



W.P.No.26047 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.26047 of 2024

A.T.K.Perman

...Petitioner

-Vs-

The Commissioner,
Mahe Municipality,
Mahe – 673 310,
Union Territory of Puducherry.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in No.40-1/HTH/MMC/2023 dated 30.10.2023, and quash the same and direct the respondent to remove the locks put by the respondent on the shops belonging to the petitioner, namely, Door Nos.188B, 216A, 216B, 216C and 216D, Moolakadavu, Pandakkal, Mahe.

For Petitioner : Mr.R.Rajendran

For Respondent : Mr.V.Vasanth Kumar
Additional Government Pleader
Assisted by Mr.Ramasamy Meyappan
Government Advocate



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ORDER

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This writ petition has been filed challenging the order dated 30.10.2023, passed by the respondent thereby suspended the licence for soda making functioning at building No.MMC.XIV/188B, Moolakadavu, Pandakkal, Mahe and kept the premises under lock and seal.

3. The petitioner is the owner of five shops bearing door Nos. 188B, 216A, 216B, 216C and 216D situated at Moolakadavu, Pandakkal, Mahe. Except the shop bearing door No.188 B, other shops were rented out. The petitioner was issued with trade license No. 4020200179/MM/2022-23 for running business for sale of fast food and soda making in the building No.MMC.XIV/188B, Moolakadavu, Pandakkal, Mahe. The license was finally renewed till 31.03.2024. While being so, the petitioner involved in other business of tobacco products in the same premises licensed for making soda and other fast foods. Therefore, the petitioner's license was suspended from 30.10.2023 and kept the premises under lock and seal. Aggrieved by the same, the petitioner filed the present writ petition.



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3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. It is seen that the petitioner is an habitual offender and committing offence under Section Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as “COTPA Act”) in which the petitioner was already convicted in three cases. In one case, in Crime No.59 of 2023 registered for the offence under Section 6(a) r/w 24(1) of COTPA Act, the investigation is pending.

5. That apart, the respondent has got power under Section 376 of Pondicherry Municipality Act, 1973 to close private markets. As per the said Section, the council or any officer duly authorised by it in that behalf may close any private market in respect of which no licence had been applied for or the licence for which has been refused, withheld or suspended or which is held or kept open contrary to the provisions of this Act or the rules made thereunder. Therefore, the respondent suspended



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the licence of the petitioner issued for the business of selling fast food and soda making by an order dated 30.10.2023. In pursuant to the order, the premises of the petitioner was under lock and seal.

6. Now the period of license got expired as on 31.03.2024. Therefore, there is no licence in favour of the petitioner for selling fast food and soda making. Therefore, the shops of the petitioner cannot be continued under lock and seal.

7. Considering the facts and circumstances, the respondent is directed to remove the lock and seal of the petitioner's premises in building No. MMC.XIV/188B, Moolakadavu, Pandakkal, Mahe, within a period of two weeks from the date of receipt of a copy of this Order. It is made clear that the removal of lock and seal by the respondent is only after obtaining clearance from the investigation officer, in pursuant to the registration of crime No.59 of 2023 registered for the offence under Section 6(a) r/w 24(1) of COTPA Act, on the file of the Station House, Palloor Police Station, Mahe.



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8. With the above directions, the Writ Petition stands disposed of. There shall be no orders as to costs.

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

rts

To

The Commissioner,
Mahe Municipality,
Mahe – 673 310,
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G.K.ILANTHIRAIYAN. J,

rts

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