



W.P.(MD)No.22250 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.22250 of 2024

and

W.M.P(MD)Nos.18803 & 18804 of 2024

A.Boopathiraja

...Petitioner

-Vs-

1.The Food Safety Officer,
Karunkulam, Seithunganallur Union Office Campus,
Srivaikundam Taluk,
Thoothukudi District.

2.The Designated Officer,
(TNFS and DA department),
Collectorate Campus,
Thoothukudi District – 628 101.

3.The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order Na.Ka.No. 3246/A2/2024 dated 06.09.2024 issued by the 2nd respondent and quash the same as illegal and consequently directing the 2nd respondent to remove the lock and seal and permit the petitioner to open his Gramuthu Virundu Hotel situated at Vasavapuram, Thoothukudi within stipulated time.



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For Petitioner : Mr.M.Perumal

For Respondents : Mr.D.Gandhi Raj
Special Government Pleader
for RR1 & 2
Mrs.M.Aasha
Government Advocate(Crl.side) for R3

ORDER

This writ petition has been filed challenging the order dated 06.09.2024, thereby sealed the premises of the petitioner's hotel on the ground that the petitioner is running the hotel without license and also sold banned tobacco products.

2.The petitioner is doing the hotel business in the name and style of Gramuthu Virundhu Hotel at Vasavapuram, Thoothukudi District. While being so, on inspection, it was found that the petitioner had sold the tobacco products and seized 3 pockets of banned tobacco products. Therefore, FIR was registered in Crime No.72 of 2024 for the offence under Section 24(1) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 as against the person who was in occupation.



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3. On perusal of the registration of FIR, the second respondent inspected the premises and found that the petitioner has no license to run the hotel and also sold the banned tobacco products in the hotel premises. Therefore, the second respondent has sealed the hotel premises, by an order dated 06.09.2024.

4. The learned Counsel appearing for the petitioner would submit that due to illness of the family members, the petitioner could not be able to renew the license of the hotel. Further, the case was put up as against the petitioner in order to garnish the name of the petitioner's hotel. The FIR was registered as against the tea master and the petitioner is nothing to do with the tobacco products.

5. On perusal of the counter filed by the first respondent and the submission made by the learned Special Government Pleader reveals that admittedly, the petitioner has not possessed any license on the date of inspection namely 06.09.2024. The petitioner was granted license finally on 29.07.2021 and the same was valid upto 28.07.2022. Thereafter, the petitioner failed to renew the same and he has submitted an application for renewal of his license only on 11.09.2024 and the same is pending on the file of the first respondent. The said application was filed after sealing of his hotel. Further,



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FIR was registered as against the person who was in charge of the petitioner's hotel in Crime No.72 of 2024 for the offence under Section 24(1) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, on the file of the Inspector of Police, Murappanadu Police Station, Thoothukudi District and it is pending for investigation.

6.As per the order dated 04.01.2024, issued by the Tamil Nadu Food Safety and Drug Administration Department, if any banned food products found and seized less than the sample quantity and if it is the first time offence, the penalty can be imposed to the tune of Rs.25,000/-. The petitioner is the first time offender and had seized the tobacco products less than the sample quantity.

7.Considering the above facts, the first respondent is directed to impose a fine on the petitioner in accordance with law the order passed by the Tamil Nadu Food Safety and Drug Administration Department, dated 04.01.2024. The first respondent is also directed to consider the application submitted by the petitioner for license, dated 11.09.2024 and pass orders on merits and in accordance with law within a period of one week from the date of receipt of a



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copy of this order. If the petitioner is granted for license, the first respondent is directed to remove the lock and seal and permit the petitioner to operate his business.

21.11.2024

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

Note: Issue order copy on 25.11.2024



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To

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G.K.ILANTHIRAIYAN. J,

RJR

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