



W.P(MD)No.31343 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.31343 of 2023 and
WMP(MD) Nos.26897 and 26899 of 2023

Rajivkumar. P

... Petitioner

Vs

1.The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Theni,
Theni District.

2.Mokkaisamy.R

...Respondents

PRAYER :Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 1st Respondent bearing Na.Ka.No. 0876/2023/A5 dated 20.12.2023 and quash the same as illegal and consequently direct the 1st Respondent to issue the Bar license to the petitioner for Shop No. 8612, Boothipuram, Bodinayakkanur taluk, Theni District, for the period between 20.12.2023 to 31.12.2025 within the time stipulated by this Court.



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For Petitioner : Mr.R.Shankar Ganesh
For R1 : Mr.S.Sivanesan
For R2 : Mr.R.Manickam

ORDER

The petitioner has participated in an E-tender called for by the District Manager, Tamil Nadu State Marketing Corporation Limited(TASMAC), Theni District, vide notification dated 06.10.2023 for collection of empty bottles and selling of eatables in the Shop No.8612, Boothipuram Village. One of the conditions stipulated in the tender notification, dated 06.10.2023 is that the successful bidder has to submit No Objection Certificate from the owner of the building or Rental Agreement within seven days from the date of issuance of offer letter. The shop No.8612 is situated in Plot No.3 in Survey No.349/14. The petitioner claims that he is having No Objection Certificate from the owner of the building, where the TASMAC bar is situated. However, he has not been considered by the first respondent and the licence has been granted in favour one Mokkaishamy/the second respondent herein that he is the highest bidder. The petitioner said to have quoted Rs.1,25,000/-,



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whereas, the second respondent has quoted Rs.1,55,651/-. According to the petitioner, the first respondent has issued the licence in favour of the second respondent without considering the tender conditions that the successful bidder must possess No Objection Certificate from the land owner of the building where the Bar is situated. Therefore, the petitioner is before this Court.

2.The learned counsel appearing for the petitioner has relied on the orders of the Division Bench of this Court, in *the Managing Director, Tamil Nadu State Marketing Corporation Limited vs. P.Sangeetha and 34 others*, reported in **2023 (6) CTC 785**, where, a similar issue has been decided that the successful bidder has to obtain No objection Certificate from the building owner, where the Bar situates or from the building owner, who are having adjacent property. He has also relied on the another order of this Court in WP(MD) No. 31326 of 2023, dated 05.01.2024.



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3.The learned counsel further submits that the word “adjoining” is also defined by the Division Bench as "premises located immediate left side/right side/back side of the shop or immediate top floor, or immediately bottom floor to the shop and in all cases the Bar Premises walls should physically touch any wall of the retail vending shop”. The learned counsel has also relied on Oxford Dictionary for the meaning of the word "adjoining” and submits that it means “next to or joined to something”. The learned counsel has also relied on Rule 10 of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules 2003 in support of his contentions.

10.Location of Bar –

- (1) The bar shall lie within the shop or adjoining the shop.
- (2) The bar shall have a minimum plinth area of fifteen square metres. The requirement of plinth area for any bar exceeding fifteen square metres shall be decided by the Collector.
- (3) Every bar shall be housed in pukka building and no part of the bar shall be thatched either on the sides or on the roof. The bar room shall be sufficiently screened so that consumption of liquor is not visible from outside and shall also be provided with fans. Sufficient number of tables and chairs for the



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consumers to conveniently sit and consume liquor shall be provided. Such room shall not be used as a club or recreation room or for any other purpose whatsoever. No gambling or any kind of disorderly conduct in the shop shall be permitted.

(4) Facilities such as drinking water and wash basin within the surroundings of each shop premises shall be provided and the shop, its premises and surroundings shall be always kept clean, hygienic and well it.

(5) Every shop shall have a signboard in Tamil in front of the shop showing the number of the shop and details regarding authorization issued by the Corporation for the shop, the price of liquor in different sizes of bottles sold in the shop shall also be displayed. There shall also be displayed on the signboard the following slogans in bold letters about the evils of drinking and such other slogans as may be approved by the Commissioner.

“மது - நாட்டுக்கு வீட்டுக்கு உயிருக்கு கேடு”

“Liquor – ruins country, family and life”

4.The learned counsel appearing for the first respondent TASMAL Corporation submits that the second respondent is the highest bidder and is having No objection from the adjacent land owner and therefore, as per Rule 10 of the Tamil Nadu Liquor Retail



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Vending (In shops and Bars) Rules 2003, the licence was issued to the second respondent. Therefore, there is no necessity to interfere with the order impugned in this writ petition.

5.The learned counsel appearing for the second respondent submits that the TASMAC Bar is situated in Plot No.3. The second respondent has obtained No Objection Certificate from the building(Plot Nos.1 &2) owner. This is also adjoining to the plot No.3. More over, the second respondent has quoted Rs.1,55,651/-, which is more than the amount quoted by the petitioner and the same has been accepted by the petitioner himself in his affidavit. Therefore, the licence has been rightly issued to the second respondent.

6.This Court considered the rival submissions made and also perused the materials placed on record.



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7.The petitioner and the second respondent have participated in a tender called for by the first respondent for running a Bar for selling eatables and for collecting empty bottles, in Shop No.8612. The Bar is defined under Rule 2(d) of the Tamil Nadu Liquor Retail Vending (In shops and Bars) Rules 2003 as under:-

(d) “bar” means a place located within the shop or adjoining the shop used for consumption therein of liquor;

Admittedly, the TASMAC Shop No.8612 is situated in Plot No.3, Survey No.349/14, Boothipuram Village. The writ petitioner is having No Objection Certificate from the owners of Plot Nos.3 & 4. The second respondent is having No Objection certificate from the owners of Plot Nos.1 & 2. Plot Nos.1 & 2 are also adjacent to Plot No.3. That apart, the second respondent has quoted Rs.1,55,651/- more than the amount quoted by the petitioner as Rs.1,25,000/-. Considering that the second respondent is the highest bidder and he is also having No Objection Certificate from the adjacent land owner, he was granted with the license.



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8.In view of the above, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes.

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To

The District Manager,
Tamilnadu State Marketing Corporation Limited (TASMAC),
Theni,
Theni District.



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B.PUGALENDHI, J.

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