
(2012) 02 MAD CK 0222
In the Madras High Court
Case No : Writ Petition No. 28319 of 2011

S. Sugumar

APPELLANT

Vs

The District Collector, Kancheepuram District, The District Manager, Tamilnadu State Marketing Corp. Ltd., The Senior Regional Manager, Tamilnadu State Marketing Corp. Ltd. and The Managing Director, Retail Vending, Tamilnadu State Marketing, Corp. Ltd.

RESPONDENT

Date of Decision : 20-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Liquor (Retail Vending) Rules, 2003 — Rule 10

Citation : (2012) 02 MAD CK 0222

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : M. Babu Muthu Meeran, for the Appellant; V. Jayaprakash Narayanan and Mr. S. Muthuraj for R2 to R4, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren

1. Heard the learned counsels appearing for both sides. This writ petition has been filed praying that this Court may be pleased to issue a writ of Mandamus directing the respondents to issue a licence, in the name of the petitioner, to enable him to run the bar at the retail outlet Shop No.4331, situated at No.357, G.S.T. Road, Urapakkam, Kancheepuram District, for a period of one year from the date of the issuing of the licence.

2. The petitioner has stated that he was the successful bidder in the auction conducted by the respondents, for running the bar attached to the retail outlet bearing shop No.4331, situated at No.357, G.S.T. Road, Urapakkam, Kancheepuram District, to sell eatables and to collect empty bottles. Being the highest bidder, the petitioner had entered into an agreement with the respondent

Corporation to run the business, for a period of one year. However, the petitioner had not been given the licence to sell the eatables and to collect the empty bottles, from the bar attached to TASMACH shop No.4331, situated at No.357, G.S.T. Road, Urappakkam, Kancheepuram District. While so, it was learnt that the respondent Corporation had decided to grant the licence in favour of one Balathandayutham, without issuing the said licence to the petitioner, even though he was the highest bidder in the auction conducted, on 25.11.2011. In such circumstances, the petitioner had preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

3. A counter affidavit, dated 8.2.2012, has been filed by the second respondent. Paragraph 8 of the counter affidavit reads as follows:

8. It is also respectfully submitted that in the previous year the shop number 4331 was initially situated in the building where Mr. Baladandayutham intends to run the bar and the bar was run by Mr. Sugumar on the terrace.

Subsequently, the petitioner shifted his bar from the terrace to its present location when the shop was still continuing in the adjacent building. Subsequently, after a span of 6 months only the shop was shifted to its present location. Moreover "bar attached to shop" in column 2 of the application does not refer to physical attachment but on the other hand refers to attachment for the purpose of records. Moreover Rule 10 of Tamil Nadu Liquor (Retail Vending) Rules, 2003 states as follows:

10. Location of Bar-(1) the bar shall lie within the shop or adjoining the shop.

Therefore, it is clear and permissible to grant license to any bar adjoining the liquor shop.

4. The learned counsel appearing for the respondent Corporation had submitted that, in clause 2 of the application form for participating in the tender, it has been stated that the auction was being held "for the bar attached to the retail vending shop". However, Rule 10 of the Tamil Nadu Liquor Retail Vending Rules, 2003, states that "the bar shall lie within the shop or adjoining the shop". In the present case, the bar is situated at a place adjoining the retail vending shop. Therefore, it was proposed to issue the licence in the name of one Balathandayutham, who was the highest bidder in the auction held, on 25.11.2011, as he had quoted the highest bid of Rs.1,81,500/-, whereas the petitioner had quoted Rs.1,80,100/-. Therefore, the writ petition filed by the petitioner is devoid of merits and therefore, it 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, this Court is of the considered view that the relief prayed for by the petitioner, in the present writ petition, cannot be granted.

6. It is not in dispute that one Balathandayutham is the highest bidder in the auction held, on 25.11.2011, as she had made a bid of Rs.1,81,500/-, which is

more than Rs.1,80,100/-, which the petitioner had quoted. Further, as per the counter affidavit, dated 8.2.2012, filed on behalf of the second respondent, the phrase, the bar attached to shop, in column 2 of the application, does not refer to physical attachment of the bar to the retail vending shop. On the contrary, it refers to the attachment of the bar to the shop concerned, only for the purpose of records. In fact, in the present case, the bar is situated in a building, which is adjacent to the retail vending shop. As such, the contentions raised by the petitioner, in the present writ petition, cannot be countenanced. Since, the writ petition is devoid of merits, it stands dismissed. The second respondent is directed to return the Demand Draft submitted by the petitioner, bearing No.290864, dated 28.11.2011, amounting to Rs.3,55,200/-, within a period of ten days from the date of receipt of a copy of this order. No costs. Connected M.P.No.1 of 2011 is closed.