



1

W.A.(MD)NO.1403 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1403 of 2022 AND

W.A.(MD)No.682 of 2025 &

C.M.P.(MD)No.11257 of 2022 & 4833 of 2025

W.A.(MD)No.1403 of 2022

The Secretary,
Raghava Recreation Club,
Door No.4/463, Puliyanakulam Village,
Inam Rettiarpatti Road,
Virudhunagar Taluk and District. ... Appellant / 4th Respondent

Vs.

1. M.Suseela ... 1st Respondent / Petitioner
2. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai – 600 005.
3. The District Collector,
Virudhunagar District,
Virudhunagar.
4. The Divisional Excise Officer,
Aruppukottai,
Aruppukottai Division,
Virudhunagar District. ... Respondents 2 to 4 /
Respondents 1 to 3



Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the impugned order dated 13.10.2022 made in W.P. (MD)No.9831 of 2018 on the file of this Court and allow the writ appeal.

For Appellant : Mr.M.Sricharan Rangarajan,
Senior counsel,
for Mr.K.Rajeshwaran.

For R-2 to R-4 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.S.R.A.Ramachandran,
Additional Government Pleader.

For R-1 : Mr.P.Mohammed Suhail,
for M/s.Ajmal Associates.

* * *

W.A.(MD)No.682 of 2025

1. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai – 600 005.

2. The District Collector,
Virudhunagar District,
Virudhunagar.

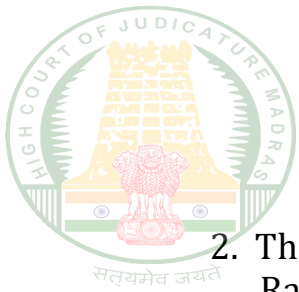
3. The Divisional Excise Officer,
Aruppukottai,
Aruppukottai Division,
Virudhunagar District.

... Appellants / Respondents 1 to 3

Vs.

1. M.Suseela

... 1st Respondent / Writ petitioner



2. The Secretary,
Raghaa Recreation Club,
Door No.4/463, Puliyanikulam Village,
Inam Rettiarpatti Road,
Virudhunagar Taluk and District. ... 2nd Respondent /
4th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the impugned order dated 13.10.2022 made in W.P. (MD)No.9831 of 2018 on the file of this Court and allow the writ appeal.

For Appellants : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.S.R.A.Ramachandran,
Additional Government Pleader.

For R-2 : Mr.M.Sricharan Rangarajan,
Senior counsel,
for Mr.K.Rajeshwaran.

For R-1 : Mr.P.Mohammed Suhail,
for M/s.Ajmal Associates.

* * *

COMMON JUDGMENT

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. One M.Suseela filed W.P.(MD)No.9831 of 2018 questioning the grant of FL2 license in favour of one Raghaa Recreation Club,



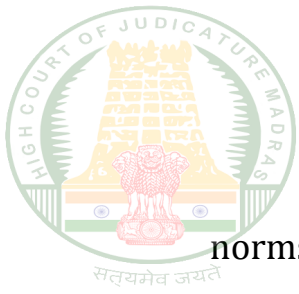
Inam Rettiarpatti Road, Puliyankulam Village, Virudhunagar District.

The writ petition was allowed vide order dated 13.10.2022.

Challenging the same, the licensee filed W.A.(MD)No.1403 of 2022 and the State also filed W.A.(MD)No.682 of 2025.

3. The learned Additional Advocate General appearing for the State as well as the learned senior counsel appearing for the club contended that the learned single Judge erred in allowing the writ petition and setting aside the grant of license even though there were no statutory violations. They called upon this Court to set aside the order impugned in the writ appeals and dismiss the writ petition.

4. Per contra, the learned counsel appearing for the writ petitioner contended that the learned single Judge rightly allowed the writ petition and interference is not warranted. He pointed out that the club is located within the striking distance of the unit run by the petitioner. He pointed out that the said unit is run entirely by womenfolk and that the running of the club would pose serious nuisance to them. The learned counsel relied on a catena of case laws. He pointed out that this Court should not go merely by the statutory



norms but also take into account the public interest involved. He pointed out that even though objections were raised by the members of the locality, they were not taken into account by the District Collector before the grant of license. Particular reliance was placed on the decision reported in **2010 (2) CWC 337 (The Tamil Nadu State Marketing Corporation Ltd., V. R.M.Shah)**, **2012 (6) CTC 661 (G.Vetrivel V. Golden Enclave Owners' Association)** and **2014(4) CTC 721 (M.A.Sudhagar V. The Government of Tamil Nadu)** and also the order of the Hon'ble Supreme Court reported in **(2017) 2 SCC 281 (State of Tamil Nadu V. K.Balu)**. He wants this Court to sustain the order of the learned single Judge and dismiss the writ appeals.

5. We carefully considered the rival contentions and went through the materials on record.

6. One aspect has to be noted at the very outset. The license in favour of the club was granted on 13.04.2018. The writ petition was filed on 25.04.2018. But no interim order was granted. When the writ petition came to be allowed on 13.10.2022, it was a running club



with license. After the writ petition was allowed, in the writ appeal, interim order was granted and as on date, the license is subsisting.

7. It is also relevant to note that one Perumalsamy had filed W.P.(MD)No.7235 of 2018 to forbear the authorities from granting license in favour of Raghaa Recreation Club. The said writ petition was dismissed as withdrawn on 04.04.2018. Subsequently, the very same Perumalsamy filed W.P.(MD)No.12684 of 2018 questioning the order dated 13.04.2018 which is the subject matter of challenge in W.P.(MD)No.9831 of 2018 also. It is submitted by the learned Senior counsel appearing for the appellant that since in Suseela's writ petition, no interim order was granted, Perumalsamy was made to file a fresh writ petition challenging the issuance of license. This writ petition was dismissed on 05.07.2018 by taking note of the conduct of the petitioner therein. The scope of considering the validity of FL2 license in PIL is one thing. However, a different yardstick would be applied when it is at the instance of an aggrieved party. Suseela did not file any PIL. She only filed WP before the learned single Judge. Therefore, we will only consider if there is any statutory violation. This is because the Division Bench considering a PIL on the same subject matter declined to interfere.



8. The only grievance put forth by Suseela is that she is running her industrial unit in the vicinity. Actually it is her husband's factory.

On facts, the distance between the club and the said unit is around 150 meters. We are informed by the learned Additional Advocate General that before granting license, there was field inspection by all the authorities concerned. The learned counsel for the writ petitioner states that the objection lodged by the villagers ought to have been considered by the District Collector by passing a speaking order before granting license. It is true that as per Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, approval shall be given only after the representation, if any, objecting the location of the shop is considered and orders passed thereon. But then, this was an amendment to the statutory rule made in February 2022. In this case, license was issued in 2018. At that time, there was no legal requirement on the part of the District Collector to pass a speaking order on the objections originally. Rule 8(3) cannot be retrospectively applied to test the validity of the order impugned in the writ petition.



WEB COPY

9. It is true that during the pendency of the writ petition, a murder took place within the club premises. An event that happened subsequently in the club premises cannot be a ground for invalidating the license earlier granted. The records indicate that all the statutory formalities and procedure were complied with. NOC was also obtained from the police. The validity of the order granting license has to be tested in the light of the statutory rules. The writ petitioner has not able to cite a single statutory violation. We are satisfied that the license was validly granted. The learned single Judge was not justified in allowing the writ petition. Therefore, the order impugned in the writ appeals is set aside. These writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)

24th April 2025

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

PMU



WEB COPY



To:

1. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai – 600 005.
2. The District Collector,
Virudhunagar District,
Virudhunagar.
3. The Divisional Excise Officer,
Aruppukottai,
Aruppukottai Division,
Virudhunagar District.



WEB COPY



10

W.A.(MD)NO.1403 OF 2022

G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

PMU

W.A.(MD)No.1403 of 2022 AND
W.A.(MD)No.682 of 2025

24.04.2025