

THE TAMIL NADU LIQUOR RETAIL VENDING (IN SHOPS AND BARS) RULES, 2003*

[G.O. Ms. No.292, Prohibition and Excise (VI), dated the 3rd November 2003]

No.S.R.O. A-45 (a) / 2003--- In exercise of the powers conferred by Sections 17-C, 17-D, 21, 22-D and 54 of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937), the Governor of Tamil Nadu hereby makes the following rules:-

RULES

1. Short title and commencement – (1) These rules may be called the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003.

(2) These rules shall come into force on the 29th November 2003.

2. Definitions – In these Rules, unless the context otherwise requires,---

(a) “Act” means the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937);

(b) “Agent” means the Co-operative Society appointed as agent by the Corporation for retail sale of liquor on behalf of the Corporation;

(c) “Assistant Commissioner / Deputy Commissioner” means the Assistant Commissioner (Excise) / Deputy Commissioner (Excise) in charge of the district;

(d) “bar” means a place located within the shop or adjoining the shop used for consumption therein of liquor;

(e) “bottled liquor” means liquor put in bottles or other receptacles, corked, sealed and labelled by the manufacturer before issue for sales;

(f) “Collector” means the Collector of the Revenue District;

(g) “Corporation” means the Tamil Nadu State Marketing Corporation Limited;

(h) “depot” means licensed premises in which stocks of bottled liquor are kept for sale by wholesale by the Corporation and includes branches of the Corporation;

(i) “distance” means the distance by the shortest pathway, lane, street or road, generally used by the members of the public;

(j) “educational institution” means a place where there is regular conduct of classes and includes Schools, Polytechnics, Industrial Training Institutes and Colleges but does not include Tutorial institutes;

(k) “Excise Officer” means Officer-in-charge of Excise work in the taluk or division, as the case may be;

(l) “Form” means the form appended to these Rules;

(m) “Government” means the Government of Tamil Nadu;

(n) “licence” means a licence granted under sub-section (1-B) of Section 17-C of the Act, to the Tamil Nadu State Marketing Corporation Limited;

(o) “liquor” means Indian made Foreign Spirits;

[oo) “maximum retail price” means the price determined by adding retail profit margin at the rate of ²[0.05%] of stock transfer price and sales tax payable by the Tamil Nadu State Marketing Corporation Limited under the Tamil Nadu General Sales Tax Act, 1959, to the stock transfer price of Tamil Nadu State Marketing Corporation Limited;]

(p) “Place of worship” means a temple, mosque, church or gurudwara where organised and ritualistic prayers are offered regularly at least once in a week but does not include any structure whether with or without a deity on road-side, pavement or footway or in the compound of any building which is not a place of worship by itself;

(q) “retail vending of liquor” with its grammatical variations and cognate expressions means the vending of liquor by a licensee being the grantee of the privilege of retail sale of bottled Indian-made foreign spirits, but does not include the vending of liquor by the FL2 to FL9 licence holders referred to under the heading “(A) Licences for liquor used for consumption” in sub-rule (a) of rule 17 of the Tamil Nadu Liquor (Licence and Permit) Rules, 1981;

(r) “shop” means the building in which the liquor is stocked and sold;

(rr) (Vide Slip)

(s) “Transport permit” mean the permit issued for transport of liquor from the depot of the Tamil Nadu State Marketing Corporation Limited to the retail vending shop within the State.

3. Application for the grant of licence.— (1) As soon as may be after promulgation of the Tamil Nadu Prohibition (Amendment) Ordinance, 2003, the Corporation shall make an application to the Commissioner of Prohibition and Excise

for the grant of licence for the retail vending of liquor in shops and bars for the whole of the State of Tamil Nadu.

(2) The application shall be accompanied by the Treasury receipt in proof of the payment of Annual Privilege Fee of Rs.1,00,00,000/- (Rupees one crore only), Licence Fee of Rs.1,000/- (Rupees one thousand only) for the grant of licence.

4. Grant of licence.– (1) On application, Commissioner of Prohibition and Excise shall grant licence in Form-I for the retail vending of liquor in shops and bars in the whole State. The licence shall be issued in the name of the Corporation.

(2) The licence granted under this rule shall be subject to the provisions of the Act and the rules made thereunder.

(3) The Corporation shall issue an authorisation in Form-II in respect of each shop where the business of retail vending of IMFS is to be carried on either directly by the Corporation or through the Co-operative Societies as agents of the Corporation.

(4) The Corporation shall furnish the list of authorized retail vending shops located within each district to the Collector indicating the details of such shops run directly by the Corporation and the shops run by the Co-operative Societies as its agents. List of such shops shall be furnished by the Corporation to the Collector concerned within 10 days of the commencement of business.

5. Issue of duplicate licence.– In the event of loss, mutilation or damage of the licence during the period of its currency, a duplicate licence may be issued by the Commissioner of Prohibition and Excise, on an application by the Corporation, on payment of Rs.100/- (Rupees hundred only).

6. Validity of the licence. – The licence granted to the Corporation under rule 4 shall be valid for one year from the 29th November 2003.

7. [Renewal of licence. – The licence issued to the Corporation under Rule 4 is renewable by the Commissioner of Prohibition and Excise on payment of an annual privilege fee of Rs.500/- crores (Rupees five hundred crores only) as renewal fee in four equal instalments on or before 28th November, 28th February, 28th May and 28th August.

Synopsis

Closure of bar for long time: Closure of bar more than ten months. Petitioner pleaded that earning of foreign exchange for ten months is sufficient punishment. Hence, it was held that renewal can be considered as equitable remedy. [*The Renaissance Grant Hotel vs. The Secretary to Government, 2013 (1) CWC 162 (Mad.)*]

Temporary suspension of bar licence: No notice is required for temporary suspension as per Rule 22(2), but the order along with grounds for suspension has to be served within five days of passing the order. [*Sri Andal Boarding and Lodging vs. State of Tamil Nadu, 2013 (2) MLJ 53 (Mad)*]

8. Location of shop.– (1) No shop shall be established in Municipal Corporations and Municipalities within a distance of 50(fifty) metres and in other areas 100 (hundred) metres from any place of worship or education institutions:

Provided that the distance restriction shall not apply in areas designated as “Commercial” or “Industrial” by the Development or Town Planning Authorities:

Provided further that no shop shall be established within the premises of any hotel:

Provided also that if any place of worship, educational institution comes into existence subsequent to the establishment of the shop, the provisions of this rule shall not apply:

Provided also that no liquor shops shall be established in any tribal areas covered under Integrated Tribal Development Project and Hill Area Development Project in the Hill area of Vellore, Salem, Namakkal, Dindigul, Tirunelveli and Kanniyakumari districts.

(2) Every shop shall be housed in pukka building and no part of the shops shall be thatched either on the sides or on the roof.

(3) The shop shall be in the location approved by the Collector before commencing the business in the shops.

Synopsis

Liquor shop in objectionable place: Liquor shop was located opposite to Civil Court. It is an objectionable place. Hence direction issued to shift it to some unobjectionable place. [*S. Manivannan vs. District Collector, Villupuram, 2010 (2) CWC 527(Mad): 2011 (3) MLJ 956 (Mad)*]

Liquor shop in commercial area: Liquor shop is located in commercial area in accordance with the rules. Hence no Public Interest Litigation involved. [*A. Thirumaran vs. The Inspector of Police and others, 2011 (3) MLJ 519 (Mad): 2011 Writ L.R. 318(Mad)*]

9. Shifting of shop.– There shall be no change in the location of shops except with previous permission of the Collector.

10. Location of Bar – (1) The bar shall lie within the shop or adjoining the shop.

¹[(2) The bar shall have a minimum plinth area of fifteen square metres. Therequirement of plinth area for any bar exceeding fifteen square metres shall be decided by the Collector.

(3) Every bar shall be housed in pukka building and no part of the bar shall be thatched either on the sides or on the roof. The bar room shall be sufficiently screened so that consumption of liquor is not visible from outside and shall also be provided with fans. Sufficient number of tables and chairs for the consumers to conveniently sit and consume liquor shall be provided. Such room shall not be used as a club or recreation room or for any other purpose whatsoever. No gambling or any kind of disorderly conduct in the shop shall be permitted.

(4) Facilities such as drinking water and wash basin within the surroundings of each shop premises shall be provided and the shop, its premises and surroundings shall be always kept clean, hygienic and well it.

(5) Every shop shall have a signboard in Tamil in front of the shop showing the number of the shop and details regarding authorization issued by the Corporation for the shop, the price of liquor in different sizes of bottles sold in the shop shall also be displayed. There shall also be displayed on the signboard the following slogans in bold letters about the evils of drinking and such other slogans as may be approved by the Commissioner.

“மது – நாட்டுக்கு, வீட்டுக்கு, உயிருக்கு கேடு”

“Liquor – ruins country, family and life”

Synopsis

TASMAC shop run with police protection: People in the locality decided not to take alcohol. The authorities should bound to respect the sentiments of the people. Running TASMAC shop with police bandobust is not good. [G Ranga Bai vs. The District Collector, 2013 (5) CTC 141 (Mad)]

Democratically elected Government should respect the sentiments of people: Village people and Panchayat unanimously passed a resolution not to grant permission to open a liquor shop. Authorities are interested to get more income for the Government. Government should respect the sentiments of people. People have got right to express their opposition for opening a liquor shop. [T.Paul Raj vs. District Collector, 2013 (6) MLJ 133 (Mad)].

11. Working hours of the shop and bar. – No business shall be transacted at the shop and bar except during the hours as may be specified by the Government by order, and

11- A. Liquor not to be sold to persons not completing 21 years of age.–

(a) No liquor shall be sold or served by the licensee to any person who has not completed 21 years of age.

(b) Where any doubt arises in regard to the age of such persons the licensee may require the person concerned to produce any documentary evidence issued by the Central or State Government or Educational Institution or the local authority in proof of the age of such person.

12. Closure of shops.– (1) The shop shall remain closed on Thiruvalluvar Day falling in January, Gandhi Jayanthi Day on the 2nd October, Mahavir Jayanthi Day, Birth Day Eve of Nabigal Nayagam and Vadalur Ramalingar Ninaivu Naal Independence Day, Republic Day and May Day and there shall be no sale of liquor in the shops on the aforesaid days.

(2) The shop shall also be closed as per the directions issued by the Government, the Commissioner of Prohibition and Excise or the Collector.

Synopsis

Closure of bar for certain days: The Government has declared certain days in a year to close the bar as a mark of respect for leaders. Court cannot interfere in it so long as it is taken in accordance with law. [*Ruby Recreation Club vs. Secretary to Government*, 2013 (2) CWC 117 (Mad): 2013 (5) MLJ 813 (Mad): 2013 Writ L.R. 803 (Mad)].

13. Disposal of stock of liquor found unfit for human consumption. – If any stock of liquor in the shop is found to be unfit for human consumption on any account, the Collector may order destruction of such stocks in the presence of an Excise Officer authorised by him.

14. Fixation of retail sale price.– (1) The liquor shall be sold at the ¹[Maximum retail price] fixed by the Corporation.

(2) The ¹[maximum retail prices] of liquor shall be displayed, in a conspicuous place in front of the shop, for the information of the public.

15. Stock of liquor – No liquor other than that supplied by the wholesale depot or branch depot of the Corporation shall be stocked and sold in the shops.

16. Maintenance of Accounts.– (1) True and correct accounts of the transactions in the shop for every day shall be maintained at every shop in Forms III, IV, V, VI, VII, VIII and IX in ink. The accounts for the day shall be closed before the commencement of business on the next day.

(2) The District Manager of the Corporation shall submit such return and furnish such information or particulars as may be required by the Commissioner of Prohibition and Excise, Collector or the Assistant Commissioner / Deputy Commissioner and also by such Officer of the Excise Department authorised in his / her behalf.

(3) Copies of the indents, bills, invoices, permits relating to the purchase or sale of liquor shall be produced for inspection or check by the Collector, Assistant Commissioner / Deputy Commissioner or any other inspecting authority authorised in this behalf whenever required and shall be handed over to such Officer or authority after obtaining a receipt.

17. Inspection – (1) Officer of the Excise Department not below the rank of Excise Inspector, Officers of the Revenue Department not below the rank of a Tahsildar authorised by the Collector are authorised to enter into and inspect the shops to check the accounts, verify physical stocks and to take samples of liquor for chemical test or analysis.

(2) An inspection book in Form-IX shall be maintained in every shop for the use of the inspecting officers. The inspection book shall be handed over to the Collector after the expiry of the licence period.

(3) In the event of any violation being detected in any shop, without prejudice to any other penal action contemplated by the Tamil Nadu Prohibition Act, 1937, disciplinary action shall be taken against the persons responsible.

18. Corporation to abide orders of Commissioner of Prohibition and Excise and other Officers.– The Government or the Commissioner of Prohibition and Excise may, from time to time, issue directions to the Corporation and where any such directions have been issued, those directions shall be deemed to be additional conditions subject to which the licence has been granted and the Corporation shall be bound by such additional conditions.

19. Transport permit.– No liquor obtained from the depot of the Corporation shall be transported to the retail vending shop within the State except under a transport permit issued by the Assistant Commissioner or the Excise Supervisory Officer, as the case may be, specially authorised by the Collector of the district concerned in Form-XI for which the Corporation shall apply in Form-X.

20. Power to exempt.– The Government may, by notification, and subject to such conditions, if any, as they may specify in such notification, exempt, whether prospectively or retrospectively, any person or class of persons from the operation of the provisions of all or any of these rules.
