

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

[ORDER XXII RULE (2) (1) A]

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2020

(Against from final impugned Order dated 08.05.2020 passed by the Hon'ble High Court of Judicature at Madras W.M.P.No.8928 of 2020 in W.P.No.7578 of 2020, W.M.P.No.8929 of 2020 in W.P.No.7589 of 2020, and W.P.Nos.7589 to 7593, 7595, 7599 & 7600 of 2020 and WMP Nos.8910, 8911, 8916, 8929, 8931 & 8932 of 2020)

IN THE MATTER OF:

Seeman ...Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd and ...Respondent
Ors

WITH

CRL.M.P. NO. _____ OF 2020
APPLICATION SEEKING PERMISSION TO FILE THE SLP:

WITH

CRL.M.P. NO. _____ OF 2020
APPLICATION FOR DIRECTION

WITH

CRL.M.P. NO. _____ OF 2020
APPLICATION FOR EXEMPTION FROM FILING CERTIFIED COPY
OF THE IMPUGNED ORDER

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER: _____ **K. PAARI VENDHAN**

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LISTING PROFORMA

SECTION II-A

Central Act : Disaster Management Act And Indian Penal Code

Section : Selection 55 to 57 of DMA and 268 to 271 IPC.

Central Rule : N.A

Rule No(s) : N.A

State Act : N.A

Section : N.A

State Rule : N.A

Rule No(s) : N.A

Impugned Interim Order : N.A

Impugned Final Order : 08.05.2019

High Court : Hon'ble High Court of Judicature at Madras

Names of Judges : THE HON'BLE DR.JUSTICE VINEET KOTHARI AND THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA.

Tribunal/ Authority : N.A

1. Nature of Matter : Civil

2(a) Petitioner/ Appellant : Seeman

(b) e-mail ID : N.A

(c) Mobile No. : N.A

3(a) Respondent No. 1 : The Managing Director,
Tamil Nadu State Marketing Corporation Ltd

(b) e-mail ID : N.A

(c) Mobile/ Phone No. : N.A

- 4(a) Main Category Classification : 43
- (b) Sub Classification : 1N.A.
5. Not to be listed before : N.A
- 6(a) Similar disposed of Matter with citation, if any, & case details : No similar disposed matter
- (b) Similar pending matter with case details : SLP.(C) D.No. 11184 - 11185 of 2020
7. **Criminal Matters** : N.A
- (a) Whether accused/ convicted Surrendered : N.A.
- (b) FIR No. Crime No. : N.A.
- (c) Police Station : N.A.
- (d) Sentence : N.A.
- (e) period of Sentence Undergone including period of detention/ custody Undergone : N.A.
8. **Land Acquisition Matters** : N.A
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SC/ST : N.A
- Woman/Child : N.A
- Disabled : N.A
- Legal Aid Case : N.A
- In custody : N.A

11. Vehicle Number (in case of Motor Accident Claim matters): N.A

Date:- 12.05.2020



(K.PAARI VENDHAN)

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IN THE MATTER OF:

Seeman ...Petitioner
Versus
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Ors

OFFICE REPORT ON LIMITATION

1. The petition is not within time.
2. The petition is barred by time and there is delay of ____ days in filing the same against order dated 11.10.2019 and petition for condonation of ____ days delay has been filed.
3. There is delay of ____ days in filing the petition and petition for condonation of ____ days delay in filing has been filed.

Place: New Delhi
Filed on: 12.05.2020

(BRANCH OFFICER)

SYNOPSIS AND LIST OF DATES:

The present Special Leave Petition is being filed against Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Judicature at Madras, where in the Hon'ble High Court in W.M.P.No.8928 of 2020 in W.P.No.7578 of 2020, W.M.P.No.8929 of 2020 in W.P.No.7589 of 2020, and W.P.Nos.7589 to 7593, 7595, 7599 & 7600 of 2020 and WMP Nos.8910, 8911, 8916, 8929, 8931 & 8932 of 2020 has, allowed sale of liquor via online medium and door delivery system which the State Government itself has stated in their SLP (C) C.No. 11184 -11185 of 2020 as "not feasible as it is unworkable and evidently against the public interest".

Further the petitioner States that the impugned order allowing sale via online medium / door delivery to match a sale of "*Rs.175 Crores*" for a non-essential item is against the public interest in this time of pandemic. The impugned order of the Hon'ble High court is oxymoric because on the one hand it ordered the closure of the State run liquor shops for flouting of the precautionary guidelines issued by the Central/the State Governments an order of the Hon'ble High court vide order dated 06.05.2020 and on the other hand allowed the online sale without appreciating that such a huge quantity of liquor also has to be supplied by some persons whose following of the necessary precautions is not humanly manageable or gauge-able. And this will increase persons to persons contact to many million-fold for an no essential item. Further the impugned order has failed to note the multiplication of domestic violence upon woman in this lockdown period

due to liquor sale, which was even noted by the World Health Organization, (WHO) in its report.

The Ministry of Home Affairs under the Direction of National Disaster Management Authority has passed its guidelines dated 01.05.2020 in which it has specifically stated that the ecommerce activity can be only permitted for essential items outside the contaminated zone . In direct contravention of this guidelines the Hon'ble High court has permitted / even encouraged online sale of the liquor.

Further the Hon'ble High court being a court of record even after observing the flouting of the Hon'ble High court's order dated 06.05.2020, necessary guidelines and precautions issued by the Central government has failed to fix the responsibility upon anyone. This flouting of guidelines/ directions would have already multiplied the cross infection to a few million folds and resultant sufferings and death of the citizens of this country.

Further if a department of a State Government will not follow the guideline issued by the central Government in its letter and spirit then the rule of law will be substitute by rule of whims of some officer or the head of a department. In the present case Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd.

That present petitioner, is a Public Spirited Person and Chief Coordinator of Naam Thamar Katchi (NTK), a political party which has a vote share of 5% of the total electorate of the State of Tamil Nadu and has filed the present Special Leave Petition, for the betterment and interest of the people of Tamil nadu especially woman who are the most affected victims of the liquor sales in which ever medium. Further it is emphatically prayed to this

Hon'ble court that the argument of the State Government of achieving economic re-stabilization through selling liquor to its own citizens, that too at the middle of this Pandemic should reject at the threshold outrightly as it is fallacious, illogical to the data and unethical. Further the petitioner submitted that the possibility of the hurry in opening the wine being driven by the liquor barrens could not be ruled out than on the economical interest of the State.

It is stated that the State of Tamilnadu, has published Press Note No.311 dated 04.05.2020, by which the State of Tamilnadu, has issued a public notice for re-opening of TASMALC shops for sale of the liquor in the State of Tamil Nadu, as done by the other neighbouring States, namely, Karnataka and Andhra Pradesh, with certain restrictions as mentioned in the said Press Note.

Aggrieved by the said Public Notice dated 04.05.2020 passed by the State of Tamilnadu, the present Respondent, namely Mr. B. Ramkumar Adityan, has filed a Writ Petition No. 7578 of 2020, before the Hon'ble High Court of Judicature at Madras, challenging the Press Note No. 311 dated 04.05.2020, seeking a ban on the sale of liquor, which is intended to be done by the State of Tamil Nadu through re-opening of TASMALC shops from 07.05.2020, during the lockdown period amid COVID-19 situation.

The said Writ Petition was listed on 06.05.2020 before the Hon'ble High Court of Madras, and after hearing the both parties at length through Video Conferencing, the Hon'ble High Court vide Order dated 06.05.2020, was pleased to lay down the following directions while implementing the opening of the TASMALC,

*(i) We direct the respondent State and all concerned authorities of TASMACH including sales personnel thereto to strictly adhere to the Guidelines and restrictions stipulated in the Notification in G.O.(Ms)No.223, Revenue and Disaster Management (DM II) Department, dated 05.05.2020 and further Guidelines issued by the Managing Director of TASMACH in Rc.No.R3/2093/2020 dated 05.05.2020, which are quoted below for ready reference:
G.O.(Ms.)No.223 dated 05.05.2020*

"NOW THEREFORE the Government hereby ordered that the Liquor Retail Vending Shops be opened from 07.05.2020 (except the shops located in Malls, Market Complexes, Containment Zones and in the areas falling within the Jurisdiction of Greater Chennai Police) subject to the following conditions till the lock down ends.:-

- 1. There should not be any crowd in the Liquor Retail Vending Shops.*
- 2. The social distance of 6 feet between two customers should be maintained.*
- 3. Not more than five persons to be allowed in the shop at a time.*
- 4. The shop timings will be from 10.00 a.m. to 05;00 p.m.*
- 5. Necessary security and safety measures need to be done in all the Liquor Retail Vending Shops.*
- 6. In each and every Liquor Retail Vending shop, additional personnel need to be deployed so as to avoid crowding in the shops.*

Further the Government ordered that the no bars shall be allowed."

Proceedings of TASMACH in Rc.No.R3/2093/2020 dated 05.05.2020

Annexure - I

Instructions to be followed at the Retail Vending shops

1. All shop personnel should be present in the shops

(Other than those who reside in containment zone). Wherever

shops are not to be opened, those staff can also be redeployed in other shops which are to be opened.

2. Shop Personnel must wear triple layer masks and sanitize their hands at the periodic intervals while working.

3. If there's sufficient space, sales can be done from two counters at the shop window, there should be at least 6 feet distance between the two counters. If sufficient space is not available then sales must be done only from one counter.

4. Only medically fit persons, without any co-morbid conditions and below 55years of age should be called for work.

5. The barricading with wooden sticks should be done for regulating the customers in front of the shops. Circles must be drawn within the barricades with diameter of 1 feet with 6 feet distance between each circles. The barricading should be a single line barricade. Customers should come in single line within the barricade. The barricading should be for at least 200 feet, where space is not available

barricading can be done for lesser length but it should be ensured that circles are drawn with diameter of 1 feet with 6 feet distance between each circle even

beyond the barricade.

6. The shops should be sanitized by using user friendly disinfectant liquid at least five times during the working hours.

7. Apart from sanitizing the shops with disinfectant liquid, the shop personnel should spray the bleaching powder outside the shops at least twice daily.

8. Not more than 5 persons to be allowed in the shop at the same time.

9. Shop personnel while sanitizing the shops should wear triple layer masks. All the shop personnel need to wear the disposable hand gloves and also wear triple layer masks while attending to the customers.

10. Minimum two personnel per shop should stand outside of the shop to regulate the customers for ensuring the social distance.

11. These shop personnel should also take care that there is no crowding nearby TASMAC shops and also to ensure that no customers are drinking liquor in the public places.

12. The Bars attached to the Retail Vending shops is not permitted to function. The District Manager and shop personnel should ensure that all entry points to the bars attached to the Retail Vending shops are closed and sealed properly.

13. One person must be engaged through outsourcing agency to stand at entrance of shop with hand sanitizer to be used for all customers before they make the purchase.

14. Sales to be done only to customers who are wearing a mask.

15. No Bulk sales to be done.

16. Token system to be followed for regulating crowds. Timings must be mentioned in the tokens to ensure that not many persons gather in front of shops. No token should be given after 4 pm and shops should compulsorily be closed at 5pm.

17. Public address system should be hired by the District managers for all shops where more crowds are expected especially in urban areas.

18. District managers may temporarily hire additional staff through outsourcing agency to ensure that above instructions are followed and for proper crowd control.

(ii) Besides the aforesaid Guidelines and Restrictions, we are of the opinion that following further restrictions deserve to be imposed on the sale of liquor to TASMALC shops in the areas allowed, in addition to the conditions contained in the aforesaid two Government notifications/Guidelines dated 05.05.2020.

(a) Item 15 of the Guidelines issued by the TASMALC says that "No Bulk sales to be done". Since the word "Bulk" is not defined or clarified in the said Guidelines and Instructions (but it seems to be

equivalent to 0.219 Gallon as per Google), we consider it appropriate to direct that not more than two bottles of 750 ML each of liquor (including Beer, Wine, etc.) of any one type and which is the usual bottle size as stated by the learned Advocate General, will be sold to one customer at a time. The same customer cannot make such purchase of liquor more than twice in a week, with a minimum gap of three days.

(b) The TASMAC shop in question, which is allowed to undertake such sale as per the Notifications dated 05.05.2020 will immediately issue "Bill for such sale", noting the name, address and Aadhar card number of the person/buyer concerned. If any sale is found to be made in violation of this direction and such fact is brought to the notice of this Court, that shop in question will be immediately closed and will not be

allowed to be reopened, except by the specific orders of the Court.

(c) Vide Item No.11 and Item No.12 of the Instructions dated 05.05.2020 also which indicate that the Bars attached to the Retail Vending shops will not be permitted to function and the entry point to such Bars attached to Retail Vending shops will be closed and sealed properly and drinking liquor in public places will be prohibited. This appears to be issued for not allowing the customers to consume the liquor at the shop itself or in the Bar attached thereto or any other public place.

We, therefore, direct that to maintain properly the law and order and to avoid any untoward incident, no purchaser of liquor shall be

allowed to consume the liquor at or nearby the shop in question or at any other public place and the police personnel deployed in duty for such bandobust and such consumption of liquor can take place only in the private premises of the person(s) concerned.

(vii) No sale of liquor without Sale Bills shall be made by any TASMAC shop and if any complaint is received in this regard by this Court, the Court may direct the permanent closure of such TASMAC shop after making necessary enquiry in the matter.

(viii) With the aforesaid restrictions and the restrictions already stipulated in the aforesaid Government notifications/Guidelines dated 05.05.2020, we are of the opinion that we cannot totally prohibit the reopening of the TASMAC shops for sale of Liquors, including Beer, Wine, etc. in the State as we have already dismissed one such Public Interest Litigation in WP No.7565 of 2020 on 04.05.2020, it being a State policy matter and we are also not inclined to stay or defer the said impugned decision of the State Government dated 05.05.2020 to reopen the TASMAC shops in specified areas from 07.05.2020 until 17.05.2020 or even if the date of the lockdown is further extended by the Central Government or the State Government depending upon the emerging situation of COVID-19 disease, as we feel that the balance of revival of economic activity and management of Covid related disease has to be maintained by the State Authorities and it is not within the domain of the Court to interfere with the same.

(ix) The State will constantly monitor the sale of liquor in terms of the aforesaid restrictions depending upon the change of declaration

of zones from Green to Orange, Orange to Red and Red to Containment zones and opening or closing of TASMALC shops in terms of the aforesaid restrictions will also be governed by the declaration of the respective areas in different zones by the competent authority, on day-to-day basis.

It is stated that the Hon'ble High Court vide Order dated 06.05.2020, allowed the opening of the Wine Shops/ Outlets subject to the fulfilment of the above mentioned conditions and restrictions stated in the Circular dated 04.05.2020 imposed by the Government of Tamilnadu and further, the Government of Tamilnadu was directed to monitor the functioning of the working of the Wine Shops/ outlets in Red and Orange Zones of the State of Tamilnadu. Thereafter, the State of Tamilnadu, opened the Wine Shops/ Outlets in the State of Tamilnadu, and flouted all the conditions and restrictions which was to be strictly followed by the State of Tamilnadu.

It is stated that when the Wine Shops/ Outlets were opened in the State of Tamilnadu, chaos prevailed outside many Wine shops in various districts, after the liquor outlets opened after a gap of nearly 45 days of the COVID-19 lockdown.

The Police force were out-numbered to handle the overcrowding of the people in front of the Wine Shops/ Outlets in various districts of Tamilnadu, giving rise to the spread of Covid-19 amongst the Public.

The Social Distancing norms laid down by the Union of India, which was reiterated by the State of Tamilnadu in its Press Note dated 04.05.2020, were deliberately flouted by the State of Tamilnadu, by failing to handle the overcrowding of the People in front of Wine Shops/ Outlets.

It is stated that most of the Public who came to the Wine Shops/ Outlets did not wear any masks and the Police Personals did not take any actions against these people.

It is pertinent to mention that recently, there was a massive outbreak of wide spread of Covid-19 Virus in a Vegetable Market at Koyambedu, Chennai, Tamilnadu and due to said outbreak, there was a surge in Covid-19 cases across various districts of Tamilnadu.

It is stated that the Government of Tamilnadu through its Officials and law enforcement agencies, completely failed to implement the Social Distancing Norms and other Safety measures made by the Union of India and was very negligent in controlling the Covid-19 pandemic.

It is stated that allowing the Wine Shops at this stage, would not only affect the persons coming to buy liquors but also the family members of the persons who comes to the Wine Shops/ outlets for buying the same. Further, there is a high risk of the Police Personals getting affected by the Covid-19 Virus from the huge crowd who are coming to the Wine Shops/ outlets.

The Hon'ble High Court vide Impugned Order dated 08.05.2020, directed to close the Wine Shops / outlets across the State of Tamilnadu which were opened on 07.05.2020 and 08.05.2020, by flouting out the safety conditions and measures bound to be followed by the State of Tamilnadu.

The Hon'ble High Court of Judicature at Madras, vide Impugned Order dated 08.05.2020, was pleased to observe the following while directing to close the Wine Shops/ Outlets,

20. Now what worries this Court is this mad rush for the liquor, where thousands of people without following any of the norms prescribed by the State, TASMAL authorities or by this Court, would only lead to witnessing the form of surge of new clusters, as opined by the Epidemiologists and Public Health Experts. It has been warned by the Public Health Experts that the next 7 days will witness doubling rate for COVID-19, for which reason, the lockdown has been stated to be announced.

21. The video clippings and the Newspaper reports clearly go to prove that COVID-19 pandemic preventive norms, like Physical distancing and wearing of masks, etc. were thrown into air making serious concerns about the spread of the virus. There were also further reports about protests held in several places against the reopening of the liquor shops before the lockdown is lifted creating law and order problems. Despite the police personnel having been deployed, the State machinery could not control the crowding tippers even on day one. The suggestion given by this Court to vend or sale online was also not heeded to.

22. It is brought to the notice of this Court that about 3850 shops across the State were opened, and there was a record sale of Rs.175 Crores. The above scenario reported after the day one of the reopening of the TASMAL shops only go to show that the State machinery is out of control either in disciplining the crowd or even in the process of sales. It is also reported that the number of police personnel being infected with COVID-19 disease is also on the rise and deploying them for controlling the crowded tippers before the TASMAL shops would also put their life at risk, besides

preventing them from discharging their duties in places, where their services are really required.

After making the above-mentioned observation regarding the safety measures and conditions flouted by the State of Tamilnadu, the Hon'ble High Court of Madras vide Impugned Order dated 08.05.2020, was pleased to conclude the following,

27. In view of the above discussion, the relief sought for by the TASMAC in this miscellaneous petition is not viable for the following reasons : (i) the online sale recommended by this Court was not even put to test ; (ii) the social or physical distancing norms, wearing of masks, etc. were not followed ; (iii) number of bottles to be sold to each buyer, as restricted by this Court was also flouted ; (iv) the selling conditions based on age, as mentioned in the guidelines were also not followed ; and (v) the Hon'ble Supreme Court today observed that the States should consider home delivery of liquor/indirect sale during lockdown.

It is submitted that the Hon'ble High Court of Madras, vide Impugned Order dated 08.05.2020, was pleased to modify the earlier Order dated 06.05.2020, by directing to close all of its shops/outlets, which were opened on 07.05.2020 and 08.05.2020 with immediate effect and no shops shall be kept open till the lockdown imposed by the Central/State Government is lifted/modified in accordance with law. However, the Hon'ble High Court of Madras has erred in the granting the following reliefs, which destroys the purpose of lockdown during Covid-19 pandemic,

"29. However, it is open to the State and the TASMAC to resort to only home delivery of the liquor by indirect sale during this lockdown period,

viz., online booking of order for liquor and by putting the required system in place in the manner in which, they can sell the liquor and make home delivery in the above manner. ...”

It is submitted that consuming Alcohol would lead to the following consequences and effects, which is given in the Report submitted by the World Health Organization, (WHO), Europe with reference to Covid-19 pandemic are as follows:-

- Alcohol effects, both short-term and long-term, on almost every single organ of a person’s body. In fact, the risk of damage to the person’s health increases with each drink of alcohol consumed.
- Alcohol use, especially heavy use, weakens the immune system and thus reduces the ability to cope with infectious diseases like Covid-19 pandemic.
- Alcohol increases the risk, frequency and severity of perpetration of interpersonal violence such as intimate partner violence, sexual violence, youth violence, elder abuse, and violence against children, thereby causing burden to the Law Enforcement Agencies, when the said Agencies are alleged to be busy in tackling the Covid-19 pandemic.
- Heavy use of alcohol increases the risk of acute respiratory distress syndrome (ARDS), one of the most severe complications of COVID-19

It is essential to submit that the Managing Director of the Tasmac and the have to be prosecuted under section 268, 279 and 270

It is submitted that the right to live with human dignity, of the People of Tamilnadu especially woman in the house Holds, which is guaranteed under Article 21 of the Indian Constitution, has been violated due to the acts and lapses of the State of Tamilnadu. And the relief granted by the Hon'ble High court in the impugned order to the State of Tamil Nadu of Online sales also would directly injure Article 21 of the Constitution of India. Article 21 reads as "*No person shall be deprived of his life or personal liberty*" and this epitomic article of Rights does not confine the protection offered by this Hon'ble court to a particular geographical area. Further even the Hon'ble High court records the submission of a petitioner were in 4 people have lost their lives in liquor related offences. In light of the above-mentioned facts and circumstances, it is submitted that the Hon'ble High Court ought not to have allowed the sale of Liquors /Wine through online portal and home delivery, and further, the Special Leave Petition filed by the State of Tamilnadu, ought to be dismissed as the same is against the Public Safety and Policy.

The Question of law of Great Public importance are as follows: -

- A. Whether the Hon'ble High Court was right in allowing the State of Tamilnadu to sell the Liquors through online portal and home delivery, during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic?

- B. Whether the Hon'ble High Court failed to consider the fact that the liquors/ wines are not "essential Commodities", as defined under the provisions of Essential Commodities Act, 1955?
- C. Whether the Hon'ble High Court failed to consider the fact that consuming Alcohol would lead to the severe health consequences and effects during the Covid-19 Pandemic, which is given in the Report submitted by the World Health Organization, (WHO)?
- D. Whether the Hon'ble High Court has failed to fix the responsibility upon the erring authority for wilfully and negligently flouting the guideline issued by the appropriate authorities to contain the pandemic?
- E. Whether the legal principal of Ubi Jus Ibi Remedium is applicable to the State, when its functionary act negligently or not?

LIST OF DATES:

	The present Petitioner is a law-abiding citizen and is a permanent resident at the address mentioned in the cause-title.
29.04.2020	A Public Interest Litigation in the form of Writ Petition was filed by one Mr. Dhanasekaran, seeking a Writ of Mandamus to direct the present Petitioner to totally prohibit the manufacture, sale and consumption of alcohol in the state of Tamilnadu.

01.05.2020	<p>The Ministry of Home Affairs under the Direction of National Disaster Management Authority issued its guidelines vide a notification under section 10(2) of the Disaster Management Act on 01.05.2020 extending the lockdown for two more weeks in which it has specifically stated that the ecommerce activity can be <u>only permitted</u> for essential items outside the contaminated zone . In direct contravention of this guidelines the Hon'ble High court has permitted / even encouraged online sale of the liquor.</p> <p>The true copy of the guidelines issued by the Ministry of Home Affairs under the Direction of National Disaster Management Authority dated 01.05.2020 is annexed herein and marked as <u>Annexure-P/1</u> (Pg. No. 42 to 53)</p>
03.05.2020	<p>Government Order No. 217 was passed by the Managing Director of TASMAL, extending restrictions in the territorial jurisdiction of the State of Tamilnadu up to 17.05.2020, to contain the further spread of COVID-19 with detailed guidelines to be followed.</p>
04.05.2020	<p>State of Tamilnadu, had issued Press Note No. 311 for re-opening of TASMAL shops for sale of the liquor in the state of Tamilnadu, as done by the other neighboring States, namely Karnataka and Andhra Pradesh, with certain restrictions.</p>
05.05.2020	<p>The government of Tamil Nadu through its chief secretary has issued an GO directing all the concerned to take all</p>

	<p>appropriate measures such as crowd management and social distancing etc as per the guideline of the Central Government while selling the liquor to the customers.</p> <p>The true copy of the G.O. M.S No. 223 dated 05.05.2020 passed by the Government of Tamil Nadu is annexed herein and marked as <u>Annexure-P/2</u> (Pg. No.54 to 56)</p>
05.05.2020	<p>The Managing director of Tamil nadu State Marketing Corporation Ltd knowing fully well that none of the guideline could be followed at the present situation and without analyzing or strategizing about the crowd management opened the Wine shops, apparently to please the liquor company in a hurry, just by formally intimating to various authorities.</p> <p>The true copy of the proceedings of the Managing director of Tamilnadu State Marketing Corporation Ltd., dated 05.05.2020 is annexed herein and marked as <u>Annexure-P/3</u> (Pg. No.57 to 62)</p>
05.05.2020	<p>The Respondent No.1, namely B.Ramkumar Adityan, had filed a Writ Petition of Certiorarified Mandamus calling for the records of the State in respect of the Press Notification No. 311 dated 04.05.2020 and quash the same as illegal and consequently, direct the State to open the Retail Liquor Selling Shops post the Covid-19 pandemic.</p>

Nil 2020	<p>Due to outbreak of Covid-19 Pandemic, many people across the world, have been infected and many of them have died due to infections. It is stated as per the Report of the World Health Organization, People consuming alcohol are vulnerable to Covid-19 Infection. the true copy of the report of the World Health Organization, (WHO) on the effect of Alcohol consumption in this pandemic is annexed herein and marked as <u>Annexure-P/4</u> (Pg. No. 63 to 68)</p>
06.05.2020	<p>The Hon'ble High court of Madras was falsely made to believe about preparedness for the exigencies in case of opening of the liquor shop and an order dated 06.05.2020 was obtained by the first respondent.</p> <p>A true Copy of the Order dated 06.05.2020 passed by the Hon'ble High Court of Madras in WP No. 7875 of 2020, is annexed herein and marked as <u>Annexure-P/5</u> (Pg. No. 69 to 92)</p>
07.05.2020	<p>The State of Tamilnadu through TASMACH, had opened all the Wine Shops/ outlets, by flouting the safety measures and conditions imposed by the Home Ministry.</p>
07.05.2020	<p>State of Tamilnadu had filed WMP No. 8928 of 2020 in W.P (C) No. 7578 of 2020 seeking to relax the conditions in Paragraph 15 (ii) (b) and 15 (iii), (iv), (V), (vi) of the Order</p>

	dated 06.05.2020 passed and permit TASMAC to carry on business as per the guidelines of TASMAC.
08.05.2020	The present Respondent No.1 vide Impugned Order dated 08.05.2020, in WMP No. 8929 of 2020 in WP No. 7589 of 2020, directed to close all TASMAC Shops forthwith and permitted to go for online sale through door delivery and further, pleased to dismiss the Application filed by the State of Tamilnadu.
09.05.2020	The State of Tamilnadu had filed a Special Leave Petition before this Hon'ble Court and the diary number of the same is 11184 of 2020.
11.05.2020	Hence this present Special Leave Petition has been filed by the present Petitioner.

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.05.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.M.P.No.8928 of 2020 in W.P.No.7578 of 2020,
W.M.P.No.8929 of 2020 in W.P.No.7589 of 2020,
and W.P.Nos.7589 to 7593, 7595, 7599 & 7600 of 2020
and WMP Nos.8910, 8911, 8916, 8929, 8931 & 8932 of 2020

WMP No.8928/2020 in WP No.7578/2020 :

The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower-II, 4th Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-8. .. Petitioner

Vs.

1. B.Ramkumar Adityan .. Respondent/Writ Petitioner
2. Chief Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.
3. Additional Chief Secretary,
Prohibition and Excise Department,
Government of Tami Nadu,
Secretariat, St. George Fort,
Chennai-600 009.
4. Principal Secretary,
Health and Family Welfare Department,

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMACH V. B.Ramkumar Adityan and 4 others]

Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.

5. Director General of Police,
Tamil Nadu Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

.. Respondents/Respondents

WMP No.8929/2020 in WP No.7589/2020 :

G.Rajesh

.. Petitioner/Writ Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Chief Secretary,
Secretariat, Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2. Chairman-cum-Managing Director,
Tamil Nadu State Marketing Corporation Limited,
CMDA Tower-II, 4th Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-8.

.. Respondents/Respondents

* * * *

Prayer in WP No.7578 of 2020 : Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the respondents 1 and 2 in respect of the Press Notification No.311 dated 04.05.2020 and quash the same as illegal and consequently, direct the respondents 1 and 2 to open the fifth respondent Retail Liquor Selling Shops once Tamil Nadu become COVID-19 free State.

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

WMP No.8928 of 2020 : Petition filed praying to relax the conditions in paragraph 15(ii)(b) and 15(iii), (iv), (v) and (vi) of order dated 06.05.2020 made in W.P.No.7578 of 2020 for the time being and permit the petitioner to carry on business as per the guidelines of TASMAL and other conditions imposed.

Prayer in WP No.7588 of 2020 : Petition under Article 226 of the Constitution of India praying for a writ of Mandamus restraining the respondents from opening the state-run liquor outlets (TASMAL outlets) in the State of Tamil Nadu till such time the COVID-19 Lockdown is in force.

Prayer in WMP No.8929 of 2020 : Petition file praying to grant an interim order directing the respondents therein to close the TASMAL shops across the State of Tamil nadu until online sale/e-coupon systems are implemented by the second respondent/TASMAL, to avoid overcrowding at the liquor shops as directed by this Court at clause 15(iv) in the order dated 06.05.2020.

* * * *

For Petitioner in :
WMP No.8928/2020
in WP No.7578/2020
and Respondents 2
to 5 in WP No.7578/
2020 and Respondents
1 and 2 in WP
No.7589/2020
For Respondents/State
of TN in other WPs

Mr.Vijay Narayan,
Advocate General
Mr.S.R.Rajagopal,
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan,
Government Pleader for State of
Tamil Nadu and Mr.Sathish for
TASMAL

For Petitioner in :
WP No.7599/2020

Mr.AR.L.Sundaresan, Senior Counsel
for Mr.K.S.Karthik Raja

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMACH V. B.Ramkumar Adityan and 4 others]

For Petitioner in : Mr.S.Ilamuhil
WP No.7600/2020

For Petitioner in : Mr.Jimraj Milton
WP No.7595/2020

For Petitioner in : Ms.Y.Kavitha
WP Nos.7589-7593/
2020

For Respondent 1 : Mr.B.Ramkumar Adityan
in WMP No.8928/2020/ Party-in-Person
Petitioner in WP 7578/2020

COMMON ORDER

(Order of the Court was made by Pushpa Sathyanarayana, J.)

The Court was held by Video Conference, in terms of the Resolution of the Full Court dated 30.04.2020, by Judges from their respective residence offices, where minimum staff made available and the counsel, staff of the Court appearing from their respective residences.

2. On 06.05.2020, we have passed a detailed order in W.P.No.7578 of 2020 with respect to the opening of Retail Liquor Selling Shops run by the Tamil Nadu State Marketing Corporation Limited (in short, "TASMAC") on 07.05.2020, in and by which, we had directed the

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State to follow the guidelines and restrictions stipulated in the notification issued by the State Government in G.O.(Ms)No.223, Revenue and Disaster Management (DM II) Department, dated 05.05.2020 and further guidelines issued by the Managing Director, TASMACH in Rc.No.R3/2093/2020, of even date. In addition to the above conditions, this Court also had issued a few guidelines and restrictions for the reopening of the TASMACH shops on 07.05.2020.

3. The fifth respondent in the said writ petition filed W.M.P.No.8928 of 2020 seeking to relax the conditions in paragraph 15(ii)(b) and 15(iii), (iv), (v) and (vi) of the order dated 06.05.2020 passed therein for the time being and permit the petitioner/TASMACH to carry on business as per the guidelines of TASMACH.

4. Yet another petition in W.P.No.7589 of 2020 was filed by one Mr.G.Rajesh, which stood adjourned to 14.05.2020. The petitioner therein filed W.M.P.No.8929 of 2020 seeking to grant an interim order directing the respondents therein to close the TASMACH shops across the State of Tamil nadu until online sale/e-coupon systems are implemented by the second respondent therein, viz., TASMACH, to avoid overcrowding at the

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

liquor shops as directed by this Court at clause 15(iv) in the order dated 06.05.2020.

5. A Third Party, viz., HIP Bar Privated Limited filed W.M.P.No.8916 of 2020 in W.P.No.7578 of 2020 praying to permit them to intervene in the main writ petition to put forth facts pertaining to the said issue and to consequently propose viable alternatives to opening of the TASMAL liquor shops to the public in the form of technology assisted home delivery. The said miscellaneous petition also stood adjourned to the next date of hearing, i.e., 14.05.2020. However, the said third party is represented by Mr.Anirudh Krishnan today.

6. In all these petitions, notices were mutually served and the counsels were permitted to make their submissions.

7. Heard Mr.Vijay Narayan, learned Advocate General, Mr.S.R.Rajagopal, learned Additional Advocate General assisted by Mr.V.Jayaprakash Narayanan, learned Government Pleader, Mr.Sathish, learned Standing Counsel for TASMAL and the counsels for the petitioners and perused the materials placed before this Court.

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8. Mr.R.Kirlosh Kumar, I.A.S., Managing Director of TASMAL, is also present throughout the Video-conference hearing.

9. The first and foremost grievance of the petitioner in WMP No.8928 of 2020 (in short, TASMAL) is with respect to the issuance of bill for sale after noting down the name, address and Aadhar card number of the vendee, as has been mandated by this Court with a rider that if any sale is found to be made in violation of the said direction, that shop in question will be immediately closed and will not be allowed to be reopened, until further orders from this Court. The learned Advocate General submitted that there is a difficulty in implementation of the said restriction, as the collection of the Aadhar card number for an ordinary commercial transaction amounts to violation of Right to Privacy and many consumers found it difficult to procure liquor. Besides the above, preserving such data would be an onerous task at this point of time. thus, the learned Advocate General sought for dispensing with the said condition.

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[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

10. Surprisingly, the TASMAL had not even produced a single counterfoil of the sale receipt made on 07.05.2020. Admittedly, none of the shops have computerized billing mechanism and such bills were issued only manually. The reason for seeking such dispensation was that it was taking minimum of 5 to 10 minutes for each of the buyer for billing. We fail to understand that in addition to the bill or receipt that may normally be issued, this Court has only asked them to note the name, address and Aadhar card number, which should not be very difficult for the sale persons to handle. The above restriction was imposed only to avoid repeated purchase of liquor by any individual buyer in a day and week.

11. The next objection was with respect to the digital payment facility for purchase of liquor. Though the said facility is said to be available within the city limits, implementing the same with immediate effect to the entire State is said to be difficult. It is also stated that for creation of the digital payment facility certain devices and software are required to be installed in all the retail vending shops throughout the State. The same also attracts monthly rental charges and Merchant Discount Rates (MDR Charges). As the said facility is yet to be

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introduced, it has necessitated that the said condition may also be relaxed.

12. The MD, TASMACH, specifically mentioned that the sealed tenders from scheduled and Commercial Banks/System Providers for supply and installation of Point of sale machines and facilitation of electronic modes of payment are called for. Though the last date for submission of bids was fixed on 07.04.2020, the same has been extended till 08.06.2020, due to the prevailing COVID-19 lockdown situation in the State. It is specifically pointed out as per Section 3(1) of the Tamil Nadu Transparency in Tenders Act, 1998, "no procurement shall be made by the procuring entity except by tender". Hence, the TASMACH is unable to provide the said facility immediately.

13. The difference drawn in number of bottles TO BE sold for online payment for purchase of liquor and for the purchase by tendering cash is also unacceptable to the State, as there is no online sales as of now.

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14. During the course of hearing, an order passed by the Hon'ble Supreme Court was brought to the knowledge of this Court that in an identical matter dealt with by the Hon'ble Supreme Court, which was filed under Article 32 of the Constitution, wherein, it was specifically stated by the Hon'ble Supreme Court that the States must effectuate social distancing, while selling liquor, by considering the other viable options. It was also specifically stated that the States should consider indirect sale or Home Delivery of liquor to maintain social distancing. In the above matter, the petitioner had sought for direction for prohibition of sale of liquor for human consumption at liquor vends/shops through direct contact sales during the lockdown period, to prevent the spread of COVID 19 in India.

15. The National Disaster Management Authority or the Central Government has been taking effective steps to make India COVID-19 free country and the guidelines issued in that regard, repeatedly and specifically highlighted that social and physical distancing should be maintained and physical contact should be avoided, besides washing of hands with soaps or sanitizers, etc. While that being the case, the State Government had issued the notification to open the TASMACH shops in the

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State of Tamil Nadu from 07.05.2020, by issuing notification referred to above in G.O.(Ms)No.223, dated 05.05.2020 and the guidelines issued by the MD, TASMAL.

16. After the order was passed by this Court on 06.05.2020, the TASMAL Retail shops were opened on 07.05.2020, whereupon, all those instructions issued by the MD, TASMAL as well as by this Court have been thrown into air. The State had already witnessed the mad rush to Koyambedu Wholesale Market, which has housed the wholesale shops for the sale of vegetables, fruits and flowers, when the lockdown was announced. The Social and Physical distancing norms were violated and the ramifications of the same were realized only after three-four days. In such circumstances, the State Government thought it fit to close down the said market in its original location and have temporary makeshift market in three different places outside the city of Chennai. While so, when this Court passed the order including the above changed conditions, before opening of the TASMAL shops, the said conditions were flouted, breaching the norms prescribed by the Disaster Management authorities also. The Newspaper and Visual Media reports would also go to show that the mad rush to the TASMAL shops reminded one of the similar rush to

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[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

the Koyambedu Market, which resulted in the closure of the same, after spreading of the novel Corona Virus to many number of persons.

17. Be that as it may, the TASMAL has now approached this Court for relaxation of some of the conditions, despite flouting all the conditions that were imposed by this Court, unmindful of the repercussions it may bring in.

18. Admittedly, the petitioner in W.M.P.No.8929 of 2020 in W.P.No.7589 of 2020 has also attached the photographs and also videographs reported in newspapers and visual media, which are really startling to see. Besides there were also reports in the newspapers about the share of TASMAL in bringing in domestic violence and also death of four people.

19. Even though the learned Advocate General claimed that casuarina barricades have been placed and social distancing were maintained by the police personnel, he fairly admitted that being the first day of the reopening of the shops, after a gap of 41 days, there were mad rush by the liquor lovers, which was beyond their control.

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20. Now what worries this Court is this mad rush for the liquor, where thousands of people without following any of the norms prescribed by the State, TASMAL authorities or by this Court, would only lead to witnessing the form of surge of new clusters, as opined by the Epidemiologists and Public Health Experts. It has been warned by the Public Health Experts that the next 7 days will witness doubling rate for COVID-19, for which reason, the lockdown has been stated to be announced.

21. The video clippings and the Newspaper reports clearly go to prove that COVID-19 pandemic preventive norms, like Physical distancing and wearing of masks, etc. were thrown into air making serious concerns about the spread of the virus. There were also further reports about protests held in several places against the reopening of the liquor shops before the lockdown is lifted creating law and order problems. Despite the police personnel having been deployed, the State machinery could not control the crowding tipplers even on day one. The suggestion given by this Court to vend or sale online was also not heeded to.

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[The MD, TASMACH V. B.Ramkumar Adityan and 4 others]

22. It is brought to the notice of this Court that about 3850 shops across the State were opened, and there was a record sale of Rs.175 Crores. The above scenario reported after the day one of the reopening of the TASMACH shops only go to show that the State machinery is out of control either in disciplining the crowd or even in the process of sales. It is also reported that the number of police personnel being infected with COVID-19 disease is also on the rise and deploying them for controlling the crowded tipplers before the TASMACH shops would also put their life at risk, besides preventing them from discharging their duties in places, where their services are really required.

23. Though there has been a direction given by this Court for sale of the liquor online, admittedly, the said direction was not even put to test by the State on the pretext that there is no infrastructure in place as on date.

24. The learned counsel for the petitioner in WMP No.8916 of 2020 Mr.Anirudh Krishnan submitted that there is an arrangement between the said petitioner and the TASMACH for e-wallet facility and an agreement is in force. However, the MD, TASMACH, said that it is only for

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the elite public, who purchase from TASMAL by using this facility and it is prevalent in certain districts only. Once this facility of e-wallet is extended to other districts and is made mandatory only to go through the same Service Providers, the liquor lovers will obviously switch over to the said mode. Mr.Anirudh, learned counsel submitted that the petitioner is willing to extend their services free of cost, so far as the TASMAL is concerned. While this Court is not recommending the services of the petitioners to be utilised by the TASMAL for the present, it is open to the TASMAL to choose anyone of the Service Providers to meet the situation to supply the liquor to the buyers online. If there is no such online system in place, it is for the State and the TASMAL to make all arrangements before they decided to reopen the retail outlet shops.

25. it is also relevant to note that Tamil Nadu Liquor (License and Permit) Rules, 1981 does not provide for online sales. There is currently no legal provision for home deliveries of alcohol in the entire country, except West Bengal and Punjab, which started recently. The State of Tamil nadu also has to make appropriate amendments to the T.N. Liquor (License and Permit) Rules, 1981, to have the technology enabled home delivery to promote responsible consumption of alcohol.

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[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

The challenge of the State is to ensure revenue from alcohol. In the COVID-19 locked down period to maintain the social distancing protocol and also boost the State revenue, it is imperative that the Government of Tamil Nadu should look at option of online sale and home delivery.

26. Learned Advocate General also submitted that at least 15 days is required even for any of the Banks to arrange for the online vending. It is relevant to state that the before deciding to reopen the retail outlets, the State and the TASMAL should have made arrangements for the online sales, considering the guidelines and restrictions imposed on them for maintaining social distancing.

27. In view of the above discussion, the relief sought for by the TASMAL in this miscellaneous petition is not viable for the following reasons : (i) the online sale recommended by this Court was not even put to test ; (ii) the social or physical distancing norms, wearing of masks, etc. were not followed ; (iii) number of bottles to be sold to each buyer, as restricted by this Court was also flouted ; (iv) the selling conditions based on age, as mentioned in the guidelines were also not followed ; and (v) the Hon'ble Supreme Court today observed that the States should

Order dt. 08.05.2020 in WMP Nos.8928 & 8929/2020
in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

consider home delivery of liquor/indirect sale during lockdown.

28. Consequently, we are inclined to modify the order dated 06.05.2020 and the TASMAL is directed to close all of its shops/outlets, which were opened on 07.05.2020 and 08.05.2020 with immediate effect and no shops shall be kept open till the lockdown imposed by the Central/State Government is lifted/modified in accordance with law.

29. However, it is open to the State and the TASMAL to resort to only home delivery of the liquor by indirect sale during this lockdown period, viz., online booking of order for liquor and by putting the required system in place in the manner in which, they can sell the liquor and make home delivery in the above manner. As it is stated that there are 30,000 contractual employees available with the TASMAL, we are of the opinion that there cannot be any difficulty in undertaking the above exercise of indirect sales and home delivery either through their own employees or by outsourcing such supplies of liquor. While ordering so, it is made clear that the TASMAL shall ensure that the persons undertaking the delivery work have undergone necessary safety medical tests and they are complying with all the protocols for the prevention of spreading of COVID-

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19, and they should put into necessary medical tests at regular intervals.

30. In view of the above modifications in paragraph 15 of the order dated 06.05.2020, W.M.P.No.8928 of 2020 preferred by the TASMACH is disposed of and W.M.P.No.8929 of 2020 is allowed.

31. The other conditions and restrictions in Government Notification dated 05.05.2020 and Court order dated 06.05.2020 shall continue to be operative in accordance with this order and this order is in addition and modification of the previous order dated 06.05.2020 in W.P.No.7578 of 2020, to the extent indicated above.

32. Post all the remaining connected writ petitions and miscellaneous petitions before this Court on **14.05.2020**.

(V.K., J.) (P.S.N., J.)
08.05.2020

gg
Index : Yes / No
Internet: Yes

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in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMAL V. B.Ramkumar Adityan and 4 others]

To

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.
2. The Additional Chief Secretary,
Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.
3. The Principal Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.
4. The Chairman-cum-Managing Director,
Tamil Nadu State Marketing Corporation Limited,
CMDA Tower-II, 4th Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai-8.
5. The Director General of Police,
Tamil Nadu Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

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in WP No.7578 and 7589/2020 and other WPs
[The MD, TASMACH V. B.Ramkumar Adityan and 4 others]

DR.VINEET KOTHARI, J.
AND
PUSHPA SATHYANARAYANA, J.

gg

W.M.P.No.8928 of 2020 in W.P.No.7578 of 2020,
W.M.P.No.8929 of 2020 in W.P.No.7589 of 2020,
and W.P.Nos.7589 to 7593, 7595, 7599 & 7600 of 2020
and WMP Nos.8910, 8911, 8916, 8929, 8931 & 8932 of 2020

08.05.2020

IN THE SUPREME COURT OF INDIA
[S.C.R., Order XXI Rule 3 (1)(a)]
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION
(UNDER ARTICLE 136 OF THE CONSTITUTION OF INDIA)
SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2020
(WITH PRAYER FOR INTERIM RELIEF)

<u>IN THE MATTER OF</u>		<u>POSITION OF PARTIES</u>	
		BEFORE THE HIGH COURT	IN THIS HON'BLE COURT
	Seeman	Not a Party	Petitioner
	Versus		
1.	Tamilnadu State Marketing Corporation Ltd., CMDA Tower II, 4 th floor, Gandhi Irwin Bridge Road, Egmore, Chennai – 600 008, Tamilnadu, Represented by its Managing Director	Petitioner	Contesting Respondent No.1
2.	Chief Secretary, Government of Tamilnadu, Secretariat, St. George Fort, Chennai – 6000 009, Tamilnadu	Respondent No.2	Proforma Respondent No.2
3.	Additional Chief Secretary, Prohibition and Excise Department, Government of Tamilnadu, Secretariat, St. George Fort, Chennai – 600 009, Tamilnadu	Respondent No.3	Proforma Respondent No.3
4.	Principal Secretary, Health & Family Welfare Department, Government of Tamilnadu, Secretariat, St. George Fort, Chennai – 600 009	Respondent No.4	Proforma Respondent No.4
5.	Director General of Police, Tamilnadu Police, Dr. Radhakrishnan Salai, Mylapore, Chennai – 600 004.	Respondent No.5	Proforma Respondent No.5
6.	B. Ram Adityan, S/o R. Balakrishna Adityan & Selvarathi, No. 563, Thoothukudi Road, Tiruchendur, Thoothukudi, Tamilnadu – 628216	Respondent No.6	Proforma Respondent No.6

TO
THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVENAMED:-

MOST RESPECTFULLY SHOWETH:

1. The present Petitioner has filed the Special Leave Petition being aggrieved by the Impugned final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No. 7578 of 2020, whereby the Hon'ble High Court while directing to close the Wine Shops/ retail outlets, erred in allowing the State of Tamilnadu to sell the Liquors through online during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic.

2. QUESTION OF LAW:

The following questions of the law arise for consideration by this Hon'ble Court:

- a) Whether the Hon'ble High Court was right in allowing the State of Tamilnadu to sell the Liquors through online portal and home delivery, during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic?
- b) Whether the Hon'ble High Court failed to consider the fact that the liquors/ wines are not "essential Commodities", as defined under the provisions of Essential Commodities Act, 1955?
- c) Whether the Hon'ble High Court failed to consider the fact that consuming Alcohol would lead to the severe health consequences and effects during the Covid-19 Pandemic, which is given in the Report submitted by the World Health Organization, (WHO), Europe?
- d) Whether the Hon'ble High Court has failed to fix the responsibility upon the erring authority for willfully and negligently flouting the guideline issued by the appropriate authorities to contain the pandemic?

3. DECLARATION IN TERMS OF RULE 2 (2):

The Petitioner states that he has filed no other petition seeking leave to appeal against the impugned final Judgment and Order dated 06.09.2019 passed by the Hon'ble Madurai Bench of Madras High Court S.A.(MD) No.46 of 2015.

4. DECLARATION IN TERMS OF RULE 4:

The Annexure P/1 to P/___ produced along with the special leave petition are true of the pleadings/documents which formed part of the records of the case in the Court/Tribunal below against whose order the leave to appeal is sought for in this petition.

5. GROUND:

The following grounds arise for consideration by this Hon'ble Court:

- A. It is stated that the State of Tamilnadu, has published Press Note No.311 dated 04.05.2020, by which the State of Tamilnadu, has issued a public notice for re-opening of TASMALC shops for sale of the liquor in the State of Tamil Nadu, as done by the other neighbouring States, namely, Karnataka and Andhra Pradesh, with certain restrictions as mentioned in the said Press Note.
- B. Aggrieved by the said Public Notice dated 04.05.2020 passed by the State of Tamilnadu, the present Respondent, namely Mr. B. Ramkumar Adityan, has filed a Writ Petition No. 7578 of 2020, before the Hon'ble High Court of Judicature at Madras, challenging the Press Note No. 311 dated 04.05.2020, seeking a ban on the sale of liquor, which is intended to be done by the State of Tamil Nadu through re-opening of TASMALC shops from 07.05.2020, during the lockdown period amid COVID-19 situation.
- C. The said Writ Petition was listed on 06.05.2020 before the Hon'ble High Court of Madras, and after hearing the both parties at length through

Video Conferencing, the Hon'ble High Court vide Order dated 06.05.2020, was pleased to lay down the following directions while implementing the opening of the TASMAC,

(i) We direct the respondent State and all concerned authorities of TASMAC including sales personnel thereto to strictly adhere to the Guidelines and restrictions stipulated in the Notification in G.O.(Ms)No.223, Revenue and Disaster Management (DM II) Department, dated 05.05.2020 and further Guidelines issued by the Managing Director of TASMAC in Rc.No.R3/2093/2020 dated 05.05.2020, which are quoted below for ready reference: G.O.(Ms.)No.223 dated 05.05.2020

"NOW THEREFORE the Government hereby ordered that the Liquor Retail Vending Shops be opened from 07.05.2020 (except the shops located in Malls, Market Complexes, Containment Zones and in the areas falling within the Jurisdiction of Greater Chennai Police) subject to the following conditions till the lock down ends.:-

- 1. There should not be any crowd in the Liquor Retail Vending Shops.*
- 2. The social distance of 6 feet between two customers should be maintained.*
- 3. Not more than five persons to be allowed in the shop at a time.*
- 4. The shop timings will be from 10.00 a.m. to 05;00 p.m.*

5. Necessary security and safety measures need to be done in all

the Liquor Retail Vending Shops.

6. In each and every Liquor Retail Vending shop, additional personnel need to be deployed so as to avoid crowding in the shops.

Further the Government ordered that the no bars shall be allowed."

Proceedings of TASMACH in Rc.No.R3/2093/2020 dated 05.05.2020

Annexure - I

Instructions to be followed at the Retail Vending shops

1. All shop personnel should be present in the shops

(Other than those who reside in containment zone). Wherever shops are not to be opened, those staff can also be redeployed in

other shops which are to be opened.

2. Shop Personnel must wear triple layer masks and sanitize their hands at the periodic intervals while working.

3. If there's sufficient space, sales can be done from two counters at the shop window, there should be at least 6 feet distance between the two counters. If sufficient space is not available then sales must be done only from one counter.

4. Only medically fit persons, without any co-morbid conditions and below 55years of age should be called for work.

5. The barricading with wooden sticks should be done for regulating the customers in front of the shops. Circles must be drawn within the barricades with diameter of 1 feet with 6 feet distance between each circles. The barricading should be a

single line barricade. Customers should come in single line within the barricade. The barricading should be for at least 200 feet, where space is not available barricading can be done for lesser length but it should be ensured that circles are drawn with diameter of 1 feet with 6 feet distance between each circle even

beyond the barricade.

6. The shops should be sanitized by using user friendly disinfectant liquid at least five times during the working hours.

7. Apart from sanitizing the shops with disinfectant liquid, the shop personnel should spray the bleaching powder outside the shops at least twice daily.

8. Not more than 5 persons to be allowed in the shop at the same time.

9. Shop personnel while sanitizing the shops should wear triple layer masks. All the shop personnel need to wear the disposable hand gloves and also wear triple layer masks while attending to the customers.

10. Minimum two personnel per shop should stand outside of the shop to regulate the customers for ensuring the social distance.

11. These shop personnel should also take care that there is no crowding nearby TASMALC shops and also to ensure that no customers are drinking liquor in the public places.

12. The Bars attached to the Retail Vending shops is not permitted to function. The District Manager and shop personnel should ensure that all entry points to the bars

attached to the Retail Vending shops are closed and sealed properly.

13. One person must be engaged through outsourcing agency to stand at entrance of shop with hand sanitizer to be used for all customers before they make the purchase.

14. Sales to be done only to customers who are wearing a mask.

15. No Bulk sales to be done.

16. Token system to be followed for regulating crowds. Timings must be mentioned in the tokens to ensure that not many persons gather in front of shops. No token should be given after 4 pm and shops should compulsorily be closed at 5pm.

17. Public address system should be hired by the District managers for all shops where more crowds are expected especially in urban areas.

18. District managers may temporarily hire additional staff through outsourcing agency to ensure that above instructions are followed and for proper crowd control."

(ii) Besides the aforesaid Guidelines and Restrictions, we are of the opinion that following further restrictions deserve to be imposed on the sale of liquor to TASMALC shops in the areas allowed, in addition to the conditions contained in the aforesaid two Government notifications/Guidelines dated 05.05.2020.

(a) Item 15 of the Guidelines issued by the TASMALC says that "No Bulk sales to be done". Since the word "Bulk" is not

defined or clarified in the said Guidelines and Instructions (but it seems to be equivalent to 0.219 Gallon as per Google), we consider it appropriate to direct that not more than two bottles of 750 ML each of liquor (including Beer, Wine, etc.) of any one type and which is the usual bottle size as stated by the learned Advocate General, will be sold to one customer at a time. The same customer cannot make such purchase of liquor more than twice in a week, with a minimum gap of three days.

(b) The TASMAC shop in question, which is allowed to undertake such sale as per the Notifications dated 05.05.2020 will immediately issue "Bill for such sale", noting the name, address and Aadhar card number of the person/buyer concerned. If any sale is found to be made in violation of this direction and such fact is brought to the notice of this Court, that shop in question will be immediately closed and will not be allowed to be reopened, except by the specific orders of the Court.

(c) Vide Item No.11 and Item No.12 of the Instructions dated 05.05.2020 also which indicate that the Bars attached to the Retail Vending shops will not be permitted to function and the entry point to such Bars attached to Retail Vending shops will be closed and sealed properly and drinking liquor in public places will be prohibited. This appears to be issued for not allowing the customers to consume the liquor at the shop itself or in the Bar attached thereto or any other public place.

We, therefore, direct that to maintain properly the law and order and to avoid any untoward incident, no purchaser of liquor shall be allowed to consume the liquor at or nearby the shop in question or at any other public place and the police personnel deployed in duty for such bandobust and such consumption of liquor can take place only in the private premises of the person(s) concerned.

(vii) No sale of liquor without Sale Bills shall be made by any TASMAL shop and if any complaint is received in this regard by this Court, the Court may direct the permanent closure of such TASMAL shop after making necessary enquiry in the matter.

(viii) With the aforesaid restrictions and the restrictions already stipulated in the aforesaid Government notifications/Guidelines dated 05.05.2020, we are of the opinion that we cannot totally prohibit the reopening of the TASMAL shops for sale of Liquors, including Beer, Wine, etc. in the State as we have already dismissed one such Public Interest Litigation in WP No.7565 of 2020 on 04.05.2020, it being a State policy matter and we are also not inclined to stay or defer the said impugned decision of the State Government dated 05.05.2020 to reopen the TASMAL shops in specified areas from 07.05.2020 until 17.05.2020 or even if the date of the lockdown is further extended by the Central Government or the State Government depending upon the emerging situation of COVID-19 disease, as we feel that the balance of revival of economic activity and management of Covid related disease has to be maintained by the State

Authorities and it is not within the domain of the Court to interfere with the same.

(ix) The State will constantly monitor the sale of liquor in terms of the aforesaid restrictions depending upon the change of declaration of zones from Green to Orange, Orange to Red and Red to Containment zones and opening or closing of TASMAL shops in terms of the aforesaid restrictions will also be governed by the declaration of the respective areas in different zones by the competent authority, on day-to-day basis.

- D. It is stated that the Hon'ble High Court vide Order dated 06.05.2020, allowed the opening of the Wine Shops/ Outlets subject to the fulfilment of the above mentioned conditions and restrictions stated in the Circular dated 04.05.2020 imposed by the Government of Tamilnadu and further, the Government of Tamilnadu was directed to monitor the functioning of the working of the Wine Shops/ outlets in Red and Orange Zones of the State of Tamilnadu.
- E. Thereafter, the State of Tamilnadu, opened the Wine Shops/ Outlets in the State of Tamilnadu, and flouted all the conditions and restrictions which was to be strictly followed by the State of Tamilnadu.
- F. It is stated that when the Wine Shops/ Outlets were opened in the State of Tamilnadu, chaos prevailed outside many Wine shops in various districts, after the liquor outlets opened after a gap of nearly 45 days of the COVID-19 lockdown.
- G. The Police Personals were incapable of handling the overcrowding of the people in front of the Wine Shops/ Outlets in various districts of Tamilnadu, giving arising to the spread of Covid-19 amongst the Public.

- H. The Social Distancing norms laid down by the Union of India, which was reiterated by the State of Tamilnadu in its Press Note dated 04.05.2020, were deliberately flouted by the State of Tamilnadu, by failing to handle the overcrowding of the People in front of Wine Shops/ Outlets.
- I. It is stated that most of the Public who came to the Wine Shops/ Outlets did not wear any masks and the Police Personals did not take any actions against these people.
- J. It is pertinent to mention that recently, there was a massive outbreak of wide spread of Covid-19 Virus in a Vegetable Market at Koyambedu, Chennai, Tamilnadu and due to said outbreak, there was a spurge in Covid-19 cases across various districts of Tamilnadu.
- K. It is stated that the Government of Tamilnadu through its Officials and law enforcement agencies, completely failed to implement the Social Distancing Norms and other Safety measures made by the Union of India and was very negligent in controlling the Covid-19 pandemic.
- L. It is stated that allowing the Wine Shops at this stage, would not only affect the persons coming to buy liquors but also the family members of the persons who comes to the Wine Shops/ outlets for buying the same. Further, there is a high risk of the Police Personals getting affected by the Covid-19 Virus from the huge crowd who are coming to the Wine Shops/ outlets.
- M. The Hon'ble High Court vide Impugned Order dated 08.05.2020, was right in directing to close the Wine Shops / outlets across the State of Tamilnadu which were opened on 07.05.2020 and 08.05.2020, by flouting out the safety conditions and measures bound to be followed by the State of Tamilnadu.

N. The Hon'ble High Court of Judicature at Madras, vide Impugned Order dated 08.05.2020, was pleased to observe the following while directing to close the Wine Shops/ Outlets,

20. Now what worries this Court is this mad rush for the liquor, where thousands of people without following any of the norms prescribed by the State, TASMALC authorities or by this Court, would only lead to witnessing the form of surge of new clusters, as opined by the Epidemiologists and Public Health Experts. It has been warned by the Public Health Experts that the next 7 days will witness doubling rate for COVID-19, for which reason, the lockdown has been stated to be announced.

21. The video clippings and the Newspaper reports clearly go to prove that COVID-19 pandemic preventive norms, like Physical distancing and wearing of masks, etc. were thrown into air making serious concerns about the spread of the virus. There were also further reports about protests held in several places against the reopening of the liquor shops before the lockdown is lifted creating law and order problems. Despite the police personnel having been deployed, the State machinery could not control the crowding tipplers even on day one. The suggestion given by this Court to vend or sale online was also not heeded to.

22. It is brought to the notice of this Court that about 3850 shops across the State were opened, and there was a record sale of Rs.175 Crores. The above scenario reported after the day one of the reopening of the TASMALC shops only go to

show that the State machinery is out of control either in disciplining the crowd or even in the process of sales. It is also reported that the number of police personnel being infected with COVID-19 disease is also on the rise and deploying them for controlling the crowded tipplers before the TASMAC shops would also put their life at risk, besides preventing them from discharging their duties in places, where their services are really required.

O. After making the above-mentioned observation regarding the safety measures and conditions flouted by the State of Tamilnadu, the Hon'ble High Court of Madras vide Impugned Order dated 08.05.2020, was pleased to conclude the following,

27. In view of the above discussion, the relief sought for by the TASMAC in this miscellaneous petition is not viable for the following reasons : (i) the online sale recommended by this Court was not even put to test ; (ii) the social or physical distancing norms, wearing of masks, etc. were not followed ; (iii) number of bottles to be sold to each buyer, as restricted by this Court was also flouted ; (iv) the selling conditions based on age, as mentioned in the guidelines were also not followed ; and (v) the Hon'ble Supreme Court today observed that the States should consider home delivery of liquor/indirect sale during lockdown.

P. It is submitted that the Hon'ble High Court of Madras, vide Impugned Order dated 08.05.2020, was pleased to modify the earlier Order dated 06.05.2020, by directing to close all of its shops/outlets, which were opened on 07.05.2020 and 08.05.2020 with immediate effect

and no shops shall be kept open till the lockdown imposed by the Central/State Government is lifted/modified in accordance with law.

Q. However, the Hon'ble High Court of Madras has erred in the granting the following reliefs, which destroys the purpose of lockdown during Covid-19 pandemic,

“29. However, it is open to the State and the TASMAL to resort to only home delivery of the liquor by indirect sale during this lockdown period, viz., online booking of order for liquor and by putting the required system in place in the manner in which, they can sell the liquor and make home delivery in the above manner. ...”

R. It is submitted that consuming Alcohol would lead to the following consequences and effects, which is given in the Report submitted by the World Health Organization, (WHO), Europe,.

- Alcohol effects, both short-term and long-term, on almost every single organ of a person's body. In fact, the risk of damage to the person's health increases with each drink of alcohol consumed.
- Alcohol use, especially heavy use, weakens the immune system and thus reduces the ability to cope with infectious diseases like Covid-19 pandemic.
- Alcohol increases the risk, frequency and severity of perpetration of interpersonal violence such as intimate partner violence, sexual violence, youth violence, elder abuse, and violence against children, thereby causing burden to the Law Enforcement Agencies, when the said Agencies are alleged to be busy in tackling the Covid-19 pandemic.

- Heavy use of alcohol increases the risk of acute respiratory distress syndrome (ARDS), one of the most severe complications of COVID-19

S. It is submitted that the right to live with human dignity, of the People of Tamilnadu, which is guaranteed under Article 21 of the Indian Constitution, has been violated due to the acts and lapses of the State of Tamilnadu. Article 21 reads as “*No person shall be deprived of his life or personal liberty*” and this epitomic article of Rights does not confine the protection offered by this Hon'ble court to a particular geographical area.

T. In light of the above-mentioned facts and circumstances, it is submitted that the Hon'ble High Court ought not to have allowed the sale of Liquors /Wine through online portal and home delivery, and further, the Special Leave Petition filed by the State of Tamilnadu, ought to be dismissed as the same is against the Public Safety and Policy.

6. GROUNDS FOR INTERIM RELIEF:

It is submitted that the Impugned Order dated 08.05.2020, ought to be stayed only qua the sale of Liquor through online and home delivery. It is thus submitted, that grave prejudice and injustice would be caused to the general public of the State of Tamilnadu including the present Petitioner, if this Hon'ble Court does not stay the operation and implementation of the Final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court in WMP No. 8928 of 2020 in WP No. 7578 of 2020.

7. MAIN PRAYER:

It is, therefore, most respectfully and humbly prayed that Your Lordships may graciously be pleased to:-

- a) Grant Special Leave to Appeal against the Impugned Order dated 08.05.2020 passed by the Hon'ble Madras High Court in WMP No. 8928 of 2020 in WP No. 7578 of 2020; and
- b) Pass such order and further order as this Hon'ble Court may in the facts and circumstances of the case deem just and proper.

8. PRAYER FOR INTERIM RELIEF:

It is, therefore, most respectfully and humbly prayed that Your Lordships may graciously be pleased to:-

- a) Grant ex-parte ad-interim stay of the Impugned Order dated 08.05.2020 passed by the Hon'ble Madras High Court in WMP No. 8928 of 2020 in WP No. 7578 of 2020, only qua Paragraph No. 29 of the Impugned Order dated 08.05.2020; and
- d) Pass such other and further order or orders as this Hon'ble Court may be deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Place: New Delhi
Drawn on:
Filed on: 12.05.2020

FILED BY



(K.PAARI VENDHAN)
Advocate for the petitioner

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. _____ 2020

IN THE MATTER OF:-

Seeman

... Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd. & Ors.

... Respondents

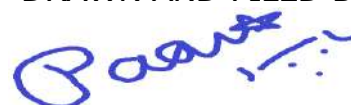
CERTIFICATE:

Certified that the Special Leave Petition is confined only to the pleadings before the court whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the questions of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the petitioner/person authorised by the petitioner whose affidavit is filed in support of the SLP.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONER AS IN DUTY BOUND
SHALL EVER PRAY.

Place: New Delhi
Filed on: 12.05.2020

DRAWN AND FILED BY



(K.PAARI VENDHAN)
Advocate for the petitioner

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 2020

IN THE MATTER OF:-

Seeman

... Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd. & Ors.

... Respondents

AFFIDAVIT

I, Seeman,

do hereby solemnly affirm and declare as under:-

1. I am the Petitioner in the above noted matter and as such competent to swear this Affidavit.
2. I have read and understood the contents of the Special leave Petition, Synopsis, List of Dates and Events (Pages B to M) and the facts stated in Para 1 to 8 of Special Leave Petition (Pages 8 to 14 and I.As. filed therein are true and correct to the best of my knowledge and belief, no part of it is false and nothing material is concealed therefrom. That the annexures filed herewith are true copies of their respective originals.
3. That the Petitioner has not filed any other Appeal against the impugned order/Judgment before this Hon'ble Court.



DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents made in para Nos.1 to 3 of the above affidavit are true and correct to the best of

my knowledge and belief. Nothing material has been concealed there from.

Verified by me on this the day of May, 2020 at _____

DEPONENT

THE DISASTER MANAGEMENT ACT, 2005

. 55. Offences by Departments of the Government.—

(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.—For the purpose of this section— (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.

THE INDIAN PENAL CODE**CHAPTER XIV OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS**

268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

269. Negligent act likely to spread infection of disease dangerous to life.—Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

270. Malignant act likely to spread infection of disease dangerous to life.—Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

271. Disobedience to quarantine rule.—Whoever knowingly disobeys any rule made and promulgated 2[by the 3*** Government 4***] for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
Dated 1st May, 2020

ORDER

Whereas under directions of the National Disaster Management Authority (NDMA), guidelines on lockdown measures to contain the spread of COVID-19 in all parts of the country were issued vide Order of even number dated 24.03.2020 under the Disaster Management Act 2005 for a period of 21 days with effect from 25.03.2020. Under further directions of NDMA, the lockdown period was extended upto 03.05.2020 vide Order of even number dated 14.04.2020 and consolidated revised guidelines were issued vide Order of even number dated 15.04.2020;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, NDMA has issued an Order number 1-29/2020-PP dated 01.05.2020 directing the Chairperson, NEC that lockdown measures be continued to be implemented in all parts of the Country, for a further period of two weeks with effect from 04.05.2020;

Whereas under directions of the aforesaid Order of NDMA dated 01.05.2020, and in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues directions to all the Ministries/ Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities that the lockdown period is extended for a further period of two weeks with effect from 04.05.2020;

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as Chairperson, NEC, hereby issues new guidelines on lockdown measures, as annexed, which will come into effect from 04.05.2020 for a period of two weeks, for strict implementation.


Union Home Secretary

To:

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

New Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/ UT Governments and State/ UT authorities for containment of COVID-19 in the country for the extended period of National Lockdown for a further period of two weeks with effect from 4th May, 2020.

[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020-DM-I (A) dated 1st May, 2020]

1. With the extension of the Lockdown period for a further period of two weeks with effect from 4th May 2020, new guidelines, as under, will be applicable based on the risk profiling of the districts into Red (Hotspot), Green and Orange zones.
2. **Identification of Red (Hotspots), Green and Orange Zones**
 - i. Based on their risk profile, the criteria for dividing the districts of the country into three zones, viz., **green, red and orange**, will be as follows:
 - a. **Green Zones:** Green Zones shall be defined as per the following criteria: districts with zero confirmed case till date; or, districts with no confirmed case in the last 21 days.
 - b. **Red Zones or Hotspot Districts:** Districts shall be defined as Red Zones or Hotspot districts, by Ministry of Health and Family Welfare (MoHFW), Government of India (GoI), taking into account total number of active cases, doubling rate of confirmed cases, extent of testing and surveillance feedback.
 - c. **Orange Zones:** Districts, which are neither defined as Red nor as Green Zones, shall be Orange Zones.
 - ii. MoHFW will share the list of Red Zone (Hotspot), Orange Zone and Green Zone districts and related information with State/ UTs on a weekly basis or earlier as required. States/ UTs, on review, may consider inclusion of **additional districts** as Red Zone (Hotspots) and Orange Zone districts depending on the extent of spread of COVID-19 infection. **However, States and UTs may not lower the classification of any district, that is included in the list of Red Zone (Hotspots) and Orange Zone districts by MoHFW.**
 - iii. Districts classified either as Red or Orange Zones, may have one or more Municipal Corporation (MC) areas. In such cases, States/ UTs and District administrations may make an assessment of the distribution of cases - within the jurisdiction of the MC(s); and the area falling outside the MC(s) boundaries. In such cases, the classification of zones shall be as follows:
 - a. In case the district is classified as a Red Zone, and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as an Orange Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
 - b. In case the district is classified as an Orange Zone, and, there is no confirmed case in the last 21 days in the area of the district outside the limits of the MC(s), this area may be labeled as a Green Zone. However, due caution may be exercised in such areas so that they remain free from COVID-19 cases.
 - c. In case in the area of the district outside the limits of the MC (s) does have one or more confirmed case(s) in the last 21 days, this part of the

district shall continue to be labeled as a Red or Orange Zone, as per the classification of the district.

- d. While assessing the classification of a zone, cases should be registered in the zone where the case originates, rather than where it is treated.

3. Identification of Containment Zones

- i. Containment Zones shall be demarcated within **Red (Hotspots) and Orange Zones** by States/ UTs and District Administrations based on the guidelines of MoHFW. The boundary of the Containment Zone shall be defined by District Administrations taking into account the following factors: mapping of cases and contacts; geographical dispersion of cases and contacts; area with well demarcated perimeter; and enforceability.
- ii. The boundary of the Containment Zone will be a residential colony, *mohalla*, municipal ward, municipal zone, Police Station area, towns etc., in case of urban areas; and, a village, cluster of villages, Gram Panchayats, group of Police Stations, blocks etc., in case of rural areas.

Protocol within Containment Zones:

- iii. Intensive surveillance mechanism as outlined in the Standard Operating Protocol (SOP) issued by MoHFW is to be established within the Containment Zone. **The local authority shall ensure 100% coverage of Aarogya Setu app among the residents of Containment Zones.**
 - iv. In the Containment Zone, following activities shall be undertaken by the local authorities:
 - a. Contact Tracing.
 - b. Home or Institutional quarantining of individuals based on risk assessment by medical officers. This risk assessment will be based on symptoms, contact with confirmed cases, and travel history.
 - c. Testing of all cases with Severe Acute Respiratory Infection (SARI), Influenza Like Illness (ILI) and other symptoms specified by MOHFW.
 - d. House to house surveillance by special teams constituted for this purpose.
 - e. Clinical management of all cases as per protocol.
 - f. Counselling and educating people; and establishing effective communication strategies.
 - v. In these **Containment Zones**, within Red (Hotspots) and Orange Zones, **where maximum precaution is required**, there shall be strict perimeter control to ensure that there is no movement of population in or out of these zones except for medical emergencies and for maintaining supply of essential goods and services. The guidelines issued in this regard by MoHFW will be strictly implemented by State/ UT Governments and the local district authorities.
- ### 4. The following activities will continue to remain prohibited across the country, irrespective of the Zone, for a period of two weeks with effect from 4th May, 2020:
- i. All domestic and international air travel of passengers, except for medical services, air ambulance and for security purposes or for purposes as permitted by MHA.
 - ii. All passenger movement by trains, except for security purposes or for purposes as permitted by MHA.

- iii. Inter-State Buses for public transport, except as permitted by MHA.
 - iv. Metro rail services.
 - v. Inter-State movement of individuals except for medical reasons or for activities as permitted by MHA.
 - vi. All schools, colleges, educational/ training/ coaching institutions etc. However, online/ distance learning shall be permitted.
 - vii. Hospitality services other than those used for housing health/ police/ Government officials/ healthcare workers, stranded persons including tourists, and those used for quarantine facilities.
 - viii. All cinema halls, shopping malls, gymnasiums, sports complexes, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
 - ix. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions/ other gatherings.
 - x. All religious places/ places of worship shall be closed for public. Religious congregations are strictly prohibited.
- 5. Measures for well being and safety of persons**
- i. The movement of individuals, for all non-essential activities, shall remain strictly prohibited between 7 pm to 7 am. Local authorities shall issue orders under appropriate provisions of law, such as prohibitory orders [curfew] under Section 144 of CrPC, for this purpose, and ensure strict compliance.
 - ii. In all zones, persons above 65 years of age, persons with co-morbidities, pregnant women, and children below the age of 10 years, shall stay at home, except for meeting essential requirements and for health purposes, as per the National Directives.
 - iii. In Containment Zones, Out-Patient Departments (OPDs) and Medical clinics shall not be permitted to operate. However, these may be permitted to operate in Red, Orange and Green Zones, with social distancing norms and other safety precautions.
- 6. Activities in Containment Zones**
- i. Strict perimeter control.
 - ii. Establishment of clear entry and exit points.
 - iii. Movement of persons only for maintaining supply of goods and services; and for medical emergencies.
 - iv. No unchecked influx of people and transport.
 - v. Recording of details of people moving in and out of perimeter.
- 7. Activities in Red Zones (Hotspots) [Outside Containment Zones]**
- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall **not** be permitted:
 - a. Cycle rickshaws and auto rickshaws.
 - b. Taxis and cab aggregators.
 - c. Intra-district and inter-district plying of buses.
 - d. Barber shops, spas and salons.
 - ii. The following activities shall be permitted with **restrictions** as specified:
 - a. Movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the vehicle driver; for two wheelers, pillion rider is not allowed.

- b. Industrial establishments in urban areas: Only Special Economic Zones (SEZs), Export Oriented Units (EOUs), industrial estates and industrial townships with access control; Manufacturing units of essential goods, including drugs, pharmaceuticals, medical devices, their raw material and intermediates; Production units, which require continuous process, and their supply chain; Manufacturing of IT hardware; Jute industry with staggered shifts and social distancing; and, Manufacturing units of packaging material are permitted.

All industrial activities are permitted in rural areas.

- c. Construction activities in urban areas: Only in situ construction (where workers are available on site and no workers are required to be brought in from outside) and construction of renewable energy projects are permitted.

All construction activities are permitted in rural areas.

- d. All malls, market complexes and markets shall remain closed in urban areas, i.e., areas within the limits of municipal corporations and municipalities. However, shops selling essential goods in markets and market complexes are permitted.

All standalone (single) shops, neighborhood (colony) shops and shops in residential complexes are permitted to remain open in urban areas, without any distinction of essential and non-essential.

All shops in rural areas, except in malls, are permitted to remain open, without any distinction of essential and non-essential.

Social distancing (2 Gaz ki doori) will be maintained in all cases.

- e. E-commerce activities will be permitted only in respect of essential goods.
- f. Private offices can operate with upto 33% strength as per requirement, with the remaining persons working from home.
- g. All Government offices shall function with officers of the level of Deputy Secretary and above to the extent of 100% strength. The remaining staff will attend upto 33% as per requirement. However, Defense and Security services, Health and Family Welfare, Police, Prisons, Home Guards, Civil Defence, Fire and Emergency Services, Disaster management and related services, NIC, Customs, FCI, NCC, NYK and Municipal services shall function without any restrictions; delivery of public services shall be ensured and necessary staff will be deployed for such purpose.

8. **Activities in Orange Zones [Outside Containment Zones]**

- i. Apart from the prohibited activities mentioned at Para 4, the following activities shall **not** be permitted:
- a. Inter-district and Intra-district plying of buses.
- ii. The following activities shall be permitted with **restrictions** as are specified:
- a. Taxis and cab aggregators, with 1 driver and 2 passengers only.
 - b. Inter-district movement of individuals and vehicles, only for permitted activities. Four wheeler vehicles will have maximum two passengers besides the driver.



- 9. Activities in Green Zones**
- i. All activities are permitted in Green Zones, except those activities that are prohibited under Para 4.
 - ii. Buses can operate with upto 50% seating capacity.
 - iii. Bus depots can operate with upto 50% capacity.
- 10. All other activities will be permitted activities, which are not specifically prohibited/ permitted with restrictions in the various Zones, under these guidelines. However, States/ UTs, based on their assessment of the situation, and with the primary objective of keeping the spread of COVID-19 in check, may allow only select activities from out of the permitted activities, with such restrictions as felt necessary.**
- 11.** All States/ UTs shall allow inter-state movement of goods/ cargo, including empty trucks.
- 12.** No State/ UT shall stop the movement of cargo for cross land-border trade under Treaties with neighbouring countries.
- 13.** No separate/ fresh permissions are required from authorities for activities already permitted to operate under the guidelines on Lockdown measures up to May 3, 2020. The following Standard Operating Protocols (SOPs) issued by MHA will continue to operate:
- i. SOP on transit arrangement for foreign national(s) in India and release of quarantine persons, issued vide Order dated April 02, 2020.
 - ii. SOP on movement of stranded labour within States/ UTs, issued vide Order dated April 19, 2020.
 - iii. SOP on sign-on and sign-off of Indian seafarers, issued vide Order dated April 21, 2020.
 - iv. SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons, issued vide Order dated April 29, 2020.
 - v. SOP on movement of stranded migrant workers, pilgrims, tourists, students and other persons by train, issued vide Order dated May 01, 2020.
- 14. Strict enforcement of the lockdown guidelines**
State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner, and shall strictly enforce the same.
- 15. Instructions for enforcement of above lockdown measures:**
- i. All the district magistrates shall strictly enforce the above lockdown measures and the National Directives for COVID 19 Management, for public and work places, as specified in **Annexure I**.
 - ii. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such Incident Commander. The Incident Commander will issue passes for enabling essential movements as explained.
 - iii. The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.

16. Penal provisions

Any person violating these lockdown measures and the National Directives for COVID-19 Management will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at **Annexure II**.



Union Home Secretary

National Directives for COVID-19 Management**PUBLIC PLACES**

1. Wearing of face cover is compulsory in all public places.
2. All persons in charge of public places and transport shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare.
3. No organization/ manager of public place shall allow gathering of 5 or more persons.
4. Marriages related gatherings shall ensure social distancing, and the maximum number of guests allowed shall not be more than 50.
5. Funeral/ last rites related gatherings shall ensure social distancing, and the maximum numbers allowed shall not be more than 20.
6. Spitting in public places shall be punishable with fine, as may be prescribed by the State/ UT local authority.
7. Consumption of liquor, *paan*, *gutka*, tobacco etc. in public places is not allowed.
8. Shops selling liquor, *paan*, *gutka*, tobacco etc. will ensure minimum six feet distance (*2 gaz ki doori*) from each other, and also ensure that not more than 5 persons are present at one time at the shop.

WORK PLACES

9. Wearing of face cover is compulsory in all work places and adequate stock of such face covers shall be made available.
10. All persons in charge of work places shall ensure social distancing as per the guidelines issued by Ministry of Health and Family Welfare, both within the work places and in company transport.
11. Social distancing at work places shall be ensured through adequate gaps between shifts, staggering the lunch breaks of staff, etc.
12. Provision for thermal scanning, hand wash and sanitizer preferably with touch free mechanism will be made at all entry and exit points and common areas. In addition, sufficient quantities of handwash and sanitizer shall be made available in the work places.
13. Frequent sanitization of entire workplace, common facilities and all points which come into human contact e.g. door handles etc., shall be ensured, including between shifts.
14. Persons above 65 years of age, persons with co-morbidities, pregnant women and children below the age of 10 years shall stay at home, except for meeting essential requirements and for health purposes.
15. Use of *Arogya Setu* app shall be made mandatory for all employees, both private and public. It shall be the responsibility of the Head of the respective Organizations to ensure 100% coverage of this app among the employees.
16. Large physical meetings to be avoided.
17. Hospitals/ clinics in the nearby areas, which are authorized to treat COVID-19 patients, should be identified and list should be available at work place all the times. Employees showing any symptom of COVID-19 should be immediately sent for check up to such facilities. Quarantine areas should be earmarked for isolating employees showing symptoms till they are safely moved to the medical facilities.

18. Arrangements for transport facilities shall be ensured with social distancing, wherever personal/ public transport is not feasible.
 19. Intensive communication and training on good hygiene practices shall be taken up.
-



Offences and Penalties for Violation of Lockdown Measures**A. Section 51 to 60 of the Disaster Management Act, 2005**

51. Punishment for obstruction, etc.—Whoever, without reasonable cause

- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to

be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- i. “company” means any body corporate and includes a firm or other association of individuals; and
- ii. “director”, in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by—

- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
- (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

B. Section 188 in the Indian Penal Code, 1860

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

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Annexure P4

ABSTRACT

Disaster Management Act, 2005 - COVID-19 - Orders issued extending restrictions in the territorial jurisdictions of the State of Tamil Nadu upto 17.05.2020 - Opening of Liquor Retail Vending Shops from 07.05.2020 -Notification - Issued

Revenue and Disaster Management (DM II)**Department**

G.O.(Ms)No.223

Dated: 05.05.2020

Read :

1. G.O.(Ms) No. 217 Revenue and Disaster Management Department (Disaster Management Wing, DM II Section), dated. 03.05.2020.
2. Press Release dated. 04,05.2020 and 05.05.2020.

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3. From the Home & Prohibition
and Excise Department,
Proposal dated. 05.05.2020.

NOTIFICATION

WHEREAS in the order first read above, the Government have issued notification extending restrictions in the territorial jurisdictions of the State of Tamil Nadu upto 17.05.2020 to contain the further spread of COVID-19 with detailed guidelines to be followed.

WHEREAS the Home and Prohibition and Excise Department has stated that the Managing Director, Tamil Nadu State Marketing Corporation has requested the Government to issue necessary orders for opening of Liquor Retail Vending Shops in Tamil Nadu other than shops located in Malls, Market Complexes, Containment Zones and in the areas falling within the jurisdiction of Greater Chennai Police from 07.05.2020 from 10.00 a.m. to 05.00 p.m subject to certain conditions till the lock down ends.

NOW THEREFORE the Government hereby ordered that the Liquor Retail Vending Shops be opened from 07.05.2020 (except the shops located in Malls, Market Complexes, Containment Zones and in

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the areas falling within the Jurisdiction of Greater Chennai Police) subject to the following conditions till the lock down ends.:-

1. There should not be any crowd in the Liquor Retail Vending Shops.
2. The social distance of 6 feet between two customers should be maintained.
3. Not more than five persons to be allowed in the shop time.
4. The shop timings will be from 10.00 a.m. to 05.00 p.m.
5. Necessary security and safety measures need to be done in all the Liquor Retail Vending Shops.
6. In each and every Liquor Retail Vending Shop, additional personnel need to be deployed so as to (void crowding in the shops.

Further the Government ordered that the no bars shall be allowed.

(By order of the Governor)

K.SHANMUGAM,
CHIEF SECRETARY TO GOVERNMENT.

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Annexure P5

**PROCEEDINGS OF THE MANAGING DIRECTOR
TAMIL NADU STATE MARKETING CORPORATION
LIMITED
EGMORE, CHENNAI 600 008.**

Present Thiru.R. Kirlosh Kumar, I.A.S.,

Rc. No.R3/2093/2020

Dated: 05.05.2020

Sub: TASMALC – Opening of TASMALC Retail Vending shops – Instruction issued - Regarding.

Ref: 1. G.O. (Ms.) No. 217, Revenue and Disaster Management (DM-II)

Department, dated. 03.05.2020.

2. G.O. (Ms.) No. 223, Revenue and Disaster Management (DM-II)

Department, dated. 05.05.2020

Order:

In the reference 2nd cited, the Government has permitted TASMALC to open its Liquor Retail Vending shops from 07.05.2020 and to function from 10.00 AM to 05.00 PM (except the shops in malls, market complexes, in the containment zones and in areas falling within the limits of

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Greater Chennai police) subject to the following conditions till the lockdown ends:

1. There should not be any crowd in the Liquor Retail Vending shops.
2. The social distance of 6 feet between two customers should be maintained.
3. Not more than five persons to be allowed in the shop at a time.
4. The shop timings will be from 10.00 AM to 05.00 PM.
5. Necessary security and safety measures need to be done in all the Liquor Retail Vending shops.
6. In each and every Liquor Retail Vending shops additional personnel need to be deployed so as to avoid crowding the shops.

The list of containment zones and areas have to be obtained by the District Managers from the concerned district authorities on a daily basis so as to ensure that shops are not opened in the containment zones.

The District Managers should form teams in their respective districts so as to ensure that the above mentioned conditions and guidelines issued in the Annexure I, II and III are followed in their respective districts.

The Deputy Collectors / Flying Squad of all regions are hereby instructed to check the above mentioned

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conditions and guidelines are followed by all the shops in their respective region.

The Senior Regional Managers and District Managers are hereby instructed to follow the above mentioned conditions and the instructions enclosed in the Annexure I, II & III while opening of the Retail Vending shops and the IMFS Depots in the districts.

The receipt of the letter should be acknowledged.

Managing Director

To

All the Senior Regional Managers,
All the District Managers,
TASMAC Ltd.,

Copy to

1. The Additional Chief Secretary to Government, Home, P&E. Dept.
Secretariat, Chennai - 600 009.
2. The ADGP (Enforcement), Mylapore, Chennai.
3. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai - 600 005.
4. The Special Personal Assistant, To Hon'ble Minister,
Electricity, Prohibition and Excise.
5. All the Officers in TASMAC HO.
6. All the Section Officers in TASMAC HO.

Annexure - I

Instructions to be followed at the Retail Vending shops

1. All shop personnel should be present in the shops (Other than those who reside in containment zone). Wherever shops are not to be opened, those staff can also be redeployed in other shops which are to be opened.
2. Shop Personnel must wear triple layer masks and sanitize their hands at the periodic intervals while working.
3. If there's sufficient space, sales can be done from two counters at the shop window, there should be at least 6 feet distance between the two counters. If sufficient space is not available then sales must be done only from one counter.
4. Only medically fit persons, without any co-morbid conditions and below 55 years of age should be called for work.
5. The barricading with wooden sticks should be done for regulating the customers in front of the shops. Circles must be drawn within the barricades with diameter of 1 feet with 6 feet distance between each circles. The barricading should be a single line barricade. Customers should come in single line

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within the barricade. The barricading should be for at least 200 feet, where space is not available barricading can be done for lesser length but it should be ensured that circles are drawn with diameter of 1 feet with 6 feet distance between each circle even beyond the barricade.

6. The shops should be sanitized by using user friendly disinfectant liquid at least five times during the working hours.
7. Apart from sanitizing the shops with disinfectant liquid, the shop personnel should spray the bleaching powder outside the shops at least twice daily.
8. Not more than 5 persons to be allowed in the shop at the same time.
9. Shop personnel while sanitizing the shops should wear triple layer masks. All the shop personnel need to wear the disposable hand gloves and also wear triple layer masks while attending to the customers.
10. Minimum two personnel per shop should stand outside of the shop to regulate the customers for ensuring the social distance.
11. These shop personnel should also take care that there is no crowding nearby TASMALC shops and also to ensure that no customers are drinking liquor in the public places.
12. The Bars attached to the Retail Vending shops is not permitted to function. The District Manager and shop personnel should ensure that all entry

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points to the bars attached to the Retail Vending shops are closed and sealed properly.

13. One person must be engaged through outsourcing agency to stand at entrance of shop with hand sanitizer to be used for all customers before they make the purchase.
14. Sales to be done only to customers who are wearing a mask.
15. No Bulk sales to be done.
16. Token system to be followed for regulating crowds. Timings must be mentioned in the tokens to ensure that not many persons gather in front of shops. No token should be given after 4 pm and shops should compulsorily be closed at 5pm.
17. Public address system should be hired by the District managers for all shops where more crowds are expected especially in urban areas.
18. District managers may temporarily hire additional staff through outsourcing agency to ensure that above instructions are followed and for proper crowd control.

Alcohol and COVID-19: what you need to know



Facing the COVID-19 (new coronavirus disease) pandemic, the countries of the world must take decisive action to stop the spread of the virus. In these critical circumstances, it is essential that everyone is informed about other health risks and hazards so that they can stay safe and healthy.

The following factsheet provides important information that you should know about alcohol consumption and COVID-19. It addresses, among other things, the misinformation that is being spread through social media and other communication channels about alcohol and COVID-19.

The most important point to remember:

In no way will consumption of alcohol protect you from COVID-19 or prevent you from being infected by it

General facts about alcohol and your body



Ethyl alcohol (ethanol) is the substance in alcoholic beverages that is responsible for most of the harms that arise from their consumption, irrespective of whether it is consumed in the form of wine, beer, spirits or anything else.

Unfortunately, other toxic substances that may smell like ethanol can be added in adulterated beverages that are produced informally or illegally; or they may be present in alcoholic products that are not intended for human consumption, such as hand disinfectant. Added substances such as methanol can be fatal even in small amounts or may lead to blindness and kidney disease, among other problems. According to media reports and anecdotal sources, deaths related to the ingestion of such alcoholic products, based on the mistaken belief that they will somehow offer protection against the virus, have already occurred in some countries during the COVID-19 outbreak.

These are the general facts you should know about the consumption of alcohol and health:

- Alcohol has effects, both short-term and long-term, on **almost every single organ of your body**. Overall, the evidence suggests that there is **no “safe limit”** – in fact, the risk of damage to your health increases with each drink of alcohol consumed.
- Alcohol use, especially heavy use, **weakens the immune system** and thus reduces the ability to cope with infectious diseases.
- Alcohol, even in very small quantities, is known to **cause certain types of cancer**.
- Alcohol **alters your thoughts, judgement, decision-making and behaviour**.

- Alcohol, even in small amounts, is a **risk to the unborn child** at any time during pregnancy.
- Alcohol increases the risk, frequency and severity of **perpetration of interpersonal violence** such as intimate partner violence, sexual violence, youth violence, elder abuse, and violence against children.
- Alcohol increases the risk of death and injury from **road traffic injuries, drowning and falls.**
- Heavy use of alcohol **increases the risk of acute respiratory distress syndrome (ARDS)**, one of the most severe complications of COVID-19.

General myths about alcohol and COVID-19



- Myth* Consuming alcohol destroys the virus that causes COVID-19.
- Fact** **Consuming alcohol will not destroy the virus**, and its consumption is likely to increase the health risks if a person becomes infected with the virus. Alcohol (at a concentration of at least 60% by volume) works as a disinfectant on your skin, but it has no such effect within your system when ingested.
- Myth* Drinking strong alcohol kills the virus in the inhaled air.
- Fact** **Consumption of alcohol will not kill the virus in the inhaled air**; it will not disinfect your mouth and throat; and it will not give you any kind of protection against COVID-19.
- Myth* Alcohol (beer, wine, distilled spirits or herbal alcohol) stimulates immunity and resistance to the virus.
- Fact** **Alcohol has a deleterious effect on your immune system** and will not stimulate immunity and virus resistance.

Alcohol: what to do, and what not to do, during the COVID-19 pandemic



- Avoid alcohol altogether so that you do not undermine your own immune system and health and do not risk the health of others.
- Stay sober so that you can remain vigilant, act quickly and make decisions with a clear head, for yourself and others in your family and community.
- If you drink, keep your drinking to a minimum and avoid getting intoxicated.
- Avoid alcohol as a social cue for smoking, and vice versa: people tend to smoke, or smoke more, if they drink alcohol, and smoking is associated with more complicated and dangerous progression of COVID-19. Remember, too, that indoor smoking is harmful to others in your household and should be avoided.
- Make sure that children and young people do not have access to alcohol and do not let them see you consume alcohol – be a role model.

- Discuss with children and young people the problems associated with drinking and COVID-19, such as violations of quarantine and physical distancing, which can make the pandemic worse.
- Monitor the screen time of your children (including TV), as such media are flooded with alcohol advertising and promotion; they also spread harmful misinformation that may stimulate early initiation and increased consumption of alcohol.
- Never mix alcohol with medications, even herbal or over-the-counter remedies, as this could make them less effective, or it might increase their potency to a level where they become toxic and dangerous.
- Do not consume alcohol if you take any medication acting on the central nervous system (e.g. pain killers, sleeping tablets, anti-depressants, etc), as alcohol might interfere with your liver function and cause liver failure or other serious problems.

Alcohol and physical distancing during the COVID-19 pandemic



To slow down the spread of the virus, the World Health Organization (WHO) recommends physical distancing of at least one meter from sick people as a protective measure. Bars, casinos, night clubs, restaurants and other places where people gather to consume alcohol (including in the home) increase the risk of transmission of the virus.

Physical distancing therefore reduces the availability of alcohol, so it presents a great opportunity to reduce your drinking and become healthier.

Alcohol and home isolation or quarantine



To limit the spread of COVID-19, countries have progressively introduced community-wide lockdowns and periods of quarantine for those who are suspected of having contracted the virus or have been in contact with someone infected by the virus. This means that an unprecedented number of people are now staying in their homes.

It is important to understand that alcohol poses risks to your health and safety and should therefore be avoided during periods of home isolation or quarantine.

- When working from home, adhere to your usual workplace rules and do not drink. Remember that after a lunch break you should still be in a fit state to work – and that is not possible if you are under the influence of alcohol.
- Alcohol is not a necessary part of your diet and should not be a priority on your shopping list. Avoid stockpiling alcohol at home, as this will potentially increase your alcohol consumption and the consumption of others in your household.
- Your time, money and other resources are better invested in buying healthy and nutritious food that will maintain good health and enhance your immune system response. For further ideas, take a look at the food and nutrition tips during self-quarantine issued by WHO.¹

- You might think that alcohol helps you to cope with stress, but it is not in fact a good coping mechanism, as it is known to increase the symptoms of panic and anxiety disorders, depression and other mental disorders, and the risk of family and domestic violence.
- Instead of consuming alcohol to pass your time at home, try an indoor workout. Physical activity strengthens the immune system and overall – from both a short-term and a long-term perspective – is a highly beneficial way of spending a period of quarantine.²
- Do not introduce your children or other young people to drinking and do not get intoxicated in front of them. Child abuse and neglect can be aggravated by alcohol consumption, especially in crowded housing situations where isolation from the drinker is not possible.
- Disinfectant alcohol can easily become accessible for consumption purposes in home isolation. It is important, therefore, to keep such products out of the reach of children and underage drinkers and others who may misuse them.
- Alcohol use can increase during self-isolation and both, isolation and drinking, may also increase the risk of suicide, so reducing your alcohol consumption is very important. If you have suicidal thoughts, you should call your local or national health hotlines
- Alcohol is closely associated with violence, including intimate partner violence. Men perpetrate most of the violence against women, which is worsened by their alcohol consumption, while women experiencing violence are likely to increase their alcohol use as a coping mechanism. If you are a victim of violence and are confined with the perpetrator in home isolation, you need a safety plan in case the situation escalates. This includes having a neighbour, friend, relative or shelter to go to in the event that you need to leave the house immediately. Try to reach out to supportive family members and/or friends and seek support from a hotline or local services for survivors. If you are under quarantine and need to leave the house immediately, call a local support hotline and reach out to someone you trust.

Alcohol use disorders and COVID-19



Alcohol use disorders are characterized by heavy alcohol use and loss of control over alcohol intake. Although they are among the most prevalent mental disorders globally, they are also among the most stigmatized.

People with an alcohol use disorder are at greater risk of COVID-19 not only because of the impact of alcohol on their health but also because they are more likely to experience homelessness or incarceration than other members of the population. It is therefore essential, under the current conditions, that people who need help because of their alcohol use get all the support they need.

¹ Food and nutrition tips during self-quarantine. Copenhagen: WHO Regional Office for Europe; 2020 (http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov-technical-guidance/food-and-nutrition-tips-during-self-quarantine/_recache).

² How to stay physically active during COVID-19 self-quarantine. Copenhagen: WHO Regional Office for Europe; 2020 (<http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov-technical-guidance/stay-physically-active-during-self-quarantine>).

If you, or a person close to you, have problems in relation to alcohol use, please consider the following:

- The present situation is a unique opportunity to quit drinking, or at least to cut down considerably, as various social cues and peer pressure situations, such as parties, friends' gatherings, restaurants and clubs, are (by necessity) avoidable.
- Online interventions for alcohol use disorders by professionals and mutual help groups can be less stigmatizing as they offer greater anonymity and privacy, so check out what help you can get online.
- Create a buddy and self-support system with someone you trust and reach out for extra help if needed, such as online counselling, interventions and support groups.
- Practise physical distancing, but do not socially isolate: call, text and/or write to your friends, colleagues, neighbours and relatives. Use new and creative ways of connecting to others without actual physical contact.
- Avoid alcohol cues and triggers on TV and media where there is pervasive marketing and promotion of alcohol; be careful to avoid links to social media that are sponsored by the alcohol industry.
- Try to maintain your daily routine as much as you can, focus on things that you can control and try to keep grounded – for instance, through a daily workout, hobbies or mind relaxation techniques.
- If you become infected, discuss with health personnel your alcohol consumption so that they can make the most appropriate decisions with respect to your overall health condition.

How to find reliable information and how to spot misinformation



- Seek trusted sources of information, such as WHO, national health authorities and your health professional. For updated information on COVID-19, check the WHO website³
- Always double-check the information you receive. Beware of websites and texts that use the same messages and have the same writing and overall style, as these are likely to be viral messages produced for mass distribution that are intended to mislead.
- Beware of false and misleading claims, particularly in relation to the effects of alcohol on health and immunity. Such claims should be categorically discounted as a source of health information as there is no evidence that drinking alcohol offers any protection against COVID-19 or has a positive effect on the course and outcomes of any infectious disease.
- Beware of claims made online that alcohol offers any essential benefits that you really need to have during your period of home isolation or quarantine. Alcohol is in no way a necessary component of your diet and lifestyle.

³ Coronavirus disease (COVID-19) outbreak [online information portal]. Copenhagen: WHO Regional Office for Europe; 2020. (<http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19>).

- Be aware that websites and social media posts offering online sale and home delivery of alcoholic beverages can lead to increased alcohol consumption and may easily target children.
- If you do not drink, do not let any supposed health reason or claim persuade you to start.

Finally, the key point to remember:

Under no circumstances should you drink any type of alcoholic product as a means of preventing or treating COVID-19 infection.

Acknowledgements

This document was coordinated by Carina Ferreira-Borges, Programme Manager, Alcohol, Illicit Drugs and Prison Health, under the leadership of Dr João Breda, Head of the WHO European Office for the Prevention and Control of Noncommunicable Diseases, and in consultation with the Incident Management Team of the WHO Health Emergencies Programme, WHO Regional Office for Europe, and WHO headquarters, Geneva, Switzerland.

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Additional inputs were received from Elena Yurasova, Technical Officer, WHO Office in the Russian Federation; Jürgen Rehm, Senior Scientist, Centre for Addiction and Mental Health, Toronto, Canada; Khalid Saeed, Regional Advisor, WHO Regional Office for the Eastern Mediterranean; Isabel Yordi Aguirre, Programme Manager, Gender and Human Rights, WHO Regional Office for Europe; Jonathon Passmore, Programme Manager, Violence and Injury Prevention, WHO Regional Office for Europe; Michael Thorn, Consultant, WHO European Office for the Prevention and Control of Noncommunicable Diseases; and Vladimir Poznyak, Coordinator, Management of Substance Abuse, WHO headquarters.

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Order dt. 06.05.2020 in WP No.7578 of 2020
[B.Ramkumar Adityan v. Chief Secretary,
Government of Tamil Nadu]

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.05.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition No.7578 of 2020

B.Ramkumar Adityan .. Petitioner

Vs.

1. Chief Secretary
Government of Tamil Nadu
Secretariat, St. George Fort
Chennai 600 009.
2. Additional Chief Secretary
Prohibition and Excise Department
Government of Tamil Nadu
Secretariat, St. George Fort
Chennai 600 009.
3. Principal Secretary
Health & Family Welfare Department
Government of Tamil Nadu
Secretariat, St. George Fort
Chennai 600 009.
4. Director General of Police
Tamil Nadu Police
Dr.Radhakrishnan Salai
Mylapore
Chennai 4.
5. Managing Director
Tamil Nadu State Marketing Corporation Ltd.

Order dt. 06.05.2020 in WP No.7578 of 2020
 [B.Ramkumar Adityan v. Chief Secretary,
 Government of Tamil Nadu]

2

CMDA Tower - II, 4th Floor
 Gandhi Irwin Bridge Road
 Egmore, Chennai 8.

.. Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the respondents 1 and 2 in respect of the Press Notification No.311 dated 04.05.2020 and quash the same as illegal and consequently, direct the respondents 1 and 2 to open the fifth respondent Retail Liquor Selling Shops once Tamil Nadu become COVID-19 free State.

For Petitioner	:	Petitioner-in-Person
For Respondents 1 to 3	:	Mr.Vijay Narayan Advocate General Assisted by Mr.V.Jayaprakash Narayanan Government Pleader
For Respondent-4	:	Mr.S.R.Rajagopal Additional Advocate General Assisted by Mr.V.Jayaprakash Narayanan Government Pleader
For Respondent-5	:	Mr.Sathish

ORDER

(Made by Dr.Vineet Kothari,J)

The Court was held by Video Conference, as per the Resolution of the Full Court dated 30th April 2020, by Judges at the respective residence offices and the counsel, staff of the Court appearing from their respective residences.

2. This petition has been filed by B.Ramkumar Adityan, seeking a ban on the sale of liquor, which is intended to be done by the State of Tamil Nadu through re-opening of TASMALC shops from tomorrow 07.05.2020, during the lockdown period amid COVID-19 situation by challenging the Press Note No.311 dated 04.05.2020 by which the State has issued a public notice for re-opening of TASMALC shops for sale of the liquor in the State of Tamil Nadu, as done by the other neighbouring States, namely, Karnataka and Andhra Pradesh, with certain restrictions as mentioned in the said Press Note. The said Press Note came to be followed by a separate G.O. namely **G.O.Ms.No.223 dated 05.05.2020**. The petitioner in the present writ petition as well as several others filed other writ petitions to the same effect and some have filed applications seeking impleadment in the present writ petition.

3. Heard Mr.B.Ramkumar Adityan, Party-in-Person, Ms.R.Vaigai, learned Senior Counsel, Mr.K.Balu, Mr.Anirudh Krishnan, Ms.Y.Kavitha, Mr.K.Balan Haridas, learned counsel, all appearing for the petitioners in the writ petitions yet to be numbered and Mr.Vijay Narayan, learned Advocate General, Mr.S.R.Rajagopal, learned Additional Advocate General, assisted by Mr.V.Jayaprakash Narayanan, learned Government

Pleader, Mr.Sathish, learned Government Advocate for TASMACH, in a consolidated manner, for about two to three hours.

4. We may briefly summarise the submissions made on both sides.

5. The learned counsel have prayed for total prohibition of the sale of liquor on the State or at least deferment of opening of TASMACH shops up to **17.05.2020** or up to the period the Central Government extends the lockdown during these COVID-19 times. They urged that it was so indicated in the Notifications issued by the National Disaster Management Authority, New Delhi, headed by the Hon'ble Prime Minister of India on **1st May 2020** and in pursuance of which, the Ministry of Home Affairs issued a separate notification signed by the Union Home Secretary, working as a Chairperson of the National Executive Committee under the provisions of Section 10(2) of the Disaster Management Act, 2005. Under these two Central Notifications, the State of Tamil Nadu has issued separate notifications in **G.O.Ms.No.217** dated **03.05.2020** and the aforesaid notification in **G.O.Ms.No.223** dated **05.05.2020**, regarding the sale of liquor in the State of Tamil Nadu.

6. Mr.Vijay Narayan, learned Advocate General appearing for the State has also produced before us the proceedings of the Managing Director of TASMAL dated **05.05.2020**, in which, the detailed Guidelines about the sale of liquor through stand alone shops of TASMAL have been given.

7. The learned counsel appearing for the petitioners expressed their dismay and anguish at the decision of the State for re-opening of the liquor shops in the State of Tamil Nadu which, according to them, will throw the norms relating to social distancing or physical distancing as is desired and mandated in these COVID-19 times to the winds and as per the TV reports and other media reports of the two adjacent States where the liquor shops have been opened recently, the huge crowd gathered for purchase of liquor and it will further increase the corona virus positive cases in the State of Tamil Nadu, which is already leading over various other States. Unfortunately in the spread of this disease, out of 32 Districts of the State, most of the Districts are in Red or Orange category, except one District Krishnagiri, which is in Green zone so far.

8. The learned counsel for the petitioners and intervening applicants, therefore, vehemently suggested that the sale of liquor

through TASMAC shops should be either completely prohibited or at least deferred till the Lockdown is completely lifted on 17th May 2020. They also raised various other submissions that the State is intending to do so only for revenue collection under the guise of putting back the economy into gear through re-opening of TASMAC shops and to only fetch higher revenue, ignoring the health hazards which it will cause and also it is likely to increase the cases of domestic violence, besides causing serious health problem to the people through the gathering of crowds at such TASMAC shops and the Guidelines indicated in the notifications and orders issued by the Department of the State are not likely to be followed, despite police bandobust made, as indicated by the learned counsel appearing for the State, including the learned Additional Advocate General.

9. On the other hand, the learned Advocate General vehemently defended all these orders and submitted that since the vaccine for corona virus is yet to be found and there is no complete cure for this disease immediately available, the norms for safety have been prescribed and that the revival of economy also cannot wait endlessly and therefore, the policy decision of the State Government to restart the sale of liquor through TASMAC shops, is a rational and economically viable decision and

being a policy matter, it should not be interefered with by the Court. He submitted that the detailed Guidelines and safegaurds have been put in place for maintaining physical distancing norms and despite the threat of the disease being there, the deferment of opening of the TASMAC shops till the lifting of the lockdown completely, cannot be insisted upon. He submitted that even after 17th May 2020, the corona virus will not disappear. But, undue delay in re-opening the TASMAC shops and other business activities including factories etc. cannot depend upon this and since the Central Government through their Notifications on 1st May 2020 have permitted the economic activity with some restrictions, which have been adopted and followed by the State Government in their orders, there is no justification to either prohibit the sale of liquor completely or defer the same even up to 17th May. He also submitted that approximately Rs.90 Crores of revenue is expected per day from the sale of liquor and therefore, this revenue aspect of the matter cannot be ignored by the State, which needs fund to be employed for public purposes only, including managing the COVID-19 situation.

10. The learned Advocate General drew our attention to the Guidelines laid down in **G.O.Ms.No.223** dated **05.05.2020** and the proceedings of **TASMAC dated 05.05.2020** and submitted that not only

the social distancing will be maintained by physical distance of six feet between the customers by laying down the barricades at the TASMAC shops, but also by allotting different time slots for the people depending upon their age as well. He submitted that persons above 50 years will be permitted to purchase liquor between 10.00 am to 1.00 pm, people between the age group of 40 to 50 will be permitted to purchase between 1.00 pm to 3.00 pm and people between 18 years to 40 years will be permitted to purchase between 3.00 pm to 5.00 pm. He submitted that if the liquor sale is not made through authorised shops of TASMAC, as per the reports received by the State that the people have started manufacture of liquor illegally at their homes and other places and such illegal manufacture of poisonous liquor through various other methods will only cause greater health hazard and problems for the State.

11. Regarding acceptance of digital payments by TASMAC shops, the learned Advocate General submitted that 850 Retail vending shops of Chennai region have the facility of Point of Sales Machine for accepting the digital payments and e-Wallet digital based payment system has been installed in 58 retail vending shops in 13 Districts. He submitted that as far as other 5338 shops in the State are concerned, the TASMAC was considering the installation of uniform payment system through the digital

method and tenders for that were invited. The last date for submission of tender was fixed on 07.04.2020 and due to the lockdown announced by the Central Government, the said date was extended to 08.06.2020 and therefore, it will take sometime to accept the digital payment only for the sale of liquor in the State.

12. In this regard, Mr.Anirudh Krishnan, learned counsel appearing for the applicant submitted that his client company is already providing E-Wallet services to the State and the company is even ready to extend this digital payment service to TASMAL free of any charges.

13. As far as the case of MRP violations by excess collection of charges by the shops are concerned, as alleged in some of the applications, the learned Advocate General submitted that during the last year of April 2019 to January 2020, a total of 7117 cases of MRP violations have been booked by the Corporation and therefore, the State is taking action against the concerned employees of TASMAL and other District Managers of Revenue Department. To ensure that excess collection on sale of liquor is not made by various TASMAL shops, he further submitted that as far as the **Containment Zones or Red Zones** are concerned, the sale of liquor is not to be opened from tomorrow vide

G.O.Ms.No.223 dated 05.05.2020, in which it is clearly stated that the liquor retail vending shops will be opened from 07.05.2020 except in the shops located in Malls, Market Complex, Containment zones and in the areas falling within the jurisdiction of Greater Chennai Police. Therefore, he submitted that as far as the city of Chennai is concerned, liquor shops will not be opened. He further submitted that constant monitoring will be done to ensure that these Guidelines which are in terms with the Guidelines issued by the Central Government, Ministry of Home Affairs dated 01.05.2020 will be strictly adhered to and therefore, taking a comprehensive view of the matter, the Notification in **G.O.Ms.No.223 dated 05.05.2020** announcing the re-opening of the TASMALC shop for sale of liquor in the State, other than Chennai should not be interfered with.

14 The learned Advocate General further submitted that the health safety measures of wearing mask, maintaining physical distance of six feet etc. will also be ensured by the Police personnel employed for this purpose, for which special arrangements and bandobust have been made by the State and which submission was also supported and explained by Mr.S.R.Rajagopal, learned Additional Advocate General appearing for the Police Department.

15. Heard the learned counsel at length at the admission stage of Public Interest Litigation also and we intend to pass the following interim order, which will be applicable to all such writ petitions filed in this lockdown period, which petitions or applications for intervention may be at the stage of scrutiny numbering process by the Registry as of now.

(i) We direct the respondent State and all concerned authorities of TASMAC including sales personnel thereto to strictly adhere to the Guidelines and restrictions stipulated in the Notification in **G.O.(Ms)No.223**, Revenue and Disaster Management (DM II) Department, **dated 05.05.2020** and further Guidelines issued by the Managing Director of TASMAC in **Rc.No.R3/2093/2020** dated **05.05.2020**, which are quoted below for ready reference:

G.O.(Ms.)No.223 dated 05.05.2020

"NOW THEREFORE the Government hereby ordered that the Liquor Retail Vending Shops be opened from 07.05.2020 (except the shops located in Malls, Market Complexes, Containment Zones and in the areas falling within the Jurisdiction of Greater Chennai Police) subject to the following conditions till the lock down ends.:-

1. There **should not be any crowd** in the Liquor Retail Vending Shops.

2. The social **distance of 6 feet** between two customers should be maintained.

3. **Not more than five persons** to be allowed in the shop at a time.

4. The shop timings will be from **10.00 a.m. to 05;00 p.m.**

5. Necessary **security and safety measures** need to be done in all the Liquor Retail Vending Shops.

6. In each and every Liquor Retail Vending shop, additional personnel need to be deployed so as to **avoid crowding** in the shops.

Further the Government ordered that the **no bars shall be allowed."**

Proceedings of TASMACH in Rc.No.R3/2093/2020 dated 05.05.2020

Annexure - I

Instructions to be followed at the Retail Vending shops

1. All shop personnel should be present in the shops

(Other than those who reside in containment zone). Wherever shops are not to be opened, those staff can also be redeployed in other shops which are to be opened.

*2. Shop Personnel must wear **triple layer masks and sanitize** their hands at the periodic intervals while working.*

*3. If there's sufficient space, sales can be done from **two counters** at the shop window, there should be **at least 6 feet distance** between the two counters. If sufficient space is not available then sales must be done only from one counter.*

*4. **Only medically fit persons**, without any co-morbid conditions and **below 55years of age** should be called for work.*

*5. The **barricading with wooden sticks** should be done for regulating the customers in front of the shops. **Circles must be drawn** within the barricades with **diameter of 1 feet with 6 feet distance** between each circles. The barricading should be a single line barricade. Customers should come in single line within the barricade. The barricading should be **for at least 200 feet**, where space is not available barricading can be done for lesser length but it should be ensured that circles are drawn with*

diameter of 1 feet with 6 feet distance between each circle even beyond the barricade.

*6. The **shops should be sanitized** by using user friendly disinfectant liquid at least five times during the working hours.*

*7. Apart from sanitizing the shops with **disinfectant liquid**, the shop personnel should spray the bleaching powder outside the shops at least twice daily.*

*8. **Not more than 5 persons** to be allowed in the shop at the same time.*

*9. Shop personnel while sanitizing the shops should wear **triple layer masks**. All the shop personnel need to wear the disposable hand gloves and also wear triple layer masks while attending to the customers.*

*10. Minimum two personnel per **shop should stand outside** of the shop to regulate the customers for ensuring the social distance.*

11. These shop personnel should also take care that

*there is no crowding nearby TASMACH shops and also to ensure that **no customers are drinking liquor in the public places.***

*12. **The Bars attached to the Retail Vending shops is not permitted to function.** The District Manager and shop personnel should ensure that all entry points to the bars attached to the Retail Vending shops are closed and sealed properly.*

*13. One person must be engaged through outsourcing agency to stand at **entrance of shop with hand sanitizer** to be used for all customers before they make the purchase.*

*14. Sales to be done only to customers who are **wearing a mask.***

*15. **No Bulk sales to be done.***

*16. **Token system** to be followed for regulating crowds. Timings must be mentioned in the tokens to ensure that not many persons gather in front of shops. No token should be given after 4 pm and **shops should compulsorily be closed at 5pm.***

*17. **Public address system should be hired** by the District managers for all shops where more crowds are expected especially in urban areas.*

18. District managers may temporarily hire additional staff through outsourcing agency to ensure that above instructions are followed and for proper crowd control."

(ii) Besides the aforesaid Guidelines and Restrictions, we are of the opinion that following further restrictions deserve to be imposed on the sale of liquor to TASMALC shops in the areas allowed, in addition to the conditions contained in the aforesaid two Government notifications/Guidelines dated 05.05.2020.

(a) Item 15 of the Guidelines issued by the TASMALC says that "**No Bulk sales to be done**". Since the word "Bulk" is not defined or clarified in the said Guidelines and Instructions (but it seems to be equivalent to 0.219 Gallon as per Google), we consider it appropriate to direct that **not more than two bottles of 750 ML each** of liquor (including Beer, Wine, etc.) **of any one type** and which is the usual bottle size as stated by the learned Advocate General, will be sold to one customer at a time. The same customer cannot make such purchase of liquor more than **twice in a week, with a minimum gap of three**

days.

(b) The TASMACH shop in question, which is allowed to undertake such sale as per the Notifications dated 05.05.2020 will immediately **issue "Bill for such sale"**, noting the **name, address and Aadhar card number** of the person/buyer concerned. If any sale is found to be made in violation of this direction and such fact is brought to the notice of this Court, that shop in question will be immediately closed and will not be allowed to be reopened, except by the specific orders of the Court.

(c) Vide Item No.11 and Item No.12 of the Instructions dated 05.05.2020 also which indicate that the Bars attached to the Retail Vending shops will not be permitted to function and the entry point to such Bars attached to Retail Vending shops will be closed and sealed properly and drinking liquor in public places will be prohibited. This appears to be issued for not allowing the customers to consume the liquor at the shop itself or in the Bar attached thereto or any other public place.

We, therefore, direct that to maintain properly

the law and order and to avoid any untoward incident, no purchaser of liquor shall be allowed to consume the liquor at or nearby the shop in question or at any other public place and the police personnel deployed in duty for such bandobust and such consumption of liquor can take place only in the private premises of the person(s) concerned.

(iii) Though the learned Advocate General has submitted that **Digital payment** facility for purchase of liquor is available in some of the TASMALC shops, but they are mainly situated in the City areas, where presently the sale of liquor is not going to start from **07.05.2020**, we are of the opinion that to avoid unnecessary malpractice of over charging through cash payments and to encourage digital payment as per the avowed Government Policy, we direct that the payment for purchase of liquor should be made through approved E-payment applications like **RuPay, Bhim, Google Pay, etc.** which can be made available on all the smart phone holders and which can easily be assumed to be available with TASMALC shop owners/Managers and which applications can be downloaded and the payment through these banking channels will not only keep a track and check on the sale of liquor, but is also likely to

prevent those who do not intend to pay through known and approved sources, but purchase and consuming liquor free from all restriction. This direction, in our opinion, can meet the ends of not only starting this economic activity through recorded sources of payments and business, but will also regulate the business to some extent and avoid unnecessary increase in offences of excess MRP charging, etc. and then booking cases, trials, etc.

(iv) To encourage digital payment and online booking of the purchase orders of the liquor, we further direct that those who book online and make online digital payments through banking channels are permitted to buy up to **two bottles** of one type of liquor in a day. The others who do not make online payments and do not book orders online, as they may not have such mobile phone facility at all, will be allowed to purchase **only one bottle of 750 ml** in a day, on the basis of tokens issued to them, read with conditions stipulated in Clause (ii)(a) above.

(v) The learned Advocate General has given the data that approximately 7117 cases in the last ten months had to be booked for alleged MRP violations. Therefore, to prevent this, we are of the opinion that sale of liquor on cash payment particularly in Covid times is not a

justified course of action and thus, we prohibit the sale of liquor against cash under the orders issued by the State Government, namely G.O.Ms.No.223 dated 05.05.2020, except in the cases indicated above in Clause (iv) of this order.

(vi) The learned Advocate General also submits about issuance of Tokens with time slots given depending upon the age group of the consumers. We specifically requested the Advocate General to take instructions in the matter as to whether online booking of tokens for sale of liquor through TASMACHOPs can be insisted upon or not. The issuance of tokens at the shops itself at the same time, when the sale of liquor is taking place is likely to cause a serious threat to the social distancing or physical distancing norm, which is being insisted upon by the Central Government and the State Governments and Medical Authorities. Therefore, we direct that the State and TASMACHOP should consider immediately the method of sale of liquors online and upon online payment, Tokens can be issued online to the persons concerned with the time slots given on the same, when the customer can go and collect his liquor bottles already sold to him on the Token produced by him or shown by him to the concerned sales persons. This will largely avoid unnecessary crowding at the TASMACHOPs which are allowed to restart

such business from 07.05.2020. The exception to online booking for liquor can be made only for those persons who do not have the phone facility available to them and cannot book it online and for whom, separate counters for issuance of Tokens and sale of distribution of liquor bottles can be opened at the TASMAC shop in question, so that the social distancing or physical distancing as per the norms prescribed and adopted by the State Government can be strictly maintained.

(vii) No sale of liquor without Sale Bills shall be made by any TASMAC shop and if any complaint is received in this regard by this Court, the Court may direct the permanent closure of such TASMAC shop after making necessary enquiry in the matter.

(viii) With the aforesaid restrictions and the restrictions already stipulated in the aforesaid Government notifications/Guidelines dated 05.05.2020, we are of the opinion that we cannot totally prohibit the re-opening of the TASMAC shops for sale of Liquors, including Beer, Wine, etc. in the State as we have already dismissed one such Public Interest Litigation in **WP No.7565 of 2020 on 04.05.2020**, it being a State policy matter and we are also not inclined to stay or defer the said impugned decision of the State Government dated 05.05.2020 to reopen

the TASMAL shops in specified areas from 07.05.2020 until 17.05.2020 or even if the date of the lockdown is further extended by the Central Government or the State Government depending upon the emerging situation of COVID-19 disease, as we feel that the balance of revival of economic activity and management of Covid related disease has to be maintained by the State Authorities and it is not within the domain of the Court to interfere with the same.

(ix) The State will constantly monitor the sale of liquor in terms of the aforesaid restrictions depending upon the change of declaration of zones from Green to Orange, Orange to Red and Red to Containment zones and opening or closing of TASMAL shops in terms of the aforesaid restrictions will also be governed by the declaration of the respective areas in different zones by the competent authority, on day-to-day basis.

16. All these matters may be posted before the Court on 14.05.2020 again.

17. The office may number the other fresh writ petitions and applications of impleadment, etc. and place the entire record of all these related cases before the Court on the next date of hearing along with any

Order dt. 06.05.2020 in WP No.7578 of 2020
[B.Ramkumar Adityan v. Chief Secretary,
Government of Tamil Nadu]

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fresh cases filed hereafter also, so that a common order may be passed after hearing all the petitioners and the respondents, in this lead case.

(V.K.J.) (P.S.N.J.)
06.05.2020

kpl

Order dt. 06.05.2020 in WP No.7578 of 2020
[B.Ramkumar Adityan v. Chief Secretary,
Government of Tamil Nadu]

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Dr.VINEET KOTHARI,J,
and
PUSHPA SATHYANARAYANA,J

kpl

W.P.No.7578 of 2020

06.05.2020

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A. NO. _____ OF 2020

IN

SPECIAL LEAVE PETITION (CIVIL) NO. _____ 2020

IN THE MATTER OF:-

Seeman ... Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd. & Ors. ... Respondents

APPLICATION SEEKING PERMISSION TO FILE THE SLP:

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVENAMED:-

MOST RESPECTFULLY SHOWETH:

1. The present Petitioner has filed the Special Leave Petition being aggrieved by the Impugned final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No. 7578 of 2020, whereby the Hon'ble High Court while directing to close the Wine Shops/ retail outlets, erred in allowing the State of Tamilnadu to sell the Liquors through online during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic.
2. The Petitioner crave leave of this Hon'ble Court to refer to and rely upon the contents of the accompanying Special Leave Petition.
3. The present petitioner/Applicant, who is a Public Spirited Person and Chief Coordinator of Naam Thamilar Katchi (NTK), a political party which has a vote share of 5% of the total electorate of the State of Tamil Nadu has filed the present Special Leave Petition, for the betterment and interest of the people of Tamilnadu.

4. It is stated that the present Petitioner, being the permanent resident of the State of Tamilnadu, is affected by Paragraph No. 29 of the Impugned Order dated 08.05.2020, whereby the Hon'ble High Court had allowed the opening of the Liquor Shops through online portal and subsequent home delivery, during the Covid-19 pandemic.
5. It is stated that the present Petitioner was not a party before the Hon'ble High Court of Madras and hence, has filed the Application along with the present Special Leave Petition.
6. In light of the above-mentioned facts and circumstances, the present Petitioner seeks to allow him to file the present Special Leave Petition.

PRAYER:

In the above-mentioned circumstances, it is humbly prayed that this Hon'ble Court may be pleased to:

- (a) Permit the Petitioner in filing the present Special Leave Petition; and
- (b) Pass any other order as this Hon'ble Court may deem fit and thus renders justice.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Place: New Delhi
Filed on: 11.05.2020

FILED BY



(K. PAARI VENDHAN)
Advocate for the petitioner

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A NO. _____ OF 2020

IN

SPECIAL LEAVE PETITION (CIVIL) NO. _____ 2020
IN THE MATTER OF:-

Seeman ... Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd. & Ors. ... Respondents

APPLICATION FOR DIRECTION:

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED:-

MOST RESPECTFULLY SHOWETH:

1. The present Petitioner has filed the Special Leave Petition being aggrieved by the Impugned final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No. 7578 of 2020, whereby the Hon'ble High Court while directing to close the Wine Shops/ retail outlets, erred in allowing the State of Tamilnadu to sell the Liquors through online during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic.
2. The Petitioner craves leave of this Hon'ble Court to refer to and rely upon the contents of the accompanying Special Leave Petition.
3. The present Applicant, who is a Public Spirited Person and Chief Coordinator of Naam Thamilar Katchi (NTK), has filed the present Special Leave Petition, for the betterment and interest of the people of Tamilnadu. Further the petitioner submitted that the possibility of

the hurry in opening the wine being driven by the liquor barrens could not be ruled out.

4. It is stated that the Hon'ble High Court vide Order dated 06.05.2020, allowed the opening of the Wine Shops/ Outlets subject to the fulfilment of the above mentioned conditions and restrictions stated in the Circular dated 04.05.2020 imposed by the Government of Tamilnadu and further, the Managing Director, Tamil Nadu State Marketing Corporation Ltd was directed to monitor the functioning of the working of the Wine Shops/ outlets in Red and Orange Zones of the State of Tamilnadu.
5. Thereafter, Mr.R.Kirlosh Kumar, I.A.S, the Managing Director, Tamil Nadu State Marketing Corporation Ltd, opened the Wine Shops/ Outlets in the State of Tamilnadu, and flouted all the conditions and restrictions which was to be strictly followed by the State of Tamilnadu.
6. The Police Personals were incapable of handling the overcrowding of the people in front of the Wine Shops/ Outlets in various districts of Tamilnadu, giving arising to the spread of Covid-19 amongst the Public.
7. The Social Distancing norms laid down by the Union of India, which was reiterated by the State of Tamilnadu in its Press Note dated 04.05.2020, were deliberately flouted by Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd, by failing to handle the overcrowding of the People in front of Wine Shops/ Outlets.
8. That Chief Secretary of the State of Tamilnadu, Mr. K. Shanmugam, has issued the Government Order No. 223 dated 05.05.2020, to open the Liquor Retail Vending Shops from 07.05.2020 subject to the conditions laid down in the said Government Order. Some of the important
 - a. There should not be any crowd in the Liquor Retail Vending Shops.
 - b. The Social Distance of 6 feet between two customers should be maintained.

- c. Necessary security and safety measures need to be done in all the Liquor Retail Vending Shops.
 - d. In each and every Liquor Retail Vending Shops, additional personnel need to be deployed so as to (void crowding in the shops).
9. However, all the above-mentioned conditions which was stated in the Government Order dated 05.05.2020, was completely flouted by the illegal omissions of Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd and other authorities.
10. It is stated that when the Wine Shops/ Outlets were opened in the State of Tamilnadu, chaos prevailed outside many Wine shops in various districts, after the liquor outlets were opened after a gap of nearly 45 days of the COVID-19 lockdown. Mr.R.Kirlosh Kumar, I.A.S, the Managing Director, Tamil Nadu State Marketing Corporation Ltd negligently failed to take any steps to manage the crowd or to follow the guideline passed by the Ministry of Home Affairs under Disaster Management Act. The lack of preparedness and flouting of the rules by the said Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd was blatant and culpable. This in all probability must has accelerated the spread of the Virus in geometric propositions.
11. It is stated that the, Chief Secretary of the State of Tamilnadu, Managing Director of TASMAC and Director General of Police, all failed in symphony.
12. That Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd is guilty of public nuisance, as their illegal omissions has caused injury, danger and annoyance to the Public, who are vulnerable to the Covid-1.
13. That Section 268 of the Indian Penal Code, states as follows,
"268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in

the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage."

14. Further, Section 55 (1) of the Disaster Management Act, 2005, reads as follows,

"(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence."

15. It is submitted that a cursory perusal of Section 268 of IPC read with Section 55 (1) of the Disaster Management Act, 2005, makes it patent that the Head of the TASMACH, Mr.R.Kirloskar Kumar, I.A.S ought to be prosecuted for this illegal culpable negligence and omissions.

16. It is stated that allowing the Wine Shops at this stage, would not only affect the persons coming to buy liquors but also the family members of the persons who comes to the Wine Shops/ outlets for buying the same. Further, there is a high risk of the Police Personnels getting affected by the Covid-19 Virus from the huge crowd who are coming to the Wine Shops/ outlets.

17. Due to the illegal omissions and act of head of TASMACH, Director General of Police and Chief Secretary of State of Tamilnadu, thousands of people would have been infected by Covid-19, who would be spreading to other thousands of people, thereby causing irreparable loss to the Public and the Government.

18. In light of the above-mentioned facts and circumstances, the present Petitioner seeks to direction for the Criminal Prosecution of the head of TASMACH fixing of responsibility and further, to impose exemplary cost on these persons to be deposited the same in any appropriate fund as this court deem fit.

PRAYER:

In the above-mentioned circumstances, it is humbly prayed that this Hon'ble Court may be pleased to:

- a) Direct registration of First Information Report and initiation of Criminal Prosecution of Mr.R.Kirlosh Kumar, I.A.S the Managing Director, Tamil Nadu State Marketing Corporation Ltd , under section 55 of Disaster Management Act 2005, section 269 -271 of IPC and other enabling provisions;
 - b) Direct a judicial enquiry to fix the responsibility for this hurried opening of the wine shop and the carelessness and lack of preparation in dealing this situation, so that it does not repeat again in any State of the country;
 - c) Impose exemplary cost on head of Tamilnadu State Marketing Corporation (TASMAC), for causing irreparable loss to the Public and the Government, which cost to be deposited in any appropriate fund preferably for the Destitute Widow Pension Scheme of State of Tamil Nadu;
- (b) Pass any other order as this Hon'ble Court may deem fit and thus renders justice.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Place: New Delhi
Filed on: 11.05.2020

FILED BY



(K. PAARI VENDHAN)
Advocate for the petitioner

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 2020

IN THE MATTER OF:-

Seeman

... Petitioner

Versus

Tamilnadu State Marketing Corporation Ltd. & Ors.

... Respondents

**APPLICATION FOR EXEMPTION FROM FILING THE CERTIFIED
COPY OF THE IMPUGNED ORDER:**

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONER ABOVENAMED:-

MOST RESPECTFULLY SHOWETH:

1. The present Petitioner has filed the Special Leave Petition being aggrieved by the Impugned final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No. 7578 of 2020, whereby the Hon'ble High Court while directing to close the Wine Shops/ retail outlets, erred in allowing the State of Tamilnadu to sell the Liquors through online during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic.
2. The Petitioner crave leave of this Hon'ble Court to refer to and rely upon the contents of the accompanying Special Leave Petition.
3. The present Applicant, who is a Public Spirited Person and Chief Coordinator of Naam Thamilar Katchi (NTK), has filed the present Special Leave Petition, for the betterment and interest of the people of Tamilnadu.
4. It is stated that the Hon'ble High Court of Madras has passed the Impugned Order on 08.05.2020 and thereafter, immediately the

present Applicant has filed the present Special Leave Petition before this Hon'ble Court.

5. Due to paucity of time and urgency in the said matter, the present Applicant could not procure the Certified Copy of the Impugned Order dated 08.05.2020 passed by the Hon'ble High Court of Madras.
6. Further, due to the outbreak of Covid-19 Pandemic, the registry of the Hon'ble High Court is closed and the present Applicant is filing the present Application seeking to exempt him from filing the certified copy of the Impugned Order dated 08.05.2020 passed by the Hon'ble High Court of Madras.
7. In light of the above-mentioned facts and circumstances, the present Petitioner seeks to exempt him from filing the certified copy of the impugned Order dated 08.05.2020 passed by the Hon'ble High Court.

PRAYER:

In the above-mentioned circumstances, it is humbly prayed that this Hon'ble Court may be pleased to:

- (a) Exempt the Petitioner from filing the certified copy of the impugned Order dated 08.05.2020 passed by the Hon'ble High Court in WMP No. 8928 of 2020 in WP No. 7578 of 2020;
- (b) Pass any other order as this Hon'ble Court may deem fit and thus renders justice.

AND FOR THIS ACT OF KINDNESS YOUR PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Place: New Delhi
Filed on: 11.05.2020

FILED BY



(K. PAARI VENDHAN)
Advocate for the petitioner

**K. PAARI VENDHAN
ADVOCATES
SUPREME COURT OF INDIA
(M) 9717864773**

Dated: 12.05.2020

FOR LISTING ON URGENCY CATEGORY FOR SLP:

To,
The Registrar
Hon'ble Supreme Court of India,
New Delhi

Subject: Listing of the SLP (Civil) Diary No. ____ of 2020 bearing Case Title, "***Seeman v. Tamil nadu State Marketing Corporation Ltd.***", on an urgent category for hearing.

Connected matter: SLP (C) Dairy No 11184-11185 of 2020 ***Tamil nadu State Marketing Corporation Ltd Vs. B.Ramkumar Adityan***

Respected Sir,

In the above matter captioned Special Leave Petition has been filed being aggrieved by the Impugned final Judgment and Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No. 7578 of 2020, whereby the Hon'ble High Court while directing to close the Wine Shops/ retail outlets, erred in allowing the State of Tamilnadu to sell the Liquors through online during the period of lockdown, without considering the consequence of sale of liquors during Covid-19 pandemic.

It is stated that allowing the Wine Shops's ecommerce at this stage, would not only affect the persons going to deliver the liquors but also the family members of both the persons who comes to deliver and also who buy the liquor.

Further, due to the illegal omissions and act of Managing Director of TASMAC and other authorities, thousands of people would have been infected by Covid-19, who would be spreading to other thousands of people, thereby causing irreparable loss to the Public and the Government.

It is stated that the SLP (C) Diary No. 11184/ 2020 and 11185/2020 filed by the State of Tamilnadu, challenging the Impugned Order dated 08.05.2020 passed by the Hon'ble High Court of Madras in WMP No. 8928 of 2020 in WP No.7578/2020, was listed before this Hon'ble Court on 12.05.2020 as item no. 4 and 5 in Virtual

**K. PAARI VENDHAN
ADVOCATES
SUPREME COURT OF INDIA
(M) 9717864773**

Court No. 2 and thereafter the list got revoked. Therefore that connected matter could be listed anytime now. And this SLP also must be heard along with it, to do complete justice.

Hence, the present SLP ought to be listed and urgently ought to be heard along with SLP (C) Diary No. 11184/ 2020 and 11185/2020 by this Hon'ble Court, vide Video-Conferencing on the following Whatsapp Number Contact., +91-9717864773.

Yours faithfully



K. Paari Vendhan
Advocate