



W.P.(MD).No.7385 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON
18.12.2024

PRONOUNCED ON
06.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.7385 of 2024
and WMP.(MD)Nos.6805 to 6808 of 2024

S.Mubarak Ali

... Petitioner

Vs

- 1.The Commissioner,
Chepauk,
Chennai -5.
- 2.The District Collector,
Theni District.
Theni.
- 3.The Superintendent of Police,
Theni District,
Theni.
- 4.The Inspector of Police,
Vadakarai,
Periyakulam Taluk,
Theni District.
- 5.Jolly Manamahil Mandram,
Rep., by its Secretary,
Ward No.6, V.R.B.Street,
Vadakarai village,
Periyakulam Taluk,
Theni District.

... Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent vide his proceedings in R.DIS.No.P&E.2(1)/4453/2022, dated 02.11.2022, and quash the same as illegal and consequently forbear the respondents from permitting the operation of any recreation club or liquor vending shop at Ward No.6 V.R.B. Street, Vadakarai Village, Periyakulam Taluk, Theni District.

For Petitioner : Mr.R.Rajarishi for
M/s.Ajmal Associates

For Respondents: Mr.R.Suresh Kumar AGP for RR1&2
Additional Government Pleader

Mr.Sricharan Rengarajan Sr. Counsel for
Mr.S.Ramsundar Vijayaraj for R5

Ms.M.Aasha G.A.,(Crl side) for RR3&4

ORDER

The challenge in the Writ Petition is the issuance of FL.2 Licence in favour of the fifth respondent.

2. The learned counsel appearing for the petitioner would submit that he is the resident of Keela Vadagarai, Periyakulam Taluk and is also the



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Deputy Secretary of Indian Towheeth Jamath of Periyakulam Taluk. He would submit that it was proposed to open a new recreation club with the bar facility in a residential area within the prohibited distance as provided under Rule 8 of Tamil Nadu Liquor Vending Retail Rules. He would further submit that a TASMACH Shop originally located amidst the residential area, due to the public unrest and opposition by the public, the said shop was closed in September 2018. The revelers had caused great inconvenience to the public and the children of the locality. He would submit that the fifth respondent had now been granted with the FL.2 licence under the pretext of the recreation club for sale of liquor indiscriminately, apprehended nuisance to the general public at large. He would further submit that it is the duty cast upon the Licencing Authority to find out the justification for grant of the licence and that the public interest do not suffer by grant of licence applied for. According to him, the said conditions mandated under Rule 19 of the Tamil Nadu Liquor (Licence and Permit) Rules 1981 had not been applied with by the Licencing Authority namely, the first respondent. In that context, he had relied upon the judgment of a Division Bench of this Court in the case of ***G.Vetrivel vs. Golden Enclaves Owners Association*** reported in ***2012 6 CTC 661, Tamil Nadu State***



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Marketing Corpn Ltd., vs. R.M.Shah reported in ***2010 8 MLJ 304***, a judgment of the Division Bench of this Court in W.P.(MD).No.8521 of 2014, dated 19.06.2014, as also a judgment of the learned Single Judge in W.P.No.7942 of 2014.

3. Countering his arguments, Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents 1 & 2 would submit that present recreation club do not fall within the mischief of Rule 8 of the Tamil Nadu Liquor Vending Rules. He would submit firstly that the recreation club is beyond the prohibited distance. He would further submit that the Licencing Authority had conducted Field Inspection before grant of the impugned licence to the fifth respondent. Such inspection had been conducted by the Divisional Excise Officer and also the Assistant Commissioner (Excise), Theni. Clearances have also been obtained from the jurisdictional Police with regard to any interest of the public being affected. Therefore, he would submit that there has been no violation of any of the Rules.

4. Similarly, the learned Senior counsel appearing for the fifth



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respondent would submit that the entire Writ Petition is bereft of any materials facts and is also contrary to the facts on record. He would submit that the petitioner had been making vague allegations, as if there was no Field Inspection before grant of FL.2 licence to the petitioner. He would submit that only after the Field Inspection done and clearance given by the appropriate authorities, the fifth respondent deposited the security deposit and was granted with a FL.2 Licence. He would further submit that such licence was obtained by the fifth respondent only for supply of liquor to its members and not to any other persons. He would further reiterate the submission made by the learned Additional Government Pleader that the recreation club firstly is not situated within the prohibited distance contemplated under the Tamil Nadu Liquor Vending Rules and would further submit that prohibition is only applicable to an FL.1 Licence issued under Tamil Nadu Liquor (Licence and Permit) Rules, 1981 and not to an FL.2 Licence granted under the said Rules. He would vehemently contend that the Writ Petitioner is trying to apply the Rules, which are not applicable to FL.2 Licence for denying the benefits of the FL.2 Licence granted to the fifth respondent. Hence, he would pray this Court to dismiss the Writ Petition .



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5. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6. It is the case of the petitioner that the FL.2 Licence which had been granted to the fifth respondent is in violation of the Rule 8 of the Tamil Nadu Liquor Vending Rules. Rule 8 of the Tamil Nadu Liquor Vending Rules applies for a liquor retail vending shop. In the State of Tamil Nadu, no permit for retail vending of liquor is given to any private individuals and the same is being run by the State owned Corporation. The Tamil Nadu Liquor (Licence and Permit) Rules, provides for grant of various licences i.e., FL.1 to FL.11 for licencing liquor for consumption and FM1 to FM4 for licencing liquor to be used for medicinal purposes.

7. In the present case, what is impugned is the licence given under FL.2 and FL.2 is a licence given to a non-proprietary club for supply of liquor to its members alone. FL.1 is a licence for the grant of privilege of retail sale of bottled IMFL and the sale of foreign liquors. As already indicated FL.2 Licences are not granted to any private individuals or any



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other legal entity in Tamil Nadu, Liquor Vending in retail is being carried on by the State through its Corporation. Rule 17A(I) deals with grant of privilege of retail sale of bottled IMFL or sale of foreign liquors. The same also deals with the distance regulations as prescribed under Rule 8 of the Tamil Nadu Liquor Retail Vending Rules. 17A(II) deals with the license for possession of liquor by the non-proprietary club for supply to its members. The said clause do not provide for any distance restrictions. Rule 19 deals with the conditions to be satisfied before grant of privilege under clause A to Rule 19 General conditions have been prescribed which requires the satisfaction of the Licencing Authority to justify the grant of Licence and also see that the public interest do not suffer by grant of such licence. Clause B-2 deals with the cases for an application for grant of licence for form FL.2. The conditions prescribed under clause B is in addition to clause A of Rule 19. The Licencing Authority had specifically stated that the Field Inspection had been conducted not only by the Divisional Excise Officer, but also the Assistant Commissioner (Excise), Theni before grant of the FL.2 Licence in favour of the fifth respondent. Even though an allegation had been made by the petitioner that the Licencing Authority namely, the first respondent had not complied with the Rule 19-A, he had



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not placed any materials on record in support of his contentions. As rightly pointed out by the learned Senior counsel appearing for the fifth respondent the distance restrictions imposed under Rule 8 of the Tamil Nadu Liquor Vending Rules could only be made to an applicant under form FL.1 and not for grant of Licence under Form FL.2.

8. In such view of the matter, I am not inclined to entertain the Writ Petition, as the same is devoid of any merits.

9. In fine, the Writ Petition is dismissed. It is made clear that this order will not preclude either the Licencing Authority or the Police authority from taking any action against the fifth respondent for violation of any conditions appended to its licence or it contravenes in selling liquor to any other persons other than its members. However, there shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

06.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Pbn

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A Pre-delivery order made in
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