



WP(MD)No.25390 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.25390 of 2019

and

WMP(MD)No.21953 of 2019

M.Santhanam

... Petitioner

Vs

**The District Manager,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Tirunelveli,
Tirunelveli District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.R.1/516/2019, dated 02.11.2019, quash the same.

For Petitioner : Mr.L.Shaji Chellan

**For Respondent : Mr.S.Sivanesan,
Standing Counsel**



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ORDER

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The petitioner, who is working as a salesman in a TASMAL outlet has filed this writ petition as against the order of punishment imposed on the petitioner dated 02.11.2019.

2.The District Manager of TASMAL is said to have conducted a surprise inspection in the TASMAL outlet in which the petitioner was working on 22.10.2019. The petitioner is said to have sold the liquor viz., Royal Accord Beer (600ml) for Rs.130 against the maximum retail price (MRP) of Rs.120/-. Since the petitioner has indulged in selling the liquor for excess price, the petitioner was imposed with a penalty of Rs.10,000/- with GST RS.1,800/- by order dated 02.11.2019 as per the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited – 2014. The petitioner has challenged the order of punishment that without issuing any charge memo, without conducting any enquiry and without providing an opportunity of hearing to him, the punishment has been imposed.



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3.The learned Counsel appearing for the respondent TASMAC submits that the District Manager had conducted a surprise inspection on 22.10.2019 and detected the fraud committed by this petitioner. On enquiry, the petitioner has admitted his guilt and therefore, the District Manager has proceeded as per Clause 7(b) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited – 2014, which enables the disciplinary authority to impose punishment or penalty or both on any person for misconduct, proved or admitted by him depending upon the gravity of the misconduct proved or admitted.

4.According to the learned Counsel for the respondent, since the petitioner has admitted the guilt, the District Manager has imposed the penalty as per Clause 7(b) of the Code of Prevention and Detection of Fraudulent Acts in Tamil Nadu State Marketing Corporation Limited.

5.Based on this submission of the learned Counsel for the respondent, this Court suggested the respondent to produce the statement or letter given by the petitioner admitting his guilt. The respondent is not having any such letter given by the petitioner. The learned Counsel for the respondent referred to the proceedings of the District Manager, wherein he has recorded



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that this petitioner has admitted the guilt. But it is denied by the petitioner.
the petitioner.

6.If the petitioner had admitted the guilt, a separate statement or letter ought to have been obtained from the petitioner by the District Manager. In the absence of any letter given by the petitioner admitting his guilt, the order of punishment imposed on the petitioner as per Clause 7(b) of the Code, may not be proper. The petitioner was imposed with a punishment of penalty on the charges that he had sold the liquor for excess price than the maximum retail price, without conducting any enquiry. When the authority imposing the punishment, a proper enquiry should have been conducted. Therefore, this impugned order is set aside. The respondent is directed to conduct an enquiry and pass orders after providing an opportunity of hearing to the petitioner.

7.The writ petition is disposed of in the above terms. No costs. Consequently connected miscellaneous petition is closed.

26.11.2024

Internet : Yes / No
DSK



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To
The District Manager,
Tamil Nadu State Marketing
Corporation Limited (TASMAC),
Tirunelveli,
Tirunelveli District.



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B.PUGALENDHI.J.,

DSK

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