



W.P.(MD) No.12607 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.07.2024

CORAM:

THE HONOURABLE **MR.D.KRISHNAKUMAR,**

THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.12607 of 2024

and

W.M.P.(MD)No.11226 of 2024

Aajik Arabukani

... Petitioner

-Vs-

- 1.The District Collector,
Theni District, Theni.
- 2.The Inspector General of Police,
Dindigul Range, Dindigul.
- 3.The Superintendent of Police,
Theni District, Theni.
- 4.The Deputy Superintendent of Police,
(PEW) Theni Circle, Theni District.
- 5.The Assistant Commissioner,
Excise Department,
Collectorate, Theni.
- 6.The District Manager,
TASMAC, Karuvelnaickkanpatty,
Theni Town, Theni District.

Page 1 of 9



W.P.(MD) No.12607 of 2024

7.M.Muthuganapathy
8.Karthick

9.The Inspector,
Palanichettypatty Police Station,
Theni.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 herein to close the TASMACH Shop No.8576 in Boothipuram road, Palanichettypatty indulging in illegal liquor sales and causing hardship to public and residence and take action against the respondents 7 to 9 for illegal liquor sales within TASMACH premises in morning hours and voluntarily not taking any action and failed to discharge their statutory duties, considering the petitioner's representation dated 09.05.2024.

For Petitioner	: Mr.S.Sivakumar
For R1 & R5	: Mr.P.Thilakkumar, Government Pleader
For R2 to R4 & R9	: Mr.T.Senthil Kumar, Additional Public Prosecutor
For R6	: Mr.S.Sivanesan, Standing Counsel

ORDER

[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]

The prayer sought for in this Writ Petition is to direct the respondents
1 to 6 to close the TASMACH Shop No.8576 in Boothipuram road,



W.P.(MD) No.12607 of 2024

Palanichettypatty, where illegal liquor sale is going on, which causes hardship to public and residence and to take action against the respondents 7 to 9 for illegal liquor sales within TASMALC premises in morning hours and voluntarily not taking any action and failed to discharge their statutory duties, by considering the petitioner's representation dated 09.05.2024.

2.The learned Government Pleader for the official respondents, by relying upon the status report filed by the 1st respondent, would submit that the petitioner is involved in selling liquor illegally, for which, he had also paid fine amount of Rs.1000/-. Further, there are about 6 FIRs lodged against him for the illegal selling of liquor and he has not approached this Court with clean hands. Therefore, this Writ Petition is liable to be dismissed.

3.He would further submit that the Shop Nos.8576 and 8516 are operating at locations within the limits from National Highways and away from schools, colleges, religious places of worship, hospitals, residential areas etc., as per the prescribed rules and code of TASMALC Corporation and there is no illegality committed by the said TASMALC shops as alleged by the petitioner.



W.P.(MD) No.12607 of 2024

WEB COPY

4. In view of the said submissions made by the learned Government Pleader, we are of the view that the petitioner has no *locus standi* to file this Writ Petition as Public Interest Litigation by questioning the act of the 3rd party, who is illegally selling liquors beyond the permitted time period and he has not approached this Court with clean hands. Therefore, he is not entitled for any relief.

5. Further, the petitioner has not satisfied the parameters as held by the Hon'ble Supreme Court in *Ashok Kumar Pandey vs. State of West Bengal and others* reported in (2004) 3 SCC 349, wherein the Supreme Court at paragraph No.16, held as follows:-

“16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal



WEB COPY

of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of the so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the



message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.”

WEB COPY

6.Public interest litigation is an extremely important jurisdiction exercised by the Supreme Court and the High Courts. The Apex Court in ***Neetu v. State of Punjab, (2007) 1 SCC 614***, held that when a particular person is the object and target of a petition styled as public interest litigation, the Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other *mala fide* object.

7.That apart, in State of ***M.P. Vs. Narmada Bachao Andolan, (2011) 7 SCC 639***, the Apex Court has held as follows:-

"13. Strict rules of pleading may not apply in PIL, however, there must be sufficient material in the petition on the basis of which the court may proceed.

The PIL litigant has to lay a factual foundation for his averments on the basis of which such a person claims the reliefs. The information furnished by him should not be vague and indefinite. Proper pleadings are necessary to meet the requirements of the principles of natural justice. Even in PIL, the litigant cannot approach the court to have a fishing or roving enquiry. He cannot claim to have a chance to establish his claim. However, the



W.P.(MD) No.12607 of 2024

technicalities of the rules of pleading cannot be made applicable vigorously. Pleadings prepared by a layman must be construed generously as he lacks the standard of accuracy and precision particularly when a legal wrong is caused to a determinate class.”

8.In view of the above said decisions, this Writ Petition is dismissed. It is made clear that if there is any illegal activity of selling liquor in the nearby places, the concerned authority of the TASMAC shop shall make a complaint before the authority concerned for taking necessary action. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., A.C.J.] & [R.V., J.]
19.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

- 1.The District Collector,
Theni District, Theni.
- 2.The Inspector General of Police,
Dindigul Range, Dindigul.



W.P.(MD) No.12607 of 2024

3.The Superintendent of Police,
Theni District, Theni.

4.The Deputy Superintendent of Police,
(PEW) Theni Circle, Theni District.

5.The Assistant Commissioner,
Excise Department,
Collectorate, Theni.

6.The Inspector,
Palanichettypatty Police Station,
Theni.



WEB COPY



W.P.(MD) No.12607 of 2024

D.KRISHNAKUMAR, A.C.J.

AND

R.VIJAYAKUMAR, J.

Yuva

W.P.(MD)No.12607 of 2024

19.07.2024