



புதுச்சேரி மாநில அரசிதழ்

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PART - I

சிறப்பு வெளியீடு

EXTRAORDINAIRE

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GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT (EXCISE)

(G.O. Ms. No. 1, Puducherry, dated 12th February 2020)

ORDER

The Hon'ble Supreme Court of India in its Order, dated 15-12-2016 in T.P. (C) Nos. 739-741 of 2016 in SLP (Civil) Nos. 12164-12173 of 2016 issued the following directions:-

(i) All States and Union Territories shall forthwith cease and desist from granting licences for the sale of liquor along National and State highways.

(ii) The prohibition contained in (i) above shall extend to and include stretches of such highways which fall within the limits of Municipal Corporation, City, Town or Local Authority.

(iii) The existing licences which have already been renewed prior to the date of this order shall continue until the term of the licence expires but, not later than 1st April, 2017.

(iv) All signages and advertisements of the availability of liquor shall be prohibited and existing ones removed forthwith both on National and State highways.

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

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

(vii) These directions issue under Article 142 of the Constitution.

2. The Hon'ble Supreme Court of India, by its order, dated 31-03-2017 in IA Nos. 4-6 and other connected IAs in Civil Appeal Nos.12164-12166 of 2016, has directed that the following paragraph shall be inserted after direction (v) in paragraph 24 of the operative directions of this Court in the judgment, dated 15-12-2016, namely :-

“In the case of areas comprised in Local Bodies with a population of 20,000 people or less, the distance of 500 metres shall stand reduced to 220 metres”.

3. Pursuant to the directions of the Hon'ble Supreme Court of India, all the liquors shops located within the prohibited distance of 500 metres/220 metres (as the case may be) from the outer edge of National/State highways/Service lane along the National highways were closed immediately.

4. The Hon'ble Supreme Court of India in SLP (Civil) No. 10243 of 2017, by Order, dated 11-07-2017, has issued further clarifications in this subject at paragraph 7 of the order as follows:-

“The purpose of the directions contained in the Order, dated 15 December, 2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between Cities, Towns and Villages. The Order does not prohibit licensed establishments within Municipal areas. This clarification shall govern other Municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court”.

5. In view of the Order of the Hon'ble Supreme Court, dated 11-07-2017 in SLP (Civil) No. 10243/2017, the Deputy Commissioner (Excise), Puducherry, *vide* Letter No. 1704/DCE/S1/FL.2/2017, dated 12-09-2017 of the Deputy Commissioner Excise, Puducherry, directed all the Deputy Commissioners (Excise), Karaikal, Mahe and Yanam regions to permit all FL.1 and FL.2 liquor licensed establishments which are located within the limits of Municipal areas to function with immediate effect.

6. Subsequently, the Hon'ble Supreme Court by its Order, dated 13-11-2017 has issued the following clarifications on the Clarification Petition filed by the Commissioner of Prohibition and Excise, Tamil Nadu:-

“The purpose of the directions contained in the Order, dated 15 December 2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between Cities, Towns and Villages. The Order does not prohibit licensed establishments within Municipal areas. This clarification shall govern other Municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court”.

The above observations make it clear that the purport of the judgment, dated 15 December 2016 is to prohibit the sale of liquor along and in proximity of highways which provide connectivity between Cities, Towns and Villages. In other words, this will not operate to prohibit licensed establishments within Municipal areas. The clarification to the effect that it “shall govern other Municipal areas as well” is clearly intended to set the matter at rest in relation to other parts of the Country so as to obviate the need for repeated applications before this Court. The expression “other Municipal areas” will apply to all Municipal areas, wherever situated.

“The Interlocutory Applications are accordingly disposed of.”

7. Further, in the subsequent Order of the Hon’ble Supreme Court, dated 23-02-2018 on the miscellaneous applications arising out of Civil Appeal Nos. 12164-12166 of 2016, it was observed by the Hon’ble Supreme Court *vide* para 8, that :

“Having regard to these directions, we are of the view that the State Governments would not be precluded from determining whether the principle which has been laid down by this Court in the Order, dated 11 July 2017 in *Arrive Safe Society (Supra)* should also apply to areas covered by Local Self-governing Bodies and Statutory Development Authorities. We are inclined to allow the State Governments to make this determination since it is a question of fact as to whether an area covered by a Local Self-governing Body is proximate to a Municipal agglomeration or is sufficiently developed as to warrant the application of the same principle. In deciding as to whether the principle which has been set down in the Order, dated 11 July 2017 should be extended to a Local Self-governing Body (or Statutory Development Authority), the State Governments would take recourse to all relevant circumstances including the nature and extent of development in the area and the object underlying the direction prohibiting the sale of liquor on National and the State highways. The use of the expression ‘Municipal areas’ in the order, dated 11 July 2017 does not prevent the State Governments from making that determination and from taking appropriate decisions consistent with the object of the orders passed by this Court. We leave it open to individual licensees to submit their representations to the competent authorities in the State Governments if, they are so advised upon which appropriate decisions may be taken by the State Governments. We have issued this general direction to obviate both litigation before the High Courts and repeated recourse to applications to this Court.”

8. Pursuant to the directions of the Hon’ble Supreme Court of India *vide* Order, dated 23-02-2018, many State Governments like Tamil Nadu, Goa, Maharashtra and Kerala have passed orders permitting the liquor shops along National Highways by adopting different yardsticks to determine whether an area is proximate to Municipal agglomeration or is sufficiently developed to warrant the principles laid down by the Hon’ble Supreme Court of India. The Home, Prohibition and Excise (VI) Department, Government of Tamil Nadu had issued an order *vide* G.O. Ms. No. 32, dated 21-05-2018 framing guidelines for issue of new/renewal of licences to various establishments within the prohibited distance from the National and State highways under the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 and

Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003. Further, the Government of Tamil Nadu had decided to treat the following Self-governing Bodies on par with Municipal areas when the applicants submit their applications for new/renewal of licences for sale of liquor:

(1) Local Self-governing Bodies forming part of the Statutory Development Authority for which a development plan has been approved as per the provisions contained in the Tamil Nadu Town and Country Planning Act, 1971.

(2) Census Towns which are Panchayats that are not statutorily notified and administered as a Town, but, nevertheless the population has attained urban characteristics.

The Government of Tamil Nadu had also directed that in case of FLI and FLII (retail vending shops) licences which are not located in a Municipal area or an area mentioned in para (15) of the said G.O., the distance criteria on/from the highways, laid down by the Hon'ble Supreme Court in its Orders, dated 15-12-2016 and 31-03-2017 needs to be followed.

9. The details of such villages in Puducherry and Karaikal Districts through which the National Highways passes beyond Puducherry, Oulgaret and Karaikal Municipalities are as given below :

NH 45 (Ariyankuppam to Cuddalore Road)

Ariyankuppam-Manavelly-Pooranankuppam-Abhishekapakkam-Thavalakuppam-Kirumampakkam-Pillaiyarkuppam-Manapet-Outchimedu.

NH 45 (Villianur to Vizhuppuram Road)

Villianur-Mangalam-Ariyur-Thiruvandarkoil-Thirubuvanai-Madagadipet.

NH 45A (Poovam to Vanjore Road)

Poovam-Varichikudy (North)-Varichikudy (South)-Kottucherry-T.R.Pattinam-Polagam-Keezhaiyur (South)-Vanjore.

10. In order to assess the developmental aspects of the areas of Local Self-governing Bodies having population of 20,000 people or less, where the liquor shops kept closed along the National Highways pursuant to the directions of the Hon'ble Supreme Court of India, the Director, Town and Country Planning Department was requested to furnish a report.

11. In consultation with the Department of Town and Country Planning, the Deputy Commissioner (Excise), Karaikal and by applying the principles adopted by Government of Tamil Nadu, the Secretary (Excise) has proposed the following areas located in Puducherry and Karaikal Districts as sufficiently developed for the purpose of opening of liquor shops in the areas of Local Self-governing Bodies having population of 20,000 people or less which are located along the National Highways as per the following criteria:

Between Ariyankuppam and Cuddalore Road

(a) Ariyankuppam and Manavelly villages have been classified as Census Towns as per the District Census Handbook.

(b) Puranankuppam, Abhishekapakkam, Thavalakuppam and Kirumampakkam fulfill the criteria adopted for classification of Census Town.

(c) Pillaiyarkuppam, Manapet and Outchimedu do not fulfill the criteria adopted for classification of Census Town, but, nevertheless the areas located in these villages are sufficiently developed on par with similar developments emerged along the areas in Municipal limits.

Between Puducherry and Madagadipet Road

(a) Villianur Village has been classified as Census Towns as per the District Census Handbook.

(b) Thirubuvanai, Thiruvandarkoil and Madagadipet fulfill the criteria adopted for classification of Census Town.

(c) Ariyur and Mangalam Villages do not fulfill the criteria adopted for classification of Census Town, but, the population of the Village has attained the minimum requirement for classifying it as Census Town and major portion of the road in these villages are covered with commercial and industrial activities. Hence, they may be treated as sufficiently developed on par with Municipal areas.

Between Poovam and Vanjore Road

(a) T.R. Pattinam Village has been classified as Census Town as per the District Census Handbook.

(b) Kottucherry Village fulfils the criteria adopted for classification of Census Town.

(c) Poovam and Varichikudy (North) and Varichikudy (South) Villages do not fulfill the criteria adopted for classification of Census Town, but, the population of the village has attained the minimum requirement for classifying it as census town and major portion of the road is covered with commercial and industrial activities. Hence, they may be treated as sufficiently developed on par with Municipal areas.

(d) Polagam, Keezhaiyur (South) and Vanjore do not fulfill the criteria adopted for classification of Census Town, but, most of the areas are covered with commercial and industrial activities. Hence, they may be treated as sufficiently developed on par with Municipal areas.

12. Therefore, the Government has decided to permit the relocation of liquor shops and issue of new licences under the Tourism Category along the stretches of National Highways stated at para 11/above, if, the individual licensees submit their representations, on a case to case basis subject to fulfilment of the provisions contained in the Puducherry Excise Act, 1970 and the rules made thereunder and in conformity with the orders of the Hon'ble Supreme Court. The Licensing Authority under the Puducherry Excise Act, 1970 and rules framed thereunder will decide the applications for relocation/grant of licences, accordingly.

(By order of the Lieutenant-Governor)

J. DAYALANE,

Under Secretary to Government (Revenue).