



W.P.No.6502 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6502 of 2025

Kabilar

.. Petitioner

Versus

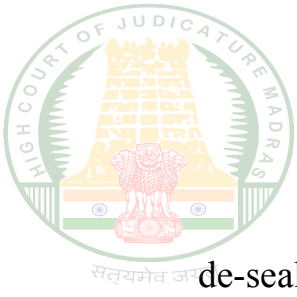
1. The District Collector,
District Collector Office,
Kallakurichi - 606 202.

2. The Designated Officer,
The Tamil Nadu Food Safety and Drug
Administration Department, (Kallakurichi),
Collectorate Building,
Kallakurichi District - 605 602.

3. The Sub-Inspector of Police,
Eadaikal Police Station, Asanur,
Ulundurpet Taluk,
Kallakurichi District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
pleased to issue a Writ of Mandamus to direct the 1st and 2nd respondents to



W.P.No.6502 of 2025

de-seal the petitioner's shop at Thirupayer village, Ulundurpet taluk, Kallakurichi district by considering petitioner's representation, dated 04.02.2025.

For Petitioner : Mr.S.Ramajayam

For Respondents : Mr.V.Manoharan,
Additional Government Pleader,
for RR-1 and 2

: Dr.C.E.Pratap,
Government Advocate (Crl. Side),
for R3

ORDER

This Writ Petition is filed to direct the respondent Nos.1 and 2 to de-seal the petitioner's shop at Thirupayer village, Ulundurpet taluk, Kallakurichi district by considering the petitioner's representation, dated 04.02.2025.

2. The brief factual matrix, in which the Writ Petition arises, is that the

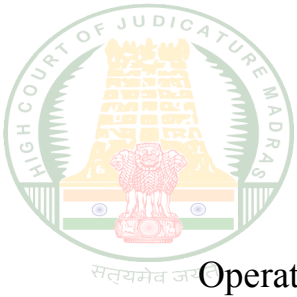


W.P.No.6502 of 2025

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petitioner is having a shop at the aforementioned village. It is stated that on 13.01.2025, a case came to be registered in Crime No.17 of 2025, wherein, it is alleged that the petitioner is found to have been selling banned tobacco products. Accordingly, when a case was registered, the shop was also sealed. It is the case of the petitioner that the sealing of the shop is not expressly mandated under the Food Safety and Standards Act, 2006. Alternatively, the learned Counsel for the petitioner would contend that without prejudice to contest the earlier case, the petitioner will file an undertaking that he will not henceforth indulge in selling any banned tobacco products in his shop including chewing tobacco, pawn, gutka etc.

3. Per *contra*, the learned Additional Government Pleader for the respondent Nos.1 and 2 as well as the learned Government Advocate (Crl. Side) for the third respondent would submit that the power is very much there read with the Act and the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011. If any Food Business



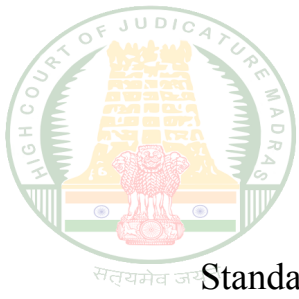
W.P.No.6502 of 2025

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Operator operates in violation of the regulations, then, the license, that is deemed to have been granted to the Food Business Operator, can be cancelled or suspended. Therefore, by virtue of Regulation 2.1.8 read with the other regulations and the provisions of the Act, the respondents have power to seal the shop. Therefore, when the shop has been sealed, the petitioner has not come forward to compound the offence and is choosing to contest the same. Therefore, there is nothing for this Court to interfere with the matter.

4. I have considered the rival submissions made on either side and perused the material records of the case.

5. At the outset, I am not in agreement with the contentions of the learned Counsel for the petitioner that the respondents have no power to seal the shop. As rightly contended on the respondents' side that when a Food Business Operator is required to take a license as per the Food Safety and

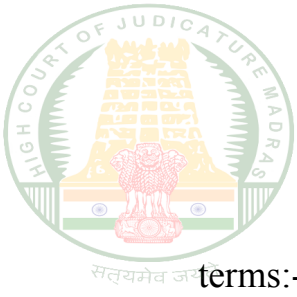


W.P.No.6502 of 2025

Standards (Licensing and Registration of Food Business) Regulations, 2011,
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the authorities have power to seal the shop if the petitioner is found to be selling banned tobacco products. The truth or otherwise will be gone into only in the respective case. The petitioner will be entitled to contend that he is innocent and the authorities will be entitled to prosecute the charge against the petitioner. In the meanwhile, even as per the provisions contained in the Regulation 2.1.8, such cancellation or suspension shall be there for a period of three months and after the period of three months, even the petitioner is entitled for a fresh license. In that view of the matter, when the petitioner's shop has been sealed as early as on 13.01.2025 and now, when the petitioner is also submitting that without prejudice to his contention in the aforesaid case, he will file an affidavit, undertaking that he will not in any manner sell banned tobacco products in the shop, I am of the view that in view of the said undertaking, the shop can be opened.

6. In view thereof, this Writ Petition is disposed of on the following



W.P.No.6502 of 2025

terms:-
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- (i) The petitioner shall file an affidavit of undertaking that he will not sell any of banned tobacco products including cool lips, gutka, pawn or any other banned tobacco products;
- (ii) A copy of the said affidavit shall also be filed before the second respondent;
- (iii) Upon receipt of a copy of the said affidavit, the second respondent shall de-seal the shop and permit the petitioner to run the shop;
- (iv) Needless to mention that further vigil shall be kept on the petitioner's shop ensuring that he is complying with the undertaking;
- (v) There shall be no order as to costs.

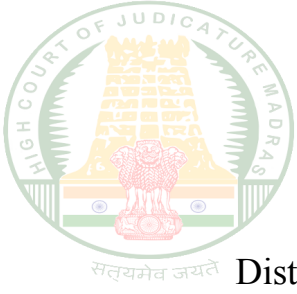
02.04.2025

Neutral Citation : no
grs

To

1. The District Collector,

6/9



W.P.No.6502 of 2025

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District Collector Office,
Kallakurichi - 606 202.

2. The Designated Officer,
The Tamil Nadu Food Safety and Drug
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W.P.No.6502 of 2025

D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.6502 of 2025

02.04.2025



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W.P.No.6502 of 2025