

(2012) 09 MAD CK 0170
In the Madras High Court
Case No : Writ Petition No. 16224 of 2012

M/s. C.M. Hotel

APPELLANT

Vs

The Commissioner Prohibition and Excise Department,
Chepauk Chennai-5, The District Collector Dharmapuri
District Dharmapuri and The Assistant Commissioner of
Excise Dharmapuri

RESPONDENT

Date of Decision : 17-09-2012

Acts Referred:

Citation : (2012) 09 MAD CK 0170

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : A.R.L. Sundaresan for Mr. S. Sathish Rajan, for the Appellant; R. Ravichandran, AGP, for the Respondent

Judgement

M. Jaichandren

1. Heard the learned senior counsel appearing for the petitioner and the learned Additional Government Pleader for the respondents. One of the main contentions raised by Mr. A.R.L. Sundaresan, the learned senior counsel appearing for the petitioner, is that the cancellation of the F.L.3 Licence issued to the petitioner, by the impugned order of the first respondent, dated 14.6.2012, is arbitrary and illegal. The reasons stated in the impugned order for the cancellation of the said Licence is that the petitioner Hotel had lost the star status and therefore, it is not entitled to such a Licence. However, from the relevant provisions of the Tamil Nadu Liquor(License and Permit) Rules, 1981, it is clear that an F.L.3 Licence could be granted even to non-star Hotels. In fact, the respondents had granted such licences to a number of non-star Hotels.

2. The learned senior counsel appearing for the petitioner had further submitted that the impugned order of the first respondent, dated 14.6.2012, is a non-speaking order. In spite of the fact that a detailed reply had been submitted by the petitioner, on 9.12.2011, to the show cause notice, dated 18.11.2011, issued

by the first respondent, no proper reasons had been given in the impugned order, dated 14.6.2012, for cancelling the F.L.3 Licence issued in favour of the petitioner.

3. Even though a number of other grounds had been raised by the learned senior counsel appearing for the petitioner, he had submitted that it would suffice, if the impugned order of the first respondent, dated 14.6.2012, is set aside and if the matter is remitted back to the first respondent for passing a speaking order, based on the written explanation submitted by the petitioner, on 9.12.2011, and on giving an opportunity of personal hearing to the petitioner.

4. The learned Additional Government Pleader appearing for the respondents had submitted that the impugned order passed by the first respondent is valid, as it is in accordance with the provisions of the Tamil Nadu Liquor(License and Permit) Rules, 1981. The F.L.3 Licence issued in favour of the petitioner had been cancelled by the first respondent, by his impugned order, dated 14.6.2012, as the petitioner Hotel had lost its star status. Therefore, the writ petition filed by the petitioner is liable to be dismissed.

5. In view of the submissions made by the Learned Counsels appearing for the parties concerned and on a perusal of the records available, it is found that the first respondent had passed the impugned order, dated 14.6.2012, without giving proper reasons for the cancellation of the F.L.3 Licence issued in favour of the petitioner. It is also found that even though a detailed reply had been submitted by the petitioner, on 9.12.2011, to the show cause notice issued by the first respondent, on 18.11.2011, the impugned order of the first respondent is cryptic in nature. Proper reasons have not been shown in the said order, for cancelling the F.L.3 licence issued in favour of the petitioner. In such circumstances, this Court finds it appropriate to set aside the impugned order of the first respondent, dated 14.6.2012. The matter is remitted back to the first respondent to consider the reply submitted by the petitioner, dated 9.12.2011, and to pass appropriate orders thereon, after giving an opportunity of hearing to the petitioner. The first respondent shall pass such an order, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is ordered accordingly. No costs. Connected M.P.No. 1 of 2012 is closed.