



WEB COPY



W.P.No.35759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.35759 of 2024

and

W.M.P.Nos.38633 & 38635 of 2024

Sri Nithya Pranava Roopananda
@ J.Kalaiyaran

... Petitioner

Vs.

- 1.The Commissioner,
Prohibition and Excise,
Ezhilagam,
Chennai.
- 2.The District Collector,
O/o. The District Collector of Kanchipuram,
Kanchipuram.
- 3.TASMAC Limited,
Represented by its Managing Director,
CMDA Tower-II, IV Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.



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4.The Regional Manager,
TASMAC Limited,
#735, IV Floor, L.L.A. Building,
Anna Salai,
Chennai – 600 002.

5.The District Manager,
TASMAC Limited,
Kancheepuram South,
Sembarabakkam,
Chennai – 600 123.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuance of the impugned order passed by the 2nd respondent in Na.Ka.2775/2024/V1, dated 04.11.2024, and quash the same as arbitrary, illegal, unjust in law and consequently, direct the respondents not to open the TASMAC wine shop in the proposed location at Patta No.26/2, comprised in S.No.271/2A3D, Walajabad Village, Kanchipuram District.

For Petitioner	:	Mr.R.Singaravelan Senior Counsel for Mr.M.Manimaran
For R1 and R2	:	Mr.A.Edwin Prabakar State Government Pleader assisted by Mr.Habeeb Rahman Government Advocate
For R3 to R5	:	Mr.K.Balakrishnan Standing Counsel



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order of the 2nd respondent dated 04.11.2024 rejecting the objection raised by the petitioner against opening of TASMACH Shop at Patta No.26/2, comprised in S.No.271/2A3D, Walajabad Village, Kanchipuram District.

2.The only grievance of the petitioner is that, though the petitioner has substantial documents to show that the proposed TASMACH Shop is within the prohibited distance and the establishment of TASMACH Shop will be more injurious to the public, the petitioner was not given sufficient opportunity. It is the contention of the learned Senior Counsel appearing for the petitioner that, without giving sufficient time for the appearance of the petitioner, the enquiry was conducted and that therefore, the petitioner is unable to convince the respondents about the serious public inconvenience and the statutory prohibition.



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3. In such circumstances, without expressing any opinion on the merits of the contentions of the petitioner, this Court sets aside the impugned order of the 2nd respondent, dated 04.11.2024, not on merits, but on principles of natural justice. The District Collector/2nd respondent shall issue fresh notice to the petitioner giving atleast two weeks to the petitioner for attending the enquiry. After hearing the petitioner and other members of public, if any, and persons who may have interest, the District Collector shall pass a detailed order afresh within a period of 16 weeks after the enquiry. It is now reported that the Shop has already been opened. If that is so, the Shop shall function till such time the District Collector takes a decision one way or the other, and this order will not be treated as one to close the Shop which is now functioning. However, functioning of the Shop will be subject to the outcome of the order that may be passed by the District Collector.

4. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (M.S.K., J.)
19.12.2024

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Internet : Yes

Index : Yes

Neutral Citation : Yes

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