



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2025

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CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WA Nos.872 & 877 of 2024

AND

CMP Nos.6120, 6121, 6168 & 6170 of 2024

WA.No.872 of 2024:

1. R.K.Kutty

2. Rajakumari

Appellant(s)

Vs

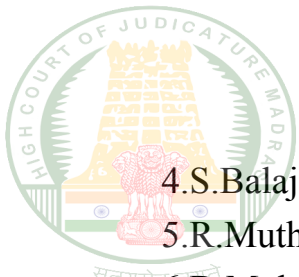
1. The Secretary

Department Of Home, Prohibition And
Excise, Government Of Tamil Nadu
Secretariat, Chennai 09

2.The Managing Director

Tamil Nadu State Marketing
Corporation Limited, 4th Floor,
Gandhi Irwin Bridge Road, Egmore,
Chennai 600008

3.K.Karuthapandiyan



4.S.Balaji

5.R.Muthulakshmi

6.D.Mohan

7.Palanisamy

8.M.S.Sadagopan

Respondent(s)

WA No. 877 of 2024

- 1.M.Balamurugan
- 2.S.Amalraj,
- 3.Raja Elango
- 4.Karthikeyan,
- 5.Anjali,
- 6.Rengasamy
- 7.Mani,
- 8.Anbarasan,
- 9.Murugan,
- 10.Chandrasekar,
- 11.Arokiaraj
- 12.G.Rajkumar
- 13.K.S.Vihaan,
- 14.Kumari
- 15.Guruvayurappan.E.V.
- 16.Nageshwari

Appellant(s)

Vs

1.The Secretary,
Department Of Home,
Prohibition And Excise Government Of
Tamil Nadu, Secretariat,
Chennai 600 009

2.The Managing Director
Tamil Nadu State Marketing



Corporation Limited 4th Floor, Gandhi
Irwin Bridge Road, Egmore,
Chennai 600 008

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- 3.Mahendra Varman
- 4.Subramanian,
- 5.Lakshmana Perumal
- 6.A.Senthilkumar,
- 7.Poosappan.K,
- 8.N.Subramanian
- 9.M.Rajendra Prabhu
- 10.D.Balamurugan

Respondent(s)

WA No. 872 of 2024

PRAYER

To set aside the common orders passed in W.P.No.27777/2023 dated 30.11.2023.

WA No. 877 of 2024

PRAYER

To set aside the common orders passed in W.P.No.23234/2023 dated 30.11.2023.

For Appellant(s): Mr.T.Murugamanickam Senior
Counsel For Mr.V.Rajesh
(In WA 872/2024)
Mr.B.Sundarapandiyan
(In WA 877/2024)

For Respondent(s): Mr.G.Ameedius GA For R1
(In WAs 872 & 877/2024)
Mr.K.Sathish Kumar SC For R2
For TASMAL (In WAs 872 &
877/2024)



COMMON JUDGMENT

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(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 30.11.2023 passed in W.P.Nos.27777 and 23234 of 2023.

2. The writ proceedings were instituted to challenge the proceedings of the Managing Director, Tamil Nadu State Marketing Corporation Limited (TASMAC) dated 20.06.2023, stating that 500 liquor retail vending shops would be identified and closed based on an announcement made by the Hon'ble Minister for Electricity, Prohibition, and Excise Department during the budget session 2023-2024.

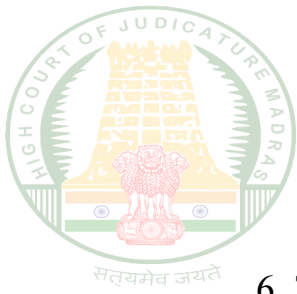
3. The learned Senior Counsel appearing on behalf of the appellant would mainly contend that they are not questioning the announcement made by the Hon'ble Minister for closure of 500 liquor shops, however, the procedure for identifying the shops to be closed was not properly followed. Specifically, certain shops were closed before being identified. Therefore, the procedure



adopted is erroneous and thus, the Writ Court ought to have considered these grounds.

4. However, the appellants, who are the building owners leased their commercial building to the TASMAL for handling liquor retail vending shops. Vacating the premises by the TASMAL Administration, who is a tenant is their prerogative and if at all any terms and conditions agreed upon, then the landlord may claim his entitlement, if any as per the terms and conditions agreed upon between the parties. However, a landlord cannot insist upon a tenant to occupy the building for liquor retail vending shops. Thus, the appellants have no *locus standi* to challenge the proceedings of the Managing Director, TASMAL, for closing 500 liquor retail vending shops.

5. That apart, it is a policy decision taken by the Government in the interest of public health, which is the constitutional mandate. Therefore, such a policy decision cannot be questioned by a landlord, who has leased out his property for running liquor retail vending shops.



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6. This Court has considered the ill-effects of liquor retail vending shops run by the Government from a constitutional perspective in the case of ***S.Sellasamy vs. The District Collector, Office of the District Collector, Thiruvallur District and Others***¹. The relevant paragraphs are extracted hereunder:

“5. Though the above said principle remains as a philosophy of the Constitution, the Articles constituted thereunder, provides separate clauses under Part IV, which enumerates certain Directive Principles of the State Policy. Apropos, it would be apposite to refer to 37, 38(1) and 47, which are extracted herein below:—

“37) Application of the principles contained in this Part-

The provisions contained in this part shall not be enforceable by any Court, but the Principles therein laid down are nevertheless fundamental in the governance of the Country and it shall be the duty of the States to apply these principles in making laws.

38) State to secure a social order for the promotion of welfare of the people- (1)

1. (2017) SCC Online Madras 1969



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(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

and

47) Duty of the State to raise the level of nutrition and the standard of living and to improve public health -

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”

6. Though as per Article 37, the Directive Principles of the State Policy enumerated in Part IV cannot be enforceable by any Court, Article 47 stipulates that the State shall endeavour to bring about prohibition of the consumption of intoxicating drinks and of drugs, since it involves the standard of living of the people and improvement of public health of our citizens. In this context, it would be beneficial to refer to the judgments rendered by the Hon'ble Supreme Court, which are mentioned infra:—



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a) In *(P.N. Kaushal v. Union of India)* reported in [\(1978\) 3 SCC 558](#), the Hon'ble Supreme Court described the duty of the State, as to how it should regulate the sale of liquor, and to decide as to where the liquor shop has to be located, and the impact of the intake of the liquor, and held in Para No. 49 as follows:—

“...The liquor trade is instinct with injury to individual and community and has serious side effects recognised everywhere in every age. Not to control alcohol business is to abdicate the right to rule for the good of the people. Not to canalize the age and sex of the consumers and servers, the hours of sale and cash-and-carry basis, the punctuation and pause in days, to produce partially the ‘dry’ habit it to fail functionally as a welfare state. The whole scheme of the statute proclaims its purpose of control in time and space and otherwise. Section 58 vests in government the power for more serious restrictions and laying down of principles. Details and lesser constraints have been left to the rule-making power of the Financial Commissioner. The complex of provisions is purpose-oriented, considerably reinforced by Article 47.”

b) In *(N. Nagendra Rao and Co. v. State of Andhra Pradesh)* reported in [\(1994\) 6 SCC 205](#), the Hon'ble Supreme Court held as follows:—

“.... No civilized system can permit an executive to play with the people of its Country and claim that it is entitled to act in any manner as it is



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sovereign. Needs of the State, duty of its Officials and right of the citizens are required to be reconciled so that the Rule of law in a Welfare State is not taken”

c) In (Vincent Panikurlangara v. Union of India) reported in AIR (1987) S.C. 990), in para No. 16, it is held as follows;”

“A healthy body is the very foundation for all human activities. That is why the adage “Sariramadyam Khaludharma Sadhanara”. In a welfare State, therefore, it is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health. This Court in Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 aptly observed:—

“It is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by this Court in Francis Mullin's case - (1981) 1 SCC 608 - to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of the workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just as humane conditions of work and maternity relief. These are the



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minimum requirements which must exist in order to enable a person to live with human dignity, and no State neither the Central Government has the right to take any action which will deprive a person of the enjoyment of these basic essentials”.

While endorsing what has been said above, we would refer to Article 47 in Part IV of the Constitution. That Article provides:—

“The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”

This Article has laid stress on improvement of public health and prohibition of drugs injurious to health as one of the primary duties of the State. In Akhil Bharatiya Soshit Karmachari Sangh v. Union of India, [\(1981\) 1 SCC 246](#) this Court has pointed out that:

“the Fundamental Rights are intended to foster the ideal of a political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justifiable. However, it is also evident that notwithstanding their great importance, the Directive Principles cannot in the very nature of things be enforced in a Court of Law, but it does not mean that



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Directive Principles are less important than Fundamental Rights or that they are not binding on the various organs of the State.”

In a series of pronouncements during the recent years this Court has culled out from the provisions of Part IV of the Constitution these several obligations of the State and called upon it to effectuate them in order that the resultant pictured by the Constitution Fathers may become a reality. As pointed out by us, maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depends the building of the society of which the Constitution makers envisaged. Attending to public health, in our opinion, therefore, is of high priority perhaps the one at the top.””

7. In the present case, the landlord filed a writ petition, which is not entertainable since the landlord has no *locus standi* to challenge the policy decision of TASMAL regarding the closure of liquor retail vending shops. Thus, the Writ Court rightly rejected the writ petition and this court do not find any reason to reconsider the order impugned.

8. At this juncture, the learned Senior Counsel has made a submission that



the manner in which the TASMAC administration identified the 500 shops to be

closed has not been made clear. However, this Court is of the considered view

that this point is unconnected to the landlord, who leased out their shop for

running retail liquor vending shops.

9. With these clarifications, the Writ Appeals are dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

28-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.The Secretary

Department Of Home, Prohibition And
Excise, Government Of Tamil Nadu
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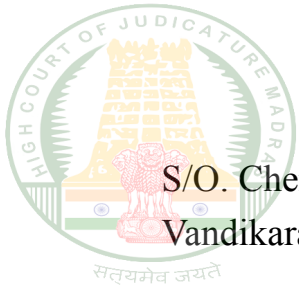
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WA No. 877 of 2024

To

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Department Of Home, Prohibition And
Excise Government Of Tamil Nadu
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S.M.SUBRAMANIAM J.
AND
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