
(2012) 01 MAD CK 0034

In the Madras High Court

Case No : Writ Petition No. 26703 of 2011 and M.P. No. 1 of 2011

M. Veerabhathiran

APPELLANT

Vs

The District Collector, Chennai District and The Tamil Nadu
State Marketing, Corporation Ltd., (TASMAC)

RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 01 MAD CK 0034

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : K. Selvaraj, for the Appellant; Muthuraj (R2 and R3), for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice M. Jaichandren

1. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus to forbear the respondents from opening a

TASMAC Shop and bar, at No. 134, Triplicane High Road, Triplicane, Chennai. The petitioner has stated that the second respondent had

conducted the tender for the grant of a bar licence for opening a bar at the TASMAC wine shop No. 833, at No. 131, Triplicane High Road,

Triplicane, Chennai, during the month of May, 2011. The petitioner has participated in the tender and had quoted Rs.4,07,000/-as the tender

amount. Since, the tender amount of the petitioner was the highest, the licence had been granted in his favour, subject to the petitioner depositing

the security deposit and one month licence fee. As the petitioner had complied with the said conditions, the third respondent had issued the licence,

dated 16.05.2011, to the petitioner, to sell eatable items and to collect the empty bottles from the bar attached to the TASMAC shop, for the

period from 16.05.2011. Based on the license issued by the third respondent, the petitioner has been carrying on the business of supplying eatable

items and collecting empty bottles from the bar attached to the TASMAC shop. Whiles, the respondent had shifted the TASMAC shop from

Arumbakkam to No. 134, Triplicane High Road, Triplicane, Chennai, thereby adversely affecting the interest of the petitioner.

2. It is further stated that the licence fee of the petitioner had been fixed, based on the average sales that had taken place in the shop in question,

for a period of twelve months. Whiles, locating another TASMAC shop close to the TASMAC shop, relating to which the petitioner had been

granted the license, is arbitrary and illegal. It is further stated that the opening of the said TASMAC shop is contrary to the tender condition No. 1

of the terms and conditions of the tender, based on which the petitioner had been granted the license. Therefore, the petitioner had stated that the

location of a new shop at No. 134, Triplicane High Road, Triplicane, Chennai, is arbitrary and illegal and as such the respondents should be

restricted from opening the new shop.

3. The learned counsel appearing on behalf of the petitioner had placed reliance on the decision of Supreme Court, in West Bengal State Electricity

Board Vs. Patel Engineering Co. Ltd. and Others, wherein, it had been stated that the distribution of state largesse, by way of Government

contracts, should be done as per the rule of law and the constitutional values, as provided under Article 14 of the Constitution of India.

4. Per contra, the learned counsels appearing on behalf of the respondents had submitted that there is no prohibition in the terms and conditions of

the tender, for the opening a new shop close to the shop relating to which the licence had been granted to a particular party. Even though the

licence fee had been fixed in respect of the shop concerned, based on the average sales for a period of 12 months, there is no specific prohibition

for the opening of another shop close to the shop which the licence had already been granted.

5. The learned counsels appearing on behalf of the respondents had placed before this Court an order, dated 14.07.2009, issued by the District

Manager (Central) shifting Shop No. 835, from No. 134-A, Triplicane High Road to No. 75, Mills Road, Kilpauk, Chennai, based on the request

made by the owner of the property bearing Door No. 134-A, Triplicane High Road, stating that the said property is needed by him for other

purposes. The learned counsel for the respondents had also placed before this Court a proposal, dated 18.11.2011, made by the Senior Regional

Manager, (Central Region), to locate a new Shop at No. 134, Triplicane High Road, Chennai, based on the sales demand. The said proposal had

been made based on the report of the District Collector, dated 16.11.2011, stating that there is no place of worship or educational institution,

within 50 metres from the proposed site at No. 134, Triplicane High Road, Triplicane, Chennai.

6. The learned counsels for the respondents had further submitted that there is no rule or regulation or terms and conditions of tender prohibiting

the opening of the new shop at No. 134, Chennai. Therefore, the allegations made by the petitioner, in the affidavit filed in support of the writ

petition, are devoid of merits.

7. In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned counsels

appearing on behalf of the parties concerned and in view of the records available, this Court is of the considered view that the relief sought for by

the petitioner cannot be granted, the petitioner has not been in a position to prove that the location the TASMACH shop at Door No. 134, Triplicane

High Road, Triplicane, Chennai, is contrary to any of the terms and conditions of the tender, based on which, the petitioner had granted the licence

to supply the eatables and to collect bottles from the bar attached to the TASMACH shop No. 833 at No. 131, Triplicane High Road, Triplicane,

Chennai. The petitioner further has not been in a position to show that the location of such shop by the respondents is contrary to any rule or

regulation. The respondents have proposed to locate the TASMACH shop at Door No. 134, Triplicane High Road, Triplicane, Chennai, based on

the report issued by the District Collector, Chennai, stating that there are no place of worship or educational institution within 15 meters from the

aforesaid site. In such circumstances, it is clear that the contentions raised on behalf of the petitioner cannot be countenanced, since, there is no

irregularity or illegality on the part of the respondents to locate the TASMAL shop. The relief sought for by the petitioner, in the present Writ

Petition is devoid of merits. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.