



W.P(MD)No.4375 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.4375 of 2025

Dinesh

... Petitioner

vs.

1.The Commissioner of Prohibition and Excise,
Chepauk,
Chennai.

2.The District Collector,
Kanyakumari District,
Nagercoil.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
(TASMAC),
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned rejection order in Se.Mu.No.Ma.(Ma)Aa9 (1)/3877/2024 dated 29.11.2024 passed by the first respondent and quash the same and

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consequently directing the respondents directing the first respondent to remove the TASMAL Shop bearing No.4703 situated at Thammathukonam, Erumbukadu Post, Kanyakumari District by considering the petitioner's appeal dated 05.04.2024.

For Petitioner	: Mr.T.Selvakumaran
For RR 1 & 2	: Mr.P.Thilak Kumar Government Pleader
For R – 3	: Mr.S.Sivanesan Standing Counsel
	: Mr.K.Vasanth Kumar Advocate Commissioner

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

Under assail is the order dated 29.11.2024 passed by the first respondent.

2.The petitioner states that the third respondent is running the subject TASMAL shop within 30 meters from a Temple and that it is causing a nuisance to the public. Thus, the petitioner is constrained to move the present Writ Petition.



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3.The Advocate Commissioner appointed by this Court submitted a report which would reveal that the subject TASMAL shop is functioning within the prohibited limits as per the Rules. Even otherwise, when there is a strong objection from the public regarding nuisance or inconvenience to the nearby residents, the respondents are duty-bound to consider the same in public interest. The consumption of liquor is causing injury to the health of the citizens.

4.Article 47 of the Constitution of India directs that 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 medical purposes of intoxicating drinks and of drugs which are injurious to health.

5.Therefore, it is a constitutional philosophy and the Directive principles insist that a welfare Government should strive wholeheartedly to enforce prohibition, rather than establish more TASMAL shops which adversely affect public health.



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6.It is contradictory for a welfare Government to establish more hospitals on the one hand and simultaneously establish TASMACH shops on the other. This is not in consonance with constitutional ethos. When the right to health is a fundamental right, the State must ensure that the prohibition is slowly implemented in a phased manner to reduce harm to the public health.

7.In view of the above, the State being a welfare State has to look into these aspects swiftly and relocate the shop to a place where it does not cause inconvenience to the public at large. Therefore, the respondents are directed to close/relocate the shop as the case may be within a period of four weeks from the date of receipt of a copy of this order.

8.Accordingly, the impugned order dated 29.11.2024 passed by the first respondent is quashed and this Writ Petition stands allowed. There shall be no order as to costs.

[S.M.S.,J.] & [A.D.M.C.,J.]
03.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

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and
DR.A.D.MARIA CLETE, J.

ps

ORDER MADE IN
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DATED : 03.06.2025