

W.P(MD)No.2919 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P(MD)No.2919 of 2025
and
W.M.P(MD)No.2053 of 2025

K.Kannan

... Petitioner

VS.

- 1.The Managing Director,
The TASMAC Managing Director Office,
CMDA Building 4th Floor,
Egmore, Chennai – 18.
- 2.The District Collector,
Office of the District Collector,
Dindigul District.
- 3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
The District Manager Office,
Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Mandamus, directing the respondents herein to



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forthwith close the TASMACH shop No.3110 situated at Trichy Road, Dindigul Town and by considering the petitioner's representation dated 09.11.2024.

For Petitioner	: Mr.S.Ramakrishnan for Mr.P.Vetrivvel
For RR 1 & 3	: Mr.N.Vignesh Standing Counsel
For R – 2	: Mr.J.Ashok Additional Government Pleader

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The Writ of Mandamus has been instituted to direct the respondents to forthwith close the TASMACH shop No.3110, situated at Trichy Road, Dindigul Town, based on the representation submitted by the petitioner on 09.11.2024.

2.The petitioner states that the respondents 1 and 3 are running the subject TASMACH shop on a road used by the children to reach a School and that it is causing a nuisance to the children and other road users, making it difficult for them to use the road freely and peacefully. Thus, the petitioner is constrained to move the present Writ Petition.



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3.The third respondent has filed a counter-affidavit stating that the petitioner's claim regarding the proximity of various institutions, namely, the CSI Sester Primary School is situated in 30 meters, Tattli Secondary School is situated in 50 meters, CSI Church is situated in a short distance and the Government Hospital is situated in 100 meters are incorrect. Further, the counter states that the TASMACH shop is located within the Corporation limits, where the prohibited distance is 50 meters as per Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 (in short hereinafter referred to as 'the Rules, 2003'). However, since the shop is situated in a commercial area, the proviso to Rule 8 of the Rules 2003, states that the distance restriction shall not apply. The rules setting minimum distances are regulatory thresholds, but they do not exhaust all public health and welfare concerns. Mere compliance with the distance rule does not validate a location if the broader environment is harmful.

4.This Court is of the considered view that mere adherence to the distance criterion is insufficient when certain mitigating circumstances are raised by an aggrieved citizen.



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5.Undoubtedly, a TASMACHOP shop may cause a nuisance to the road users in the locality, particularly, to the children during School hours.

6.It is the duty of the State to ensure that no such nuisance is caused to the citizens and road users.

7.Article 47 of the Constitution of India directs that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health.

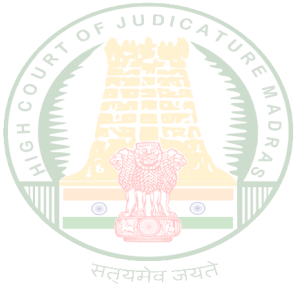
8.Therefore, it is a constitutional philosophy and the Directive principles insist that a welfare Government should strive wholeheartedly to enforce prohibition, rather than establish more TASMACHOP shops which adversely affect public health.

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9.It is contradictory for a welfare Government to establish more hospitals on the one hand and simultaneously establish TASMACH shops on the other. This is not in consonance with constitutional ethos. When the right to health is a fundamental right, the State must ensure that the prohibition is slowly implemented in a phased manner to reduce harm to the public health. Therefore, this Court is of the considered view that mere guidelines/rules fixing certain distances cannot be the sole criterion. In the present case, the very same road is used by the children to reach their School and it serves as a direct pathway. Consequently, the TASMACH shop would undoubtedly cause public nuisance to the road users, children attending the School and persons going to Church etc.

10.In view of the fact that the closure of one TASMACH shop would not cause any prejudice but would rather benefit the public at large, this Court is inclined to consider the relief sought for. Consequently, the respondents are directed to forthwith close the TASMACH shop No.3110 situated at Trichy Road, Dindigul Town, within a period of two weeks from the date of receipt of a copy of this order.



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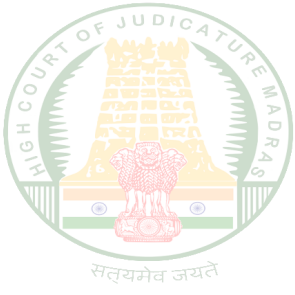
11. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

12. List the matter under the caption '**For Reporting Compliance**' on **18.06.2025**.

[S.M.S.,J.] & [A.D.M.C.,J.]
02.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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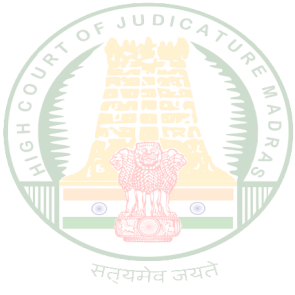
Note: Issue Order Copy on 03.06.2025.



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To

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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

ps

ORDER MADE IN
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DATED : 02.06.2025