

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/08/2004

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.2922 of 2001

Gajapathy .. Petitioner

-vs-

1. State of Tamil Nadu
rep. by Secretary to
Government
Prohibition & Excise
Department, Fort St. George
Madras 9.
2. The Commissioner of Prohibition
and Excise
Ezhilagam
Chepauk, Chennai 5.
3. The Collector of Madras
Chepauk, Chennai 5. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents herein to pay the interest amount to the petitioner at the rate of 18 % on Rs.9,10,987/- calculating from the date of deposit, paid by the petitioner as privilege amount for the country liquor retail vending Shop No.74 of Egmore-Nungambakkam Taluk, Madras District for the Excise year 1990-91.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.M.Mahalingam
Government Advocate

:ORDER

Seeking a writ of mandamus directing the respondents to pay interest at the rate of 8% on Rs.9,10,987/-, which was originally deposited by the petitioner, who was a successful bidder of a country liquor retail vending Shop No.74 of Egmore-Nungambakkam Taluk, Madras District, for the Excise year 1990-91, the petitioner has brought forth this writ application.

2. It is alleged by the petitioner that after the issuance of the licence, the petitioner suffered a suspension of the same, and subsequently, the same was also cancelled; that he filed a writ application before this

Court in W.P.No.9857 of 1991 for quashing the said suspension order along with a prayer for the refund of the sum of Rs.9,45,18 2/- remitted by him, with interest; that this Court by a judgment dated 30.10.1998 disposed of the petition with a direction to the respondents to consider the representation of the petitioner, if any and dispose of the same within a period of two months; that since a delay was noticed, a contempt application was filed before this Court; that in the meanwhile, the principal amount was refunded; that this Court in that contempt application made an observation that the question as to the payment of interest was kept open, and the petitioner was at liberty to make any representation in that regard; that accordingly, a representation was made, and the same was rejected by an order of the first respondent, which is the subject-matter of challenge in this writ petition.

3. This Court heard the learned Counsel for the petitioner and also the learned Government Advocate for the respondents.

4. The only grievance ventilated by the petitioner, was the denial of interest on the sum of Rs.9,10,987/- which was originally deposited by him at the time, when he came out as a successful bidder of the country liquor retail vending shop referred to above. It is pertinent to point out that when there was a cancellation of the licence and the same was challenged before this Court, there was no order by this Court cancelling the said order; but, a direction was given to the authorities to consider the representation as to the refund within a period of two months. It remains to be stated that there was no specific direction for the payment of interest in that order. While there was a delay, a contempt application was filed, and the same was also disposed of since the principal amount was paid in the meanwhile. Now, the petitioner aggrieved over the rejection of his request for the payment of interest, has brought forth this writ application.

5. The Court is at a loss to understand how the petitioner is entitled to get interest on the same amount, originally deposited by him. The contention of the learned Counsel for the petitioner is that the petitioner is able to conduct the shop only for one week; that thereafter, the place was not found to be suitable; that the measurements were made then and there by different officers and found to be different, and thus, the petitioner is not responsible for non-conduct of the shop during the relevant period; but, the amount of Rs.9,10,987/- was also deposited with the Government, and hence, he was entitled to interest. This Court is unable to agree with this contention put forth by the learned Counsel for the petitioner. The authority below has pointed out that for the payment of interest, no provisions were available under the Tamil Nadu Country Liquor (Special Provisions for Refund) Rules 1993. Apart from that, while originally, the selected place was not found fit, there was a direction issued to the petitioner to find out an unobjectionable place, which was, admittedly, not chosen by him. In such circumstances, this Court is able to see fault on the part of the petitioner in not selecting the same.

6. It is not the case of the petitioner that he did not run the shop at all; but, he actually ran the shop for a week. It is seen from the records that the entire principal amount except for the said period has been refunded, and he has got it back also. In the absence of any sanction, it cannot be stated that any of the rules has been infringed or violated. On the other

hand, the petitioner is not entitled to any direction from this Court, and hence, the order of the lower authority has got to be sustained.

7. In the result, this writ petition fails, and the same is, accordingly, dismissed. No costs.

Index : yes

Internet: yes

To:

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nsv/

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