



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.23385 of 2024

and

W.M.P(MD)Nos.19784 & 19786 of 2024

S.Anthony Dhass

... Petitioner

Vs

1.The District Collector,
Office of the District Collector,
Madurai District.

2.The District Manager,
Tamil Nadu State Marketing Corporation Limited(TASMAC),
Madurai North TASMAC Office,
Madurai District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 2nd respondent vide in Na.Ka.No. 10/2024/A3, dated 05.08.2024 and quash the same as illegal and unconstitutional and consequently direct the respondents herein to open the TASMAC Shop No.5123 and attached Bar and running the business as usual and pass such further or other orders as this Court.

For Petitioner : Mr.S.Ramakrishnan
for Mr.K.Rajesh

For Respondents : Mr.R.Sureshkumar
Additional Government Pleader for R1
Mr.H.Arumugam
Standing Counsel for R2



ORDER

WEB COPY This writ petition has been filed challenging the order passed by the second respondent to close the shop No.5123 from 06.08.2024 based on the complaints that have been received by the Chief Minister Cell.

2.The petitioner is awarded contract for running a bar attached to the shop. It is the case that the second respondent does not have power to close the shop and it is only the first respondent who can close the shop. Further, he would submit that the shop is also open only with the permission from the District Collector and only with the approval of the District Collector, he was also awarded the contract. Without approval of the District Collector, the second respondent cannot unilaterally close the shop. Therefore, he had also made a representation to the District Collector to reopen the shop and that the District Collector has to consider his representation.

3.Countering his submission, the learned Standing Counsel appearing for the second respondent would submit that opening the shop, permission of the Commissioner of Prohibition and Excise is required and the District Collector has no authority to open the shop. The District Collector utmost could have to give no objection to open the shop in a particular location that would not entitle the District Collector to have authority for opening the shop.



4.The power of the District Collector available under the provision of the Tamil Nadu Liquor Retail Vending(In Shops and Bars) Rules, 2003 only enables the District Collector to give permission to shift the shop and not for opening the shop. Therefore, he would submit that there is no necessity to even direct the District Collector to consider the representation as it is the prerogative of the second respondent to close the shop, since the public representation to close the shop, the shop was closed.

5.The learned Additional Government Pleader appearing for the first respondent would submit that the District Collector does not have authority to open the shop as the same lies only with the Commissioner of Prohibition and Excise. An application made by the second respondent would be considered by the Commissioner of Prohibition and Excise for considering the report of the District Collector for opening the shop, license would be granted by the Commissioner of Prohibition and Central Excise. Hence, even if the representation of the petitioner is considered by the first respondent, the first respondent may not in a position to open the shop.

6.I have carefully considered the submission made on either side and perused the materials available on record.



7.As rightly pointed out by the learned Counsel appearing for the respondents, the Collector does not have authority to grant license for opening of the TASMAL shop. It is for the second respondent to take a decision to open the shop and to close the shop and it is for the Commissioner of Prohibition and Central Excise to consider the request of the second respondent for opening and closing the shop.

8.In such event, the direction could not be granted to the first respondent to consider the representation of the petitioner for re-opening the shop that had been closed by the second respondent. In such circumstances, the writ petition as prayed by the writ petitioner cannot be entertained. However, liberty is granted to the petitioner to approach the appropriate authorities to redress his grievances in the manner known to law.

9.With the above said liberty, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

13.11.2024

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



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To

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2.The District Manager,
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Madurai District.



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K.KUMARESH BABU, J.

RJR

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