



W.A.(MD).No.1311 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A(MD)No.1311 of 2016

and

C.M.P.(MD) No.9207 of 2016

1. The District Manager,
TASMAC,
Nagercoil.

2.Mathiselvam

... Appellants

vs.

K.Vargheesh

... Respondent

PRAYER: Writ Appeal is filed under Clause XV of Letters Patent against the order passed by this Court dated 07.04.2016 passed in W.P. No.9605 of 2008.

For Appellants : Mr.S.Sivanesan

For Respondent : No appearance



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J U D G M E N T

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN,J.**)

This Writ appeal has been filed against the order of the learned single Judge passed in W.P.(MD).No.9605 of 2008, dated 07.04.2016, wherein the petitioner has challenged the order of the first respondent dated 14.12.2007 and to quash the same and consequently direct the first respondent to return the deposit amount of Rs.64,730/- to the writ petitioner.

2. According to the writ petitioner, he is the licence holder to sell snacks and to collect empty bottles in retail Vending TASMAL shop No. 4846 at Attor, Kanniyakumari District. In the bar, an inspection team attached with the appellant Corporation made an inspection on 18.07.2005 and found that the respondent sold prohibited liquors without bearing label. Hence, they preferred a complaint before the jurisdictional police and the same was registered. Subsequently, an order has been passed by the District Manager, TASMAL Limited, Nagercoil in Petition



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No.724/03, dated 20.07.2005, cancelling the licence and thereafter the impugned order dated 14.12.2007 has been passed. Challenging the same, the respondent has filed the writ petition before this Court seeking to quash the same and consequently direct the first respondent to return the deposit amount of Rs.64,730/- to him. In spite of the specific stand taken by the appellant Corporation that there was no challenge to the cancellation of licence and hence the present writ petition was not maintainable, the learned single judge of this Court allowed the writ petition and directed the first respondent to refund the deposit amount within a period of three months from the date of receipt of a copy of that order. Challenging the same, the present writ appeal has been filed.

3. The learned counsel appearing for the appellants would submit that the learned single judge has committed two errors in this case and the first one is he has not properly appreciated the report submitted by the analyst and the second one is without challenging the order of cancellation of licence and the seizure of earnest money, the subsequent order is not challenged by the writ petitioner. In spite of the notice served



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upon the respondent, he has not appeared either in person or through counsel. Hence the matter has to be decided on merits.

4. Heard the learned counsel appearing for the appellants and perused order passed by the learned single Judge.

5. As rightly pointed out by the learned counsel for the appellant Corporation that the licence was cancelled on 20.07.2005. Thereafter, as per the tender condition, the impugned order has been passed on 14.12.2007. In the circumstances, the learned single Judge has committed an error in entertaining the writ petition, when there was no challenge for cancellation of licence dated 20.07.2005. The learned single Judge has also committed an error in not properly appreciating the analysis report. As per the tender condition, the respondent's licence was properly cancelled and the impugned order was passed. Hence this Court is inclined to allow the writ appeal.



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6. In the result, this Writ Appeal is allowed and the impugned order passed by the learned single Judge in W.P.(MD)No.9605 of 2008, dated 07.04.2016 is set aside and the appellant Corporation is directed to proceed as per the impugned order, after giving adequate opportunity to the respondent herein. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] & [K.K.R.K.,J.]

29.02.2024

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

akv

To

The District Manager,
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