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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.01.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.36300 of 2023

M/s.Siva Sakthi Stores
rep. by its Proprietor
T.Jayakumar

.... Petitioner

Vs

1. State Rep. by
Tamil Nadu Food Safety and Drug Administration
Department,
Director of Food Safety, Chennai.
2. State Rep. by
The District Collector, Coimbatore.
3. State Rep. by
The Deputy Superintendent of Police,
Coimbatore.
4. The Food Safety Officer,
Corporation Central Zone Office Building,
Hazur Road, Gopalapuram,
Coimbatore – 641 018.
5. The Sub-Inspector of Police,
Methupalayam Police Station,
Coimbatore.



.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to open the shop at No.19A/7, Vettai Thottam, Keeranatham Post, Coimbatore – 641 035.

For Petitioner : Mr.M.V.Bibin Mahen

For Respondents : Mr.Vadivelu Deenadayalan

Additional Government Pleader

ORDER

Mr.Vadivelu Deenadayalan, learned Additional Government Pleader accepts notice for the respondents and is armed with instructions to enable final disposal of this Writ Petition, even at the stage of admission.

2. The petitioner claims to be the owner of a shop registered under the name and style of Siva Sakthi Stores at 19A/7, Vettai Thottam, Keeranatham Post, Coimbatore – 641 035 (in short 'shop'/'shop in question'). There was an inspection of the shop in question by the Food Safety Officer, Coimbatore/R4 and Inspector of Police, Coimbatore/R5 and on 05.12.2023 at 6.00 p.m. The respondents are proceeded as though there were banned illegal tobacco products in the shop, whereas it is the case of the petitioner that, in fact, it is the respondents who have planted the tobacco products and that he is innocent.



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3. There is thus a serious dispute in regard to the factual position that arises in this matter. The petitioner has also placed photographs taken from the CCTV footage which show the respondents in the shop itself holding a white bag. No immediate inference can be drawn from those photographs in this Writ Petition as to which version of the events put forth is correct; whether that of the petitioner or the respondents. This court thus believes it appropriate to leave the matter to the authorities to be looked into and ascertain the truth.

4. In light of the above, mandamus as sought for, directing respondents to open the shop even while enquiry is on-going cannot be considered or granted.

5. Mr.Vadivelu, on instructions, states that the enquiry on Cr.No.517 of 2023 for offences under Section 24(1) of the Cigarette and other Tobacco Products Act, 2003 is on-going. In such circumstances, there is a direction to R5 to conduct enquiry within a period of four (4) weeks from date of receipt of a copy of this order.

6. An order has been passed by R4 on 05.12.2023 sealing the premises which is appealable. The petitioner is granted liberty to challenge the order by way of statutory appeal in accordance with the relevant provision of the Food Safety and Standards Act, 2006 and Food Safety and Standards Rules and Regulations, 2011.



7. Since the petitioner is unaware about the limitation prescribed, for appeal, its interests are protected by granting two weeks (2) from today to file an appeal against order dated 05.12.2023, if so inclined. Let the appeal, if filed within the stipulated period as aforesaid, be taken on file by the appellate authority without reference to limitation but ensuring compliance with all other statutory conditions, heard and disposed in accordance with law.

8. This Writ Petition is dismissed with observations and liberty as above.

No costs.

04.01.2024

Index : Yes/No

Speaking Order: Yes

Neutral Citation: Yes

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To

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2. State Rep. by
The District Collector, Coimbatore.
3. State Rep. by
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Dr.ANITA SUMANTH,J.

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