

## **Janshi And Company And Ors. vs State Of Tamil Nadu And Ors. on 17 September, 1982**

**Equivalent citations: 1982(1)SCALE805, (1982)3SCC15, 1982(14)UJ655(SC), AIRONLINE 1982 SC 1, 1982 (3) SCC 15**

**Bench: A. Varadarajan, V. Balakrishana Eradi**

### **JUDGMENT**

1. The writ petitioners were dealers in Indian Made foreign liquor. They were holders of composite wholesale and retail dealers' licences. Now, the wholesale and retail licences for dealing in such liquors have been declined and separate licences were issued to wholesale dealers and retail dealers. The wholesale dealer's licence for the entire city of Madras was issued to one M. Subbarama Reddy, the third respondent in W.P. No. 6797 of 1981 and not to any of the writ petitioners. The writ petitions were filed in these circumstances.

2. The reliefs prayed for in Writ Petition No. 6797 of 1981 are (a) to declare Sections 17C, 17D, 20B and 23A of the Tamil Nadu Prohibition Act, 1937 as amended, as unconstitutional and liable to be struck down; (b) to declare Rules 3, 5, 6, 7, 10, 16, 18 and 22 of the Tamil Nadu Liquor (Licence and Permit) Rules, 1960 to be unconstitutional and liable to be struck down; (c) to declare that the Notification dated 12.6.1981 issued by the Commissioner of Prohibition and Excise, Tamil Nadu is void and to quash the same and (d) to declare that the order dated 29.8.1981 is void and to quash the same.

3. The reliefs prayed for in W.P. Nos. 8278 and 8279 of 1981 are (a) to declare the provisions of Tamil Nadu Prohibition Act 1937 and in particular Sections 17C, 17D, 17E, 18B, 20B and 23A of that Act to be un constitutional and void as being violative of the Petitioners' fundamental rights guaranteed under Articles 14 and 19(1)(g) of the Constitution; (b) to declare Rules, 3, 5, 6, 7, 10, 16, 18 and 21 of the above Rules to be unconstitutional and void as being violative of Articles 14 and 19(1)(g) of the Constitution; (c) to declare the Notification dated 12.6.198J issued by the Commissioner of Prohibition & Excise, Tamil Nadu, the second respondent as null and void and (d) to quash the order dated 29.8.1981 as being unconstitutional and void.

4. The prayers in W.P. No. 1357 of, 1982 are (a) to declare Sections 17C, 17D, 20B and 23A of the Tamil Nadu Prohibition Act, 1937 as amended to be unconstitutional and therefore liable to be struck down; (b) to declare Rules, 3, 5, 6, 7, 10, 16, 18 and 22 of the aforesaid Rules as unconstitutional and liable to be struck down; (c) to declare the Notification dated 12.6.1981 issued by the Commissioner of Prohibition & Excise, Tamil Nadu, the second respondent, as void and to quash the same and (d) to declare that the order dated 14.8.1981 passed by the second Respondent granting licence to M. Subbarama Reddy and any other licence or licences issued to respondents 6 to 17 to be void and quash the same.

5. The arguments in these Writ Petitions and Civil Appeals Nos. 3035-3037 of 1981 were heard in part and all these matters were adjourned to 23.3.1982. Subsequent to 23.3.1982, probably in the light of the arguments advanced before us in these matters till that date the Tamil Nadu Prohibition Act, 1937 has been amended by the Tamil Nadu Prohibition Amendment Act 42 of 1982. Some of the aforesaid Tamil Nadu Liquor (Licence and Permit) Rules 1960 also have been amended. The wholesale licence granted to M. Subbarama Reddy, the third respondent in W.P. No. 6797 of 1981 for the whole of Madras city has also been cancelled. When these said Writ Petitions and Civil Appeals came up again before us on 14.9.1982, Mr. K. Rajendra Chowdhary, learned Counsel for the appellants in the aforesaid Civil Appeals in which also similar reliefs as in these Writ Petitions were prayed for, withdrew, those Civil Appeals and they were accordingly dismissed as withdrawn on that day without costs. Then Dr. Y.S. Chitale, learned Counsel appearing for the Government of Tamil Nadu submitted that by reasons of the said amendment of some of the provisions of the Tamil Nadu Prohibition Act, 1937 and also the said Tamil Nadu Liquor (Licence and Permit) Rules 1960 nothing survives in these Writ Petitions for consideration by this Court. This was not disputed by Mr. F.S. Nariman, learned Counsel appearing for the petitioners in these Writ Petitions. He, however, submitted that Rule 3 of the Tamil Nadu Indian Made Foreign Spirits (Supply by wholesale) Rules 1981 confers the power to fix the number of wholesale depots for Indian made foreign spirits in Tamil Nadu on the Commissioner of Prohibition subject to the approval of the Government and only one wholesale depot has been fixed for each of the districts in Tamil Nadu, and opportunity should be given to the petitioners in these Writ Petitions to make representation to the Government regarding the number of wholesale depots for Indian made foreign spirits required in each of the districts. He also submitted that the Notification calling for applications for the issue of licence for dealing with Indian made foreign spirits may be issued within four weeks after representations are made by the Writ Petitioners to the Government. Dr. Y.S. Chitale, learned Counsel appearing for the Government of Tamil Nadu had no objection to these submissions of the learned Counsel for the Writ Petitioners. In these circumstances, we dismiss these Writ Petitions. While doing so we give liberty to the writ petitioners to make representations in writing to the Government of the Tamil Nadu regarding the number of wholesale depots for Indian made foreign spirits in each of the districts in Tamil Nadu including the Madras Corporation limits within two weeks from 15th of September, 1982. The Government of Tamil Nadu shall consider these representations, if any, without any necessity for giving an oral hearing to these petitioners. The notification calling for the issue of licences for wholesale dealers in Indian made foreign spirits shall be issued within four weeks from 1 10.1982. It is open to the writ petitioners also to submit their applications for grant of licences to them and they shall be considered on merits according to law. We do not make any order as to costs. The Government of Tamil Nadu may consider the question of purchasing either by themselves or through any of their agents the stock of Indian made foreign spirit which may be left with the writ petitioners after the fresh licences are granted on the new applications which may be invited for the purpose.