



W.P.(MD).No.22566 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.01.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD).No.22566 of 2023
and W.M.P.(MD).Nos.18813, 18814 of 2023

Tamil Nadu FL2 Urimatharargal Sangam,
Rep. by its President M.C.Veerapandian,
S/o.Chinnasamy Thevar,
Having Office at D.No.21B/14, Kulalar Complex,
1st Floor, L.F.Road, Uthamapalayam Taluk,
Cumbum 625 516, Theni District.

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai 600 009.
- 2.The Commissioner,
Prohibition and Excise Department,
Ezhilagam, Chepauk,
Chennai 600 005.
- 3.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC)
4th Floor, CMDA Tower-II,
Egmore, Chennai 600 008.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned letter issued by the first respondent in D.O Letter No.11637/H.P&E(VII)2023, 22.08.2023 and quash the same in so far as para 'v' in the impugned letter is concerned.

For Petitioner : Mr.ARL.Sundaresan, Sr. Advocate
for Mr.T.Bashyam

For Respondents : Mr.D.Ravichander,
1, 2 Spl. Government Pleader

For Respondent 3 : Mr.K.Sathish Kumar

ORDER

By this writ petition, the petitioner impugns letter dated 22.08.2023 of the first respondent with regard to surprise inspection by Revenue Divisional Officers (RDOs) and Deputy Collectors of clubs in respect of FL-2 licences. The petitioner states that it is a registered society under the Tamil Nadu Societies Registration Act



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and that it obtained a FL-2 liquor licence under the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 (the TN Liquor Licence Rules). By asserting that the Commissioner, Prohibition and Excise Department, is the licensing authority and that, therefore, the power of suspension or cancellation of the FL-2 licence cannot be exercised by RDOs and Deputy Collectors, the present writ petition was filed.

2. Mr.ARL Sundaresan, learned senior counsel, submits that a detailed interim order was issued on 26.09.2023. The said order held that RDOs and Deputy Collectors may inspect the premises of the petitioner, but they cannot suspend or revoke the licence since such power is vested in the licensing authority under Rule 22 of the TN Liquor Licence Rules. He further submits that the petitioner's grievance would be redressed if a similar order is issued by way of a final order.

3. Mr.D.Ravichander, learned Special Government Pleader, submits that the communication impugned by the petitioner does not



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in any manner contravene powers vested in the first respondent under the TN Liquor Licence Rules. By referring to the impugned communication, Mr.D.Ravichander points out that it merely directs surprise inspection by RDOs and Deputy Collectors. As per Rule 34(5), he submits that officers equal to or above the rank of Inspector of Police of the Police Department and Deputy Tahsildar of the Revenue Department are statutorily to empowered to undertake such inspection. Therefore, he submits that the writ petition is liable to be dismissed.

4. Rule 34(5) of the TN Liquor Licence Rules is as under:

"Notwithstanding the provisions of Rule 25-XII in Chapter IV of these Rules, the officers competent to inspect licences in Form F.L.2 shall be officers of and above the rank of Inspector of Police of the Police Department and Deputy Tahsildar of Revenue Department."

5. Rule 22, which deals with cancellation or suspension of



licence, is as under:

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"22. Cancellation or suspension of licenses:-

(1) *The licensing authority may, after giving in writing to the licence holder an opportunity to show cause within a reasonable time not exceeding 14 days against the action proposed to be taken or order proposed to be issued, stating the reasons there for, by an order in writing specifying the reasons, cancel the licence under these rules or suspend it for such period as it thinks fit, if in its opinion, the licence holder has failed to comply with any of the conditions of the licence or of any of the provisions of the Act or the rules made thereunder.*

(2) *Notwithstanding anything contained in sub-rule (1), the licensing authority may temporarily suspend the licence for a period not exceeding 90 days pending framing of charges for violation or irregularities noticed. In such a case, the reason for suspension shall be communicated to the licence holder within 5 days from the date of suspension.*

(3) *When a licence is canceled or suspended or temporarily suspended or is not renewed after its expiry the licence holder shall not sell, use or otherwise dispose of any of the stock of liquor or medicated wine held by him under the licence at the time of such cancellation, suspension, temporary suspension or expiry and shall abide*



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the orders of licensing authority regarding the disposal of such stock. The licence holder shall not also be entitled to claim any compensation on account of cancellation, suspension, temporary suspension or non-renewal of the licence."

6. On examining the above rules, it is clear that any officer equal to or above the rank of Inspector of Police of the Police Department and Deputy Tahsildar of the Revenue Department may undertake inspection of FL-2 licensee's premises to ascertain whether the licensee is functioning in accordance with the terms and conditions of such licence. As regards suspension and cancellation, Rule 22 confers the power on the licensing authority. The licensing authority is the Commissioner, Prohibition and Excise Department. By noticing the statutory scheme, by interim order dated 26.09.2023, this Court held that the RDO, Deputy Collector and Executive Magistrate may exercise the power of inspection, but cannot suspend or cancel the FL-2 licence.

7. Since the impugned communication was not issued by



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exceeding powers conferred on the RDO and Deputy Collector under the TN Liquor Licence Rules, this writ petition is disposed of by recording that any action against the petitioner, if intended to be taken, shall be taken strictly in accordance with the above rules. No costs. Consequently, W.M.P(MD).Nos.18813, 18814 of 2023 are closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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Fort St. George, Secretariat, Chennai 600 009.
- 2.The Commissioner, Prohibition and Excise Department,
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