

VERDICTUM.IN

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2023
(Arising from SLP(C)No.10377/2022)

KANAGACHETTIKULAM MAKKAL PODHUNALA EYAKKAM

APPELLANT (S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT (S)

O R D E R

Leave granted.

We have heard learned counsel appearing on behalf of the appellant, learned counsel appearing on behalf of the Government of Puducherry and learned counsel appearing on behalf of respondent No.4.

The appellant herein approached the High Court seeking a direction to consider the representations not to shift the liquor shop in the name of respondent no.4 herein to an area which is adjacent to a school and a temple and a mosque.

By the impugned judgment and order, the High Court has dismissed the said writ petition by observing that the Rules applicable in the Union Territory of Puducherry permits the location of liquor shop beyond 100 mtrs. of an educational institution and even temple/mosque. It is required to be noted that in the present case, the distance of the liquor shop where respondent no. 4 was to be located is found within 150 mtrs. from the temple/mosque as well as educational institution.

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Identical question came to be considered by this Court in *State of Tamil Nadu represented by its Secretary Home, Prohibition and Excise Department and others Vs. K. Balu and another* (2017) 2 SCC 281. In paragraph 29, this Court has issued the following directions to all the States and Union territories which shall be applicable to the Union Territory of Puducherry also. The directions in paragraph 29 are as under -

"29. We, accordingly, hereby direct and order as follows:

29.1 All States and Union Territories shall forthwith cease and desist from granting licences for the sale of liquor along National and State Highways;

29.2 the prohibition contained in Para 29.1 above shall extend to and include stretches of such highways which fall within the limits of a municipal corporation, city, town or local authority;

29.3 The existing licences which have already been renewed prior to the date of this order shall continue until the terms of the licence expires but not later than 1-4-2017;

29.4 All signage and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on National and State highways;

29.5 No shop for the sale of liquor shall be (i) visible from a national or State highway; (ii) directly accessible from a national or State highway; and (iii) situated within a distance of 500 m of the outer edge of the national or State highway or of a service lane along with highway.

29.6 All States and Union territories are mandated to strictly enforce the above directions. The Chief Secretaries and Directors General of Police shall within one month chalk out a plan for enforcement in consultation with the State Revenue and Home Departments, Responsibility shall be assigned, inter alia, to District Collectors and Superintendents of Police and other competent authorities. Compliance shall be strictly monitored by calling for fortnightly reports on action taken.

29.7 These directions issue under Article 142 of the Constitution. "

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Thus, as per para 29.5, no shop for the sale of liquor shall be (i) visible from a national or State highway; (ii) directly accessible from a national or State highway; and (iii) situated within a distance of 500 m of the outer edge of the national or State highway or of a service lane along with highway. The Rule which may be applicable in the Union Territory of Puducherry may not be permitted to over-rule the directions issued by this Court.

In view of the above, the relocation of respondent no. 4 within 150 mtrs. from the temple/mosque as well as the educational institution is absolutely in teeth of directions issued by this Court in the case of *State of Tamil Nadu represented by its Secretary Home, Prohibition and Excise Department and others Vs. K. Balu and another* (supra). Under the circumstances, the impugned judgment and order passed by the High Court deserves to be quashed and set aside.

In view of the above and for the reasons stated hereinabove, the present appeal succeeds. The impugned judgment and order passed by the High Court dismissing the writ petition is hereby quashed and set aside. The decision, if any, to shift the liquor shop in the name of respondent no.4 / M/s. Premier Enterprises to an area which is within 150 mtrs. from the temple/mosque/educational institution is hereby quashed and set aside. If respondent no.4 is continuing liquor shop within 150 mtrs. from the temple/mosque/educational institution, as alleged in the writ petition, respondent no. 4 is directed to close the liquor shop

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within a period of four weeks from today and relocate the shop to an area which shall be beyond 500 mtrs. from the temple/mosque/educational institution.

The present appeal is allowed to the aforesaid extent. No costs.

..... J.
(M.R. SHAH)

..... J.
(C.T. RAVIKUMAR)

New Delhi;
March 20, 2023.

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ITEM NO.5

COURT NO.4

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10377/2022

(Arising out of impugned final judgment and order dated 04-01-2022 in WP No. 26624/2021 passed by the High Court Of Judicature at Madras)

KANAGACHETTIKULAM MAKKAL PODHUNALA EYAKKAM

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.82634/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 20-03-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Appellant(s) Mr. V. Balaji, Adv.
Mr. Asaithambi Msm, Adv.
Mr. C. Kannan, Adv.
Mr. Nizamuddin, Adv.
Mr. Rakesh K. Sharma, AOR

For Respondent(s) Mr. Aravindh S., AOR

Mr. T. Harish Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(signed order is placed on the file)