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

27.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

- 1.The Additional Chief Secretary,
Home, Prohibition and Excise Department,
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Chennai.
- 2.The Commissioner,
Office of Commissionerate of Prohibition and
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KRISHNAN RAMASAMY.J.,

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